



European Ombudsman

Report

**on the consultation of
national ombudsmen
on ethical principles for
civil servants**

Strasbourg

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1. Introduction

During the 7th Seminar of National Ombudsmen held in April 2009, I informed the national ombudsmen of my intention to draft a statement of ethical principles for EU civil servants¹.

Colleagues in the European Network of Ombudsmen agreed to respond positively to a future request for information on national statements of ethical standards in public life and to discuss the subject at our next meeting in Copenhagen in October 2011.

On 25 and 26 May 2010, I sent the national ombudsmen a consultation paper containing the results of my preliminary thinking on the scope and contents of a future set of ethical principles for EU civil servants.

In order to take full account of best practice in the Member States, I specifically asked them to (a) comment on my suggestions as regards the scope and contents of a future statement of ethical principles and (b) inform me of any national or international documents, which could be useful in the drafting process. I asked them to provide me with their replies by 30 June 2010.

In total, twenty responses were received (see Appendix 1 for the list of those who responded). These include oral contributions made in conversations and meetings, as well as written responses.

The present report summarises the main points made by the national ombudsmen. Appendix 2 lists the documents and instruments mentioned in the responses. For convenience, those which were already listed in the consultation paper are also included.

The next stage in the process will be a public consultation on a draft statement of principles. In response to one of the many useful suggestions made by the national ombudsmen, the draft statement will use the term “public service principles”, rather than “ethical principles”.

I intend to publish the draft public service principles on my website, together with the present report and the consultation paper sent to the national ombudsmen. Comments will be invited from the public, as well as from EU institutions, bodies, offices and agencies. All comments received by the deadline will be taken into account in finalising the statement of public service principles for EU civil servants.

P. Nikiforos Diamandouros

¹ The term “civil servant” here refers to the staff of the EU institutions, bodies, offices and agencies. They are formally known, in EU language, as “officials and other servants”.



2. General reactions

There was general agreement, among the national ombudsmen who responded, that the initiative of preparing a statement of ethical principles for civil servants is both useful and timely.

The general view expressed by the responses is that the main purpose of producing a statement of ethical principles for civil servants is to promote citizens' trust in the public sector.

The respondents see the purpose of such a statement as being to clarify the values and standards, which should be reflected in the behaviour of civil servants. The statement should be easy to understand and, as far as possible, offer practical guidance.

The main points made by the various ombudsmen on the scope and contents of a future statement of ethical principles to guide EU civil servants are summarised below.

3. The relationship of ethical principles to existing instruments

The responses show widespread agreement among ombudsmen that the actions of civil servants should be governed by ethical standards, as well as by law.

Some ombudsmen emphasised that the distinction between ethical standards and law does not imply that the former necessarily lack a binding quality, nor that binding rules lack ethical content. In particular, some national experiences show that a statement of ethical principles could be embodied in legislation, or in a code that implements legislation.

There was general agreement that a statement of ethical principles should complement, and not limit or qualify in any way, the existing instruments that govern the behaviour of EU civil servants.

Some ombudsmen pointed out that the European Code of Good Administrative Behaviour already sets clear standards for the administrative behaviour for EU civil servants and that these standards are themselves an expression of ethical principles.

An additional statement of ethical principles should, therefore, not duplicate the Code but be formulated in broad terms, as a high-level declaration reaffirming the values and principles supported by the European Ombudsman and his national counterparts.

4. Ethical principles and accountability

The responses supported the idea that a statement of ethical principles should be drafted primarily with a view to enhancing the accountability of civil servants to citizens.



A number of points were made that help to clarify the distinction between civil servants' accountability to citizens and their accountability to the institutions for which they work.

First, it is important to recognise that ethical principles are relevant to all aspects of civil servants' work, not only to direct contacts with citizens, or to the application of the right to good administration provided for in Article 41 of the Charter of Fundamental Rights of the EU.

Second, it must be recognised that civil servants are, indeed, accountable to, and owe a duty of loyalty to, the institutions for which they work.

Furthermore, there is a significant degree of overlap between accountability to citizens and accountability to the institutions for which civil servants work. In practice, therefore, failure to observe ethical principles may lead to negative consequences for civil servants in their relations with their institutional hierarchy.

It was pointed out, in particular, that issues surrounding "whistle-blowing" provide examples of the overlap between accountability to citizens and accountability to the institutions for which civil servants work, as well as illustrating the tensions that may arise in reconciling the two forms of accountability in practice.

5. Towards a draft statement of public service principles

As already mentioned, the national ombudsmen see the main purpose of a statement of ethical principles for civil servants as being to promote citizens' *trust* in the public sector.

Trust is not an ethical principle in itself, but the outcome of ethical principles being seen to be applied in a correct and rigorous way.

An essential ethical principle that generates trust is *integrity*. In this context, it was specifically mentioned that EU civil servants should make recommendations and decisions only to serve the interests of the Union and of its citizens. It was also pointed out that threats to this principle can arise not only from personal or family ties, but also from professional contacts such as, for example, lobbying.

