

OVERVIEW ON LEGAL FRAMEWORK AND PRACTICE OF ENFORCEMENT OF PUBLIC ETHICS RULES AT LOCAL LEVEL IN SELECTED COUNTRIES

This material was prepared for the Council of Europe Programme
"[Strengthening Good Democratic Governance and Resilience in Ukraine](#)"
in response to a request from the National Agency on Corruption Prevention of Ukraine by its
international consultant, member of the Group of States Against Corruption (GRECO)
Vita Habjan Barboric

The opinions expressed in this work are the responsibility of its author and do not necessarily
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I. Introduction

This report comes in response to a request from the National Agency on Corruption Prevention of Ukraine and contains an overview on legal framework and practice of enforcement of public ethics rules at local level in selected Council of Europe member states, namely Czech Republic, Estonia, France, Romania, Slovak Republic, Slovenia, and Sweden. It was prepared by the Centre of Expertise for Multi-level Governance (hereinafter – the Centre of Expertise) at the Congress of Local and Regional Authorities of the Council of Europe. The document is based on a contribution from Ms. Vita Habjan Barborič, Council of Europe international consultant, within the framework of the Programme “[Strengthening Good Democratic Governance and Resilience in Ukraine](#)”, implemented under the Council of Europe Action Plan for Ukraine “Resilience, Recovery and Reconstruction” 2023-2026.

In cooperation with Ms Vira Kozina, Council of Europe national consultant, a questionnaire has been developed (Appendix 1) exploring regulation of public ethics for public officials at local level in a particular member state, legal framework of ethical behaviour in place, separate regulations existing for public officials at local level and for elected representatives, practice of developing and applying codes of conduct for public officials at local level, monitoring of compliance with the ethical rules, including certain indicators such as types of violations, age and gender of a violator, practice of liability for violations of rules, authorities authorised to conduct pre-trial proceedings in case of corruption offences and crimes and whether courts are entitled to impose punishment in the form of deprivation of the right to hold certain positions or engage in certain activities.

II. Overview of responses received by the selected member states

Question 1: *Does your country have a strategic document on public ethics at local level? If yes, is it a separate document or a part of a more comprehensive, or a national one? What is the status of such an act, who developed it, and who adopted it?*

None of the selected member states developed and adopted a strategic document on public ethics at local level. Public ethics at local level is generally integrated into a broader national framework applicable to all public officials, regardless of whether they work at local or national level.

Question 2: *How are issues of public ethics for public officials at local level regulated in your country?*

Most selected member states have general rules for all categories of public officials (at national and local level) but at the same time special rules related to certain categories of public officials at local level (France, Romania, Slovak Republic, Slovenia and Sweden).

Czech Republic report having rules applicable either to all categories of public officials or only to some, depending on the topic they cover (for example, rules on gifts, conflict of interest and lobbying – the last only being a draft law at the moment – are applicable to public officials at both national and local level while certain rules (on incompatibilities) are applicable only to local level officials.

Estonia responded there are uniform rules for all public officials.

Question 3: *What is a legal framework of ethical behaviour of public officials at local level in your country?*

As regards legal framework of ethical behaviour of public officials at local level, most selected member states report that the basic rules of ethical behaviour are defined only by the law (Czech Republic, Romania, Slovak Republic, Slovenia, Sweden).

In addition to that, France and Slovak Republic report that although there is no act of a national nature that obliges local authorities to approve their own Codes of Ethics, there are however certain methodological guidelines prepared by national authorities or associations of local authorities (France, Sweden), based on which each local authority independently decides whether to approve its own Code of Ethics and its content. As a consequence, several municipalities and self-governing regions have adopted codes of conducts for employees as well as for elected officials in the Slovak Republic. Also, in France, there are many codes adopted at all three-levels of local authorities, namely municipalities, departments and regions. In many cases, these local authorities requested the High Authority for Transparency in Public Life to assist them (taken from GRECO ER 2019, para. 60).

In Czech Republic no methodological guidelines exist; however, several local authorities (namely, municipalities) adopted their own codes of conduct.

Estonia reports that the Council of Ethics of Officials has been established based on the Civil Service act, to reinforce the core values and ethics of officials. It approved the Code of Ethics for Officials and provides explanations for the implementation of the Code of Ethics. Similarly, in Slovenia a code of ethics exists, applicable to civil servants at the national and local level. No code of conduct has been developed and/or adopted for elected local officials. Nevertheless, the Integrity and Corruption Prevention act which is a law applicable to the whole public sector and its entities tasks the Commission for the Prevention of Corruption to prepare starting points for codes of conduct. However, in practice the Commission has never prepared them.

