

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Recommendation 60 (1999)¹ on political integrity of local and regional elected representatives

*(Extract from the Official Gazette of the Council of Europe
– June 1999)*

The Congress,

1. Having regard to the motion for a resolution on the political integrity of local and regional elected representatives tabled at the 3rd session of the Congress;
2. Having heard the report presented by Mr Viorel Coifan (Romania) at this session;
3. Taking account of the principle of subsidiarity as defined in the text of the European Charter of Local Self-Government: “Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen”;
4. Convinced that local and regional representatives who have been elected to political office must assume these responsibilities on behalf of the whole of the local or regional population, in compliance with the law and in the general interest;
5. Considering that the local and regional elected representatives of Greater Europe must exercise these responsibilities according to ethical principles and with unquestionable integrity;
6. Recognising that any failure to comply with these principles is liable to undermine not only the credibility of local and regional elected representatives but democracy in general and in so doing to erode the very foundations of the rule of law;
7. Deploring that corruption “scandals” involving local or regional political representatives damage the credibility of local and regional elected representatives generally;
8. Having noted that the problem of corruption may be serious in a context of economic change;
9. Convinced that the purpose of the code of conduct for local and regional elected representatives as set out in the appendix to this recommendation will be to provide them with guidance as to how to carry out their daily duties in accordance with ethical principles and take preventive measures to reduce the risk of corruption;
10. Considering that the main objective of the adoption and promotion of the code of conduct for local and regional

elected representatives is to strengthen the trust between elected representatives and citizens;

11. Taking note of the relevant work being done to fight corruption in other sectors of the Council of Europe, the European Union, the Organisation for Economic Co-operation and Development and the United Nations Organisation;
12. Drawing attention to paragraph III, 2, “Fighting corruption and organised crime”, of the Action Plan adopted at the Second Summit of the Heads of State and Government of the 40 member states of the Council of Europe, in particular sub-paragraph 2 calling for the rapid completion of international legal instruments pursuant to the Council of Europe’s Programme of Action against Corruption;
13. Recalling that the Council of Europe’s Programme of Action against Corruption adopted by the Committee of Ministers in November 1996 gave high priority to drawing up codes of conduct for elected representatives in the fight against corruption;
14. Recalling Resolution (97) 24 on the twenty guiding principles for the fight against corruption adopted by the Council of Europe Committee of Ministers, in particular paragraph 15 encouraging the adoption, by elected representatives, of codes of conduct and rules for the financing of political parties and election campaigns;
15. Taking particular note of the work done by the Multidisciplinary Group on Corruption on the Criminal law Convention on Corruption, which was opened for signature at the January 1999 session of the Council of Europe Parliamentary Assembly;
16. Taking note also of the conclusions of the Third European Conference of Specialised Services in the Fight against Corruption concerning influence peddling and the illegal financing of political parties (Madrid, 28-30 October 1998), which state the need to promote codes of conduct for elected representatives at European level;
17. Bearing in mind the work done by the OECD to promote ethical values in the public service and to set up an “ethics infrastructure”;
18. Recalling the twelve ethical principles adopted by the OECD Council on 23 April 1998 to encourage appropriate ethical conduct in the public service;
19. Having noted that certain Council of Europe member countries have begun work to promote ethical values in local affairs and have made this one of the priorities in their efforts to clean up public life,
20. Urges the Council of Europe Parliamentary Assembly to support the European code of conduct for the political integrity of local and regional elected representatives;
21. Urges the Committee of Ministers of the Council of Europe:
– to take account of the text of the code of conduct in the work of the GMC;

¹. Debated by the Congress and adopted on 17 June 1999, 3rd sitting (see doc. CG (6) 8, draft Recommendation, presented by Mr V. Coifan, Rapporteur).

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- to involve the Congress closely in the work of the GMC by allowing it CLRAE representatives to participate in the GMC's discussions of issues relating to local and regional authorities;
- to forward Recommendation 60 (1999), to which the Code of conduct for the political integrity of local and regional elected representatives is appended, to the national governments of member states so that they may take account of it in any changes in legislation or campaigns to promote ethical values at national level.