The contributions further listed a number of other core values that a statement of ethical principles should reflect. The most frequently mentioned were:

- impartiality and objectivity
- transparency and accountability
- fairness and equity
- loyalty, responsibility and conscientiousness
- competence, effectiveness and quality
- diligence and rigour
- independence
- cooperativeness and dialogue.



Some national ombudsmen also emphasised that civil servants should perform their duties with a high sense of mission and awareness of the fact that they are rendering a service to citizens. They also underlined the importance of the rational use of public resources and respect for the principle of merit in appointment to, and careers within, the public administration.

Finally, although there was agreement that the statement should consist of principles with intrinsic ethical value, it was suggested that it would be better to avoid using the terms “ethics” and “ethical”, since these have theoretical connotations, which could lead to confusion. The phrase “public service principles” was recommended as an alternative.



Annexes

Annex 1 - List of national ombudsmen and similar bodies who responded to the consultation

(In alphabetical order of the countries)

- The Czech Ombudsman
- The Danish Ombudsman
- The Estonian Ombudsman
- The Chancellor of Justice of Finland
- The Parliamentary Ombudsman of Finland
- The French Ombudsman
- The Committee on Petitions of the German Bundestag
- The Greek Ombudsman
- The Hungarian Ombudsman
- The Irish Ombudsman
- The Lithuanian Ombudsman
- The Maltese Ombudsman
- The Dutch Ombudsman
- The Northern Ireland Ombudsman
- The Polish Human Rights Defender
- The Portuguese Ombudsman
- The Romanian Ombudsman
- The Slovakian Ombudsman
- The Spanish Ombudsman
- The United Kingdom Ombudsman



Annex 2 - International codes and other material relating to ethical standards for civil servants

United Nations

- International Code of Conduct for Public Officials
United Nations General Assembly Resolution A/RES/51/59, 82nd plenary meeting, 12 December 1996 Annex to resolution 51/59: Action against corruption.
<http://www.un.org/ga/documents/gares51/gar51-59.htm>
- The Guide, Governance Ethics, G02A, Ethics of Good Governance United Nations Development Programme.
<http://unpan1.un.org/intradoc/groups/public/documents/eropa/unpan002618.pdf>

Council of Europe

- Model code of conduct for public officials; Appendix to Recommendation No. R (2000) 10, adopted by the Committee of Ministers at its 106th Session on 11 May 2000.
[https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM\(2000\)PV1&Language=lanEnglish&Ver=final&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM(2000)PV1&Language=lanEnglish&Ver=final&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)
- Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration.
<https://wcd.coe.int/wcd/ViewDoc.jsp?id=1155877&Site=CM>

Organisation for Security and Co-operation in Europe (OSCE)

- Best practices in combating corruption, especially chapter 6 “Building and maintaining an ethical public administration”.
http://www.osce.org/publications/eea/2004/05/13568_67_en.pdf

Organisation for Economic Co-operation and Development (OECD)

- Recommendation on Improving Ethical Conduct in the Public Service, 23 April 1998.
<http://www.oecd.org/dataoecd/60/13/1899138.pdf>
- Recommendation on Guidelines for Managing Conflict of Interest in the Public Service, June 2003.
<http://www.oecd.org/dataoecd/13/22/2957360.pdf>

European Commission

- Communication from Vice-President Kallas to the Commission on enhancing the environment for professional ethics in the Commission (SEC(2008) 301 final, 5 March 2008).
http://ec.europa.eu/commission_barroso/kallas/doc/com2008_0305_ethic_en.pdf
- Report on the implementation of the Ethics Action Plan with respect to the Statement of Principles of Professional Ethics (internal document available on the Commission’s Intranet).



- Practical Guide to Staff Ethics and Conduct (internal document available on the Commission's Intranet).

Czech Republic

- Code of Administrative Procedure, 500/2004 Coll. Act of 24th June 2004.
<http://du-praha.cz/drurad/CAP-extrakt.pdf>

Denmark

- Guide on good behaviour in the public sector, Danish State Employer's Authority (God adfærd i det offentlige), June 2007.
<http://perst.dk/~media/Publications/2007/God%20adfaerd%20i%20det%20offentlige%20-%20Juni%202007/God%20adfaerd%20juni%202007-pdf.ashx>
- Guide on public officials' freedom of expression (Vejledning om offentligt ansattes ytringsfrihed), September 2006.
http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/andre_publ/vejledning%20om%20offentligt%20ansattes%20ytringsfrihed.pdf

Estonia

- The Public Service Code of Ethics, annexed to the Public Service Act, 25 January 1995 (PubolAvaliku teenistuse seadus).
<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X0002K9&keel=en&pg=1&ptyyp=RT&tyyp=X&query=avaliku+teenistuse>
- Estonian Judges' code of ethics, 13 February 2004 (Eesti kohtuniku eetikakoodeks).
<http://www.nc.ee/?id=682>
- Code of Conduct of the Estonian Bar Association, 8 April 1999 (Eesti Advokatuuri eetikakoodeks).
<http://www.advokatuur.ee/?id=73>
- Code of Conduct of the Estonian notaries, 15 February 2001 (Eesti notarite eetikakoodeks).
<http://www.notar.ee/5956>