Question 4: *Is there a separate regulation of public ethics issues in your country for public officials at local level (who are selected and appointed to the position on the basis of an open competition) and for elected representatives?*

Most member states report that there are separate rules on public ethics for public officials at local level (selected and appointed in an open competition) and for elected representatives

(Czech Republic, Romania, Slovak Republic, Slovenia, Sweden). That is not the case in Estonia and France.

Question 5: *How common is the practice of developing and applying codes of conduct for public officials at local level in your country? If such a practice exists, are rules of ethics being developed separately for public officials at local level (who are selected and appointed to the position on the basis of an open competition)? Who develops such rules (a national authority, an association of local authorities, each municipality independently) for appointed officials and who for elected ones?*

In some selected member states the practice of developing and applying codes of conduct for public officials at local level is quite common (France, Romania, Slovak Republic, Sweden). In Czech Republic, such practice is common to some extent – some municipalities have it, others do not.

In all mentioned member states the codes of conduct have been developed by local authorities themselves.

In Slovenia and Estonia such practice does not exist.

Question 6: *How is compliance with ethical rules monitored at local level in your country (violations of ethical rules that are not corruption offences or crimes)? Who is responsible for such monitoring – a local authority, a national authority, or someone else? If a local authority is responsible for monitoring, which body within the local authority is tasked to perform monitoring?*

At local level compliance with the ethical rules is mostly monitored by local bodies themselves (Czech Republic, France, Slovak Republic, Sweden, Romania). Some of them have established a special body to monitor compliance (for example, in case of the Slovak Republic, municipalities or self-governing regions appoint a Principal Controller responsible for this task, or the control committee in the municipalities of the Czech Republic, or Ethics Officers within local authorities in France, or an ethics advisor appointed within each local public institution).

This is not applicable in case of Estonia and Slovenia. However, as mentioned above, in case that in Slovenia the local authorities would have developed their own codes of conduct, monitoring would be entrusted with every individual local authority as developing and applying codes of conduct is only optional and there is no mechanism for monitoring prescribed in the law.

In France, as per the Recommendations issued by AFA in 2017, entities (public and private) should, as per the law, appoint Ethics Officer that provides advice on ethics rules. However, in respect of some regions, such bodies (ethics commissions) have also a monitoring role. The High Authority for Transparency in Public Life (an independent administrative authority) provides advice on ethics to individual officials as well as assists public officials in the implementation of ethics procedures in their institutions and in development of codes of conduct.

Also in Estonia, the Council of Ethics provides advice and explanation to officials and authorities regarding issues of ethics – however, nothing separate pertaining to local authorities.

Question 7: *If your country has a unified approach to monitoring and analysing cases of ethical rules violations at local level, could you indicate the main indicators by which such monitoring is carried out?*

Only Sweden employs a unified approach to monitoring and analysing cases of ethical behaviour – it gathers information on types of violations, categories of officials and occasionally regional dynamics. Age and gender may also be considered but are not primary factors in such analyses.

In Romania each local institution that has developed its own code of conduct has appointed an ethics advisor to monitor compliance of conduct of local officials with it. The role and responsibilities of ethics advisors are governed by the Administrative Code and their work is overseen by the National Agency of Civil Servants (ANFP). Romania also collects data on cases of ethical rules violations, namely on types of violations and categories of public officials at local level who committed them. However, it does not take a unified approach as both ANFP as well as heads of each institution are responsible for collecting such data.

No unified approach exists in Czech Republic, Estonia, Slovak Republic, Slovenia.

No information is available for France.

Question 8 and 9: *Does your country foresee enforcement for violations of rules of ethics by elected representatives of local authorities (meaning only violations of rules of ethics that do not have signs of a criminal corruption offence)? If yes, what liability violations carry?*

Liability for violations of rules of ethics that do not have signs of a criminal corruption offence by elected representatives of local authorities is foreseen in Sweden. Liability for such violations can carry disciplinary actions taken by local authorities, political consequences such as recall by a political party, or administrative sanctions if deemed necessary by court. For example, for a breach of conflict of interest rules a councillor may be temporarily removed from certain duties or face censure by the council.