Appendix

European code of conduct for the political integrity of local and regional elected representatives

Preamble

The Congress of Local and Regional Authorities of the Council of Europe,

Stressing that local and regional elected representatives carry out their duties within the framework of the law and in accordance with the mandate given to them by the electorate and that they are accountable to the whole of the local or regional population, including those electors who did not vote for them;

Considering that respect for the electorate's mandate goes hand in hand with respect for ethical standards;

Deeply concerned by the increase in the number of judicial scandals involving political representatives who have committed offences while in office and noting that local and regional elected representatives are not above such offences;

Convinced that the promotion of codes of conduct for local and regional elected representatives will allow trust to be built up between local and regional politicians and citizens;

Convinced that a relationship of trust is indispensable for elected representatives to be able to perform their role effectively;

Noting that legislation is more and more frequently supplemented by codes of conduct in various areas such as commercial relations, banking relations and administration;

Believing that it is the duty of local and regional elected representatives to take similar steps in their various areas of responsibility;

Convinced that a definition, in the form of a code of conduct, of the ethical obligations of local and regional elected representatives will clarify their role and duties and reaffirm the importance of those duties;

Convinced that such a code must encompass as fully as possible all the work done by elected representatives;

Stressing that rules of conduct imply those ethical imperatives must be respected;

Pointing out that the whole of civil society must be involved in restoring a climate of confidence and stressing the role of the citizens themselves and the media in this respect;

Reasserting that obligations cannot be imposed without guarantees being granted to enable local and regional elected representatives to fulfil their duties and recalling in this respect the relevant provisions of the European Charter of Local Self-Government and the draft European charter of regional self-government;

Taking into consideration the legislation currently in force in member countries and the relevant work being done at international level, proposes the following code of conduct for the Political Integrity of Local and Regional Elected Representatives:

TITLE I – SCOPE

Article 1 – Definition of an elected representative

For the purposes of this code, the term “elected representative” means any politician holding a local or regional authority mandate conferred through a principal election (election by direct suffrage) or secondary election (election to executive office by the local or regional council).

Article 2 – Definition of functions

For the purposes of this code, the term “functions” means a principal or secondary elective mandate and all functions performed by an elected representative under that mandate.

Article 3 – Object of the code

The object of this code is to specify the standards of behaviour expected of elected representatives in the performance of their duties and to inform citizens of the standards of behaviour that they have a right to expect of their elected representatives.

TITLE II – PRINCIPLES

Article 4 – Primacy of law and the public interest

Elected representatives hold office under the law and must at all times act in accordance with the law.

In performing their functions, elected representatives shall serve the public interest and not exclusively their direct or indirect personal interest or the private interest of individuals or groups of individuals with the aim of deriving direct or indirect personal benefit therefrom.

Article 5 – Objectives of fulfilling a mandate

Elected representatives shall undertake to perform their functions with diligence, openness and a willingness to account for their decisions.

Article 6 – Constraints of fulfilling a mandate

In performing their functions, elected representatives shall respect the powers and prerogatives of all other political elected representative and all public employees.

They shall not encourage or help any other political representative or any public employee to breach the principles set forth herein when performing their functions.

TITLE III – SPECIFIC OBLIGATIONS

Chapter 1 – Taking of office

Article 7 – Rules governing election campaigns

Candidates' election campaigns shall aim to provide information and explanations on their political programmes.

Candidates shall not seek to secure votes by any means other than persuasive argumentation and debate.

In particular, they shall not attempt to obtain votes by slandering other candidates, by the use of violence and/or threats, by tampering with electoral rolls and/or the results of the ballot or by granting or promising favours.

Chapter 2 – Holding of office

Article 8 – Ban on favouring

Elected representatives shall not perform their functions or use the prerogatives of their office in the private interest of individuals or groups of individuals, with the aim of deriving a direct or indirect personal benefit therefrom.

Article 9 – Ban on exercising authority to one's own advantage

Elected representatives shall not perform their functions or use the prerogatives of their office to further their own direct or indirect private or personal interests.

Article 10 – Conflict of interests

When elected representatives have a direct or indirect personal interest in matters being examined by local or regional councils or by executive bodies, they shall undertake to make those interests known before deliberations are held and a vote is taken.

Elected representatives shall abstain from any deliberation or vote on a question in which they have a direct or indirect personal interest.

Article 11 – Limit on concurrent holding of two or more appointments

Elected representatives shall comply with any regulations in force aimed at limiting the concurrent holding of two or more political appointments.

Elected representatives shall not hold other political appointments where this prevents them from performing their functions as an elected representative.

Nor shall they have or hold functions, elective mandates, occupations or official appointments which entail supervision of their own functions as an elected representative or which they themselves are supposed to supervise in their capacity as an elected representative.

Article 12 – Exercise of discretionary powers

In exercising their discretionary powers, elected representatives shall not grant themselves any direct or indirect personal advantage, or grant any individual or group of individuals an advantage with the aim of deriving a direct or indirect personal benefit therefrom.

Detailed grounds shall be given for any decision, specifying all the factors on which the decision is based, in particular the applicable rules and regulations, and showing how the decision complies with those rules and regulations.

Failing any rules and regulations, the grounds for the decision shall include elements such as to show its proportionality, fairness and conformity with the public interest.

Article 13 – Ban on corruption

In performing their functions, elected representatives shall refrain from any conduct qualifying, under the national or international criminal law in force, as active or passive bribery.