Finland

- Civil Service Ethics (Virkamiesetiikka), Finnish Ministry of Finance, 31.03.2000.
http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/06_state_employers_office/89879/name.jsp
- Values in the daily job - Civil servant's ethics, a handbook for the state administration, Finnish Ministry of Finance, (Arvot virkamiehen arjessa), June 2007.
ISBN 978-951-804-714-1

Summary in English:

http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/06_state_employers_office/20070614Values/name.jsp

Summary in Finnish:

http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/01_julkaisut/06_valtion_tyomarkkinalaitos/20070614Arvotv/name.jsp



France

- The “Marianne Charter”, French Public Service and State Reform Ministry, 2005 (La Charte Marianne).
http://www.fonction-publique.gouv.fr/IMG/pdf/CharteMarianne_20050103.pdf
- The charter of the public service ombudsmen, Paris, 2004. (La Charte des médiateurs du service public).
http://www.mediateur-republique.fr/fic_bdd/pdf_fr_fichier/1176890798_Charte_.pdf

Hungary

- Code of Ethics for the officials in the Ministry of the Interior, 1999 (Etikai kódex a Belügyminisztérium hivatali szervezetei, a minisztérium hivatal tevékenységét segítő szervezetek, a belügyminiszter irányítása alá tartozó önálló szervezetek és az önkormányzati tűzoltóság hivatásos állománya számára).
<http://www.brdsz.hu/vegyes/kodex.html>
- Code of Ethics for Judges, 2007 (A Magyar Bírói Egyesületnek a bírói viselkedés irányelveit meghatározó Etikai Kódexéről).
http://www.birosag.hu/engine.aspx?page=jogszabalyok_tara
- Code of Ethics for Custom Officers, 2003 (A Vám- és Pénzügyőrség Etikai Kódexe).
http://www.vam.hu/data/vpop_altalanos/vpop_kodex.html
- Code of Ethics for Tax Officials, 2008 (APEH Etikai Kódexe).
http://www.apéh.hu/data/cms52407/etikai_kodex.pdf
- Code of Ethics for Policemen, 2007 (A Rendőri Hivatás Etikai Kódexe).
<http://www.police.hu/magyarendorseg/etikaikodex>
- Code of Conduct of Municipal Administrators concerning clients in a capital district, 2008 (Budapest Főváros XXIII. Kerület Soroksár Önkormányzata Polgármesteri Hivatalának Etikai Kódexe & Polgármesteri Hivatal Ügyfélszolgálati Chartája).
<http://www.soroksar.hu/Ugyfelszolgalati-charta/A-Polgarmesteri-Hivatal-etikai--kodexe->

Ireland

- The Civil Service Code of Standards and Behaviour, Standards in Public Office Commission, September 2004 (revised in September 2008).
<http://www.sipo.gov.ie/en/CodesofConduct/CivilServants/File,727,en.pdf>

Malta

- The Public Administration Act, First schedule, Code of ethics, pp. 27-30.
<http://ehealth.gov.mt/download.aspx?id=1838>



The Netherlands

- The Dutch code of good administrative behaviour, The Hague, January 2009 (Nederlandse code voor goed openbaar bestuur).
<http://www.rijksoverheid.nl/documenten-en-publicaties/brochures/2009/06/23/brochure-nederlandse-code-voor-goed-openbaar-bestuur.html>

Portugal

- Deontological Charter of the Public Service (Carta Deontológica do Serviço Público), Diário da República - I Série-B, n°64 - 17-03-1993.
- Ethical Charter of Public Administration, July 2002 (Carta ética da administração pública).
<http://www.mj.gov.pt/sections/documentos-e-publicacoes/doc-e-pub-2/carta-etica-da/>

Romania

- The Code of Conduct of civil servants, February 2004 (LEGE nr. 7 din 18 februarie 2004 privind Codul de conduită a funcționarilor publici).
http://www.cdep.ro/pls/legis/legis_pck.htp_act?nr=7&an=2004

Slovakia

- The Ethics Code of the Civil Servants, Office of the Civil Service of the Slovak Republic, July 2002 (Etický kódex štátneho zamestnanca).
http://km.undp.sk/uploads/public/File/AC_Practitioners_Network/Slovakia_Codex_Ethics_Civil_Servants.doc

Span

- Code of Conduct of the Civil Servants, Law nr. 7/2007, Title III (Código de conducta de los empleados públicos).
http://noticias.juridicas.com/base_datos/Admin/l7-2007.t3.html

United Kingdom

- The Seven Principles of Public Life, Committee on Standards in Public Life.
http://www.public-standards.gov.uk/About/The_7_Principles.html
- The First Seven Reports, A review of progress, Committee on Standards in Public Life, September 2001.
http://www.public-standards.gov.uk/Library/OurWork/First7Reports_ProgressReview.pdf
- The Civil Service Code, Standard Note SN/PC 3924, Library of the House of Commons, February 2006.
<http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-03924.pdf>
- Civil Service Values for UK civil servants, November 2010.
http://www.civilservice.gov.uk/Assets/civil-service-code-2010_tcm6-37859.pdf



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