In Romania, enforcement for violations is also foreseen as violations carry administrative and disciplinary liability (sanctions provided for disciplinary violations are: dismissal from office, salary decrease etc.). For example, failure to submit a statement of wealth and statement of interest for both civil servants as well as local elected officials carries an administrative sanction (a fine between approx. 10 EUR to 400 EUR). If an official emits an administrative act, emits a legal act, makes a decision or participates in the processes of making a decision while being incompatible with the position he holds, this is considered contravention and can be sanctioned with discharge from the office.

In the Czech Republic, liability is only political. For example, for a serious or repeated violation of the code (a violation of the code is: accepting gifts, asking for a gift, conflict of interest, not

submitting the declaration on personal interests, activities, property, incomes etc.) the following sanctions are envisaged: losing a position in a committee within a body or a recommended to an official to give up his/her mandate.

As per the Law on conflict of interest, fines (various fines: 1.000 EUR-20.000 EUR; 10.000 or up to 3% of the value of the assets of the legal entity where the official is a partner, or member or a beneficial owner) may be imposed. (violations: s/he commits an offence by performing a function or activity that is incompatible with the public function; is a radio or television broadcaster or publisher of periodicals or a partner or member or beneficial owner of a legal entity that is a radio or a television broadcaster or a publisher of periodicals; does not file a notification of a personal interest in accordance with the law; states incomplete or false information in case of a conflict of interest or not in a timely manner).

In the Slovak Republic, enforcement of the rules depends on every individual municipality or self-governing region. Violations carry disciplinary and political liability. In case of a disciplinary liability, a person is prosecuted by the authority in which s/he performs his/her functions while as regards political liability, a recall of a councillor by a political party or a removal from participating in the work of a council or assembly is possible).

The same is in France where enforcement is left to the local authorities, and some have appointed internal integrity advisors and/or ethics committees. Violations usually carry disciplinary liability.

No such enforcement envisaged in Estonia, Slovenia.

Question 10: *Which national authorities are authorised to conduct pre-trial proceedings in cases of corruption offences and crimes in your country? Are there any peculiarities in the competence of such authorities when carrying out proceedings against certain categories of public officials at local level (for example, persons occupying a responsible or particularly responsible position)?*

Authorities to conduct pre-trial proceedings in cases of corruption offences and crimes are the police and (specialised) prosecution services (Czech Republic, Estonia, France, Slovak Republic, Slovenia and Sweden).

In Romania, two various institutions conduct pre-trial proceedings, namely the National Anticorruption Directorate (in cases of involvement of high and medium level corruption offences and offences involving high-level public officials) and the prosecutor's offices attached to tribunals in respect to all others. No peculiarities have been reported.

Question 11: *Are courts in your country entitled to impose punishment in the form of deprivation of the right to hold certain positions or engage in certain activities on a public official at local level, found guilty of committing a violation of anti-corruption legislation of a non-criminal nature? If yes, how wide is the discretion of courts in taking such decisions (can a court apply such a penalty as an additional sanction at its discretion, if the special legal regulation covering the composition of the offence does not provide for such a penalty)?*

Courts are entitled to impose punishment in the form of deprivation of the right to hold certain positions or engage in certain activities on a public officials at local level, found guilty of committing a violation of anti-corruption legislation of a non-criminal nature in Estonia (as per the Penal Code – Sanction: Occupational ban imposed as a supplementary punishment for up to three years), Sweden (also as a supplementary sanction, wide discretion, even if the specific regulation does not explicitly provide for such a penalty), Slovak Republic (as per the Criminal Code, sanction called punishment by disqualification – only applicable to violations of law of criminal nature; it may be applied as an additional sanction at the court’s discretion).

In Romania, as per Art. 25 of Law no. 176/2010, an official found in a definitive state of conflict of interest or incompatibility, shall receive, in addition to the applicable administrative sanction, a 3-year interdiction to occupy any other public office, as mentioned by Law no. 176/2010. This interdiction is applied automatically either at the moment the Court decision is issued (if the concerned person does not hold the office anymore) or after the end of the mandate/function, as the case may be. All ongoing interdictions are available on ANI’s website, in a dedicated section that can be accessed by any interested person. However, the Romanian legal framework does not allow courts to impose punishment in the form of deprivation of the right to hold certain positions or engage in certain activities on a public official, excluding the criminal sanctions. The criminal provisions, on the other hand, allow courts to impose such prohibitions as a complementary penalty or as a security measure.

No such arrangements in Slovenia, Czech Republic, France.