Article 14 – Observation of budgetary and financial discipline

Elected representatives shall undertake to observe budgetary and financial discipline, which guarantees the proper management of public money, as defined by the relevant national legislation.

In fulfilling their duties, elected representatives shall not do anything to misappropriate public funds and/or grants. They shall not do anything that might lead to public funds and/or grants being used for direct or indirect personal purposes.

Chapter 3 – Relinquishing of office

Article 15 – Ban on securing certain appointments

In performing their functions, elected representatives shall not take any measure such as to grant themselves a future personal professional advantage once they have relinquished their functions:

- in public or private bodies over which they exercised supervision while performing those functions;
- in public or private bodies with which they established a contractual relationship while performing those functions;
- in public or private bodies which were set up during their term of office and by virtue of the powers entrusted to them.

TITLE IV – MEANS OF SUPERVISION

Chapter 1 – Taking of office

Article 16 – Limitation and declaration of campaign expenses

Candidates shall keep their spending on election campaigns in proportion and within reasonable limits.

They shall diligently comply with any measure under the regulations in force requiring the source and amount of the income which they devote to campaign financing and the nature and amount of their spending to be made public.

Failing regulations in force on the subject, they shall provide this information simply on request.

Chapter 2 – Holding of office

Article 17 – Declaration of interests

Elected representatives shall diligently comply with any measure under the regulations in force requiring their direct or indirect personal interests, their other mandates, functions or occupations, or changes in their assets to be made public or monitored.

Failing regulations on the subject, they shall provide this information simply on request.

Article 18 – Compliance with internal and external supervisory measures

In performing their functions, elected representatives shall not hinder the implementation of any supervisory measure which the relevant internal or external authorities may, with due justification and openness, choose to take.

They shall diligently comply with any immediately enforceable or final decision by those authorities.

When giving grounds for their acts or decisions subject to such supervision, they shall expressly mention the existence of the supervisory measures and specify the authorities competent for implementing them.

TITLE V – RELATIONS WITH THE PUBLIC

Article 19 – Publishing and giving grounds for decisions

Elected representatives shall be accountable to the whole of the local population throughout their mandate.

Elected representatives shall give detailed grounds for any decision which they take, specifying all the factors on which the decision is based, in particular the applicable rules and regulations, and showing how the decision complies with those rules and regulations.

Where that information is confidential, the reasons for such confidentiality shall be explained.

Elected representatives shall diligently respond to any request from the public concerning the performance of their functions, the grounds for their action, or the functioning of the services and departments coming under their responsibility.

They shall encourage and promote any measure which fosters openness concerning their powers, the exercise of those powers and the functioning of the services and departments coming under their responsibility.

TITLE VI – RELATIONS WITH LOCAL GOVERNMENT STAFF

Article 20 – Appointments

Elected representatives shall undertake to prevent any appointment of administrative staff based on principles other than recognition of merit and professional abilities and/or for purposes other than the needs of the department.

In matters of staff appointments or promotions, elected representatives shall take an objective, reasoned decision, showing due diligence.

Article 21 – Respect for the role of local government staff

In performing their functions, elected representatives shall show respect for the role of the local government staff reporting to them, without prejudice to the legitimate exercise of their hierarchical authority.

They shall not ask or require public employees to take or omit to take any measure such as to give themselves a direct or indirect personal advantage or give an advantage to individuals or groups of individuals with the aim of deriving direct or indirect personal benefit therefrom.

Article 22 – Promotion of the role of local government staff

In performing their functions, elected representatives shall ensure that the role and tasks of the local government employees reporting to them are promoted to the full.

They shall encourage and promote any measure which fosters improvements in the operating performance of the services or departments coming under their responsibility and the motivation of the staff concerned.

TITLE VII – RELATIONS WITH THE MEDIA

Article 23

Elected representatives shall respond diligently, honestly and fully to any request from the media for information concerning the performance of their functions but shall not provide any confidential information or information concerning the private lives of elected representatives or third parties.

They shall encourage and promote any measure which fosters media coverage of their powers, the performance of their functions and the functioning of the services and departments coming under their responsibility.

**TITLE VIII – INFORMATION, DISSEMINATION AND
AWARENESS-RAISING**

*Article 24 – Dissemination of the code to elected
representatives*

Elected representatives shall undertake to ensure that they have read and understood all of the provisions of this code and the regulations referred to herein, and shall declare that they are willing to be guided by the provisions of the code.

*Article 25 – Dissemination of the code to the public, local
government staff and the media*

Elected representatives shall encourage and promote any measure which fosters dissemination of this code to the staff reporting to them, the public and the media, and which heightens those persons' awareness of the principles contained herein.