III. Executive summary

Various frameworks regarding rules of ethics applicable to local level officials exist in selected member states. However, no separate or national strategic document has been adopted in none of the selected member states to deal with rules of ethics for local authorities separately. Rules are most often prescribed in the national law; often they apply to all public officials while sometimes they are different regarding the scope of officials they apply to (separate for selected and appointed and for elected). Codes of conduct are still only an optional tool to strengthen ethics at the local level and the compliance with the codes is thus monitored by the local authorities themselves. As a consequence, enforcement mechanisms rarely exists and liability in cases of violations is also rarely envisaged. Where liability exists, it is mostly of a political nature, followed by disciplinary liability and administrative. Imposing punishment in the form of deprivation of the right to hold certain positions or engage in certain activities on a public officials at local level, found guilty of committing a violation of anti-corruption legislation of a non-criminal nature is envisaged in some countries, however, in only a few.

Appendix 1: Questionnaire on legal framework and practice of enforcement of public ethics rules at local level in selected Council of Europe member states

Questionnaire on legal framework and practice of enforcement of public ethics rules at local level in selected Council of Europe member states

1. **Does your country have a strategic document on public ethics at local level? If yes, is it a separate document or a part of a more comprehensive, or a national one? What is the status of such an act, who developed it, and who adopted it?**
2. **How are issues of public ethics for public officials at local level regulated in your country?**
 - (1) there are separate rules for public officials at local level;
 - (2) there are uniform rules for all public officials, i.e. both at national and local levels;
 - (3) there are general rules for all categories of public officials (at national and local levels), but at the same time special rules are related to certain categories of public officials at local level;
 - (4) another variant.
3. **What is a legal framework of ethical behaviour of public officials at local level in your country?**
 - (1) the basic rules of ethical behaviour are defined only by the law (if yes, then by which law/laws);
 - (2) the law defines only general requirements and obliges national state bodies to approve the Code of Ethics, which is mandatory for use by all local authorities;
 - (3) the law obliges national authorities to approve a Typical or Model Code of Ethics (as a national act of a normative nature), on the basis of which local authorities adopt their own acts;
 - (4) there is no act of a national nature that obliges local authorities to approve their own Codes of Ethics, but there are certain methodological guidelines, based on which each local authority independently decides whether to approve its own Code of Ethics and of what content;
 - (5) another option;
 - (6) does not exist.
4. **Is there a separate regulation of public ethics issues in your country for public officials at local level (who are selected and appointed to the position on the basis of an open competition) and for elected representatives?**
5. **How common is the practice of developing and applying codes of conduct for public officials at local level in your country? If such a practice exists, are rules of ethics being developed separately for public officials at local level (who are selected and appointed to the position on the basis of an open competition)? Who develops such rules (a national authority, an association of local authorities, each municipality independently) for appointed officials and who for elected ones?**

6. **How is compliance with ethical rules monitored at local level in your country (violations of ethical rules that are not corruption offences or crimes)?** Who is responsible for such monitoring – a local authority, a national authority, or someone else? If a local authority is responsible for monitoring, which body within the local authority is tasked to perform monitoring?

7. **If your country has a unified approach to monitoring and analysing cases of ethical rules violations at local level, could you indicate the main indicators by which such monitoring is carried out, for example:**

- (1) types (composition) of violations;
- (2) categories of public officials at local level who commit such violations;
- (3) regional dimension (dynamics of violations across regions);
- (4) age indicators;
- (5) gender indicators;
- (6) other.

8. **Does your country foresee enforcement for violations of rules of ethics by elected representatives of local authorities** (meaning only violations of rules of ethics that do not have signs of a criminal corruption offence)? Yes/No. If yes, what liability violations carry:

- (1) administrative;
- (2) disciplinary (a person is prosecuted by the authority where he/she performs his/her functions);
- (3) political (for example, the recall of a councillor by a political party or the removal of a councillor from participation in the work of a council or assembly);
- (4) other.

If such liability is foreseen, please provide examples in the format "composition of the offence - type of punishment".

10. **Which national authorities are authorised to conduct pre-trial proceedings in cases of corruption offences and crimes in your country?** Are there any peculiarities in the competence of such authorities when carrying out proceedings against certain categories of public officials at local level (for example, persons occupying a responsible or particularly responsible position)?

11. **Are courts in your country entitled to impose punishment in the form of deprivation of the right to hold certain positions or engage in certain activities on a public official at local level, found guilty of committing a violation of anti-corruption legislation of a non-criminal nature?** If yes, how wide is the discretion of courts in taking such decisions (can a court apply such a penalty as an additional sanction at its discretion, if the special legal regulation covering the composition of the offence does not provide for such a penalty)?