

ETHICS OFFICER

Annual Report 2022



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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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INTRODUCTION & MISSION

This **2022 Annual Report** of the Ethics Officer builds on previous annual reports of the Ethics Officer ([First](#), [Second \(interim\)](#) and the [2021](#) Annual Reports). It covers the period 1 January – 31 December 2022.

The function of an Ethics Officer in the Council of Europe was established in April 2019. The Ethics Officer is appointed by the Secretary General.¹ S/he reports directly to the Secretary General on an ad hoc basis as well as through annual reports outlining ethics-related issues and activities carried out in the Council of Europe.

The Ethics Officer acts as a focal point for ethics-related questions in the Council of Europe, for its staff and other persons participating in the activities of the Organisation and, in addition, has an advisory function vis-à-vis the Secretary General.

The Ethics Officer, who is to act independently and on a confidential basis, is guided by the ethics framework (including the Code of Conduct, etc.), staff regulations and staff rules, his/her expertise and professional judgment, and shall in particular:

- **provide guidance and confidential advice** on ethics-related questions to staff and persons participating in the activities of the Council of Europe;
- **promote the ethical standards** of the Organisation among staff and persons participating in the Organisation's activities;
- **advise on conflict-of-interest** issues, including in relation to staff members' involvement in procurement and/or grant award;
- **monitor the effectiveness** of the Organisation's ethical framework and advise on modifications to the ethics-related internal rules, policies and procedures.

¹ The first Ethics Officer, Gianluca Esposito, (2019-2020) and the current Ethics Officer (2021-) were appointed on an interim basis, pending the further development of a pertinent regulatory framework and a fully operational Ethics Office.

MESSAGE FROM THE ETHICS OFFICER

The modernisation of the regulatory and ethics framework of the Council of Europe remained a priority of the Organisation in 2022. The adoption by the Committee of Ministers of new Staff Regulations in 2021 was followed by their implementation through new Staff Rules, which were adopted by the Secretary General in December 2022 and entered into force on 1 January 2023. These two interlinked basic instruments (which replace a number of former rules scattered in various documents) appear now in a consolidated document [Staff Regulations and Staff Rules](#), providing the new legal framework for staff.

Among others, the rules on the management of gifts have been revised, the overall intention being that gifts should only be accepted exceptionally. While token or souvenir items of low value and of promotional purpose shall not be considered gifts, the main rule is that gifts should not be accepted. Exceptionally, in situations where the offer of a gift is consistent with normal practice, and it would be impolite to refuse, gifts may be accepted where the value is not more than 50 Euros. If the value exceeds this threshold, the gift shall be refused and immediately returned. Special rules apply to those involved in procurement/grant awards. Gifts are always to be reported to Protocol (except souvenirs, etc).

*In December 2022, the [Code of Conduct](#) was adopted by the Secretary General. It serves as the central pillar of the new ethical framework of our Organisation (replacing the Charter on professional ethics of 2005). The Code establishes a set of behavioural and ethical standards binding on staff members and it is expected that these rules are also followed by others involved in Council of Europe activities. The Code brings together rules on integrity in a simple, consolidated instrument, based on **professionalism, integrity and respect** as well as the principles that underpin this ethos: independence, trustworthiness, responsibility, dignity, diversity, and discretion, each of which has its dedicated section in the Code. The aim is to guide and assist staff members in their daily working environment. A new [Policy on Respect and Dignity](#) was also adopted by the Secretary General in December 2022. It is applicable to all categories of staff and other persons involved in Council of Europe activities. These instruments entered into force on 1 January 2023, while the “Speak Up Policy” (whistle blowing) and the Policy on Diversity are being finalised.*

The external [Web page of the Ethics Officer](#) is continuously updated to cover new relevant texts. Staff are invited to make themselves acquainted with the new instruments.

It is recalled that in 2021 a [Code of Conduct](#) for the members of the Parliamentary Assembly, a [Code of Conduct](#) for the Congress of Local and Regional Authorities and a [Code of Conduct](#) for the judges of the European Court of Human Rights (“Resolution on Judicial Ethics”) were

adopted. While officials/experts (whether intergovernmental or contracted) have not yet been directly covered by a dedicated single instrument, it is to be noted that codes of conduct exist and are being elaborated in various parts of the Council of Europe (committees, monitoring bodies, etc.).

The advisory function continues to be a central task of the Ethics Officer. This includes to listen to and provide advice on a confidential basis to staff members and others participating in the Council of Europe activities, often relating to various forms of perceived, potential or real situations of conflicts of interest. As in the past, I have organised meetings at the request of persons seeking counselling prior to the confidential advice provided which has always been in writing. Below, in this report, a selection of issues raised have been formulated in an anonymous, simplified and neutral way under “Ethics Advice”, to illustrate some of the issues raised and to add some substance to the statistics.

The Ethics Officer also provides strategic advice to the Secretary General and the Administration. Some of this advice has been requested by entities within the Organisation, such as the Directorate of Internal Oversight (DIO), Directorate General of Administration (DGA) and Private Office. Some has been provided “ex officio”, following valuable input from colleagues. For example, it would appear that many colleagues in the Organisation are concerned about the current post-employment regulations. I encourage colleagues to continue to address their concerns to me.

As in previous years, considerably many more staff members than those obliged to declare their interests also file such declarations. This is considered a good practice. I have also continued to follow-up on risks of conflicts of interest identified by DIO (which is currently responsible for registering and monitoring the declarations) through a direct dialogue with a number of colleagues, in order to prevent or mitigate situations and risks of conflicts of interest highlighted in the declarations.

I would like to thank colleagues of various parts of our Organisation for good co-operation in 2022 and all of those who have provided valuable feedback to me in respect of the advice provided.

*Björn Janson
Ethics Officer*

ETHICS ADVICE 2022

This section provides information on advice delivered in 2022 to staff and persons participating in the activities of the Council of Europe. It illustrates the range of ethics issues on which the Ethics Officer was contacted. All matters relevant for the ethics function were responded to through confidential advice in writing, sometimes following meetings in person or on-line. Some issues have been solved in close dialogue with the persons concerned and some in dialogue with the hierarchy in the appropriate sectors, departments, and directorate generals within the Council of Europe. This section also includes information on advice provided by the Ethics Officer as a means to follow-up the risk analysis carried out by the DIO in its monitoring of the annual declarations of interest.

ADVICE PROVIDED

In 2022, the Ethics Officer provided advice in **56** cases, i.e., a slight decrease from previous years. That said, a lot more (some 150 cases) were received in the “Ethics mailbox” but were not registered as they were either not submitted by staff or other persons involved in Council of Europe activities or were not within the mandate of the Ethics Officer. Around 25% of the registered requests were received from staff in Council of Europe field offices. The majority of requests for advice concerned conflict of interest issues. Some cases had started with a request to the Directorate of Legal Advice and Public International Law (DLAPIL) for legal advice (e.g., legal interpretation of a contract) which then triggered a request to the Ethics Officer (e.g., a situation of conflict of interest). While most requests came from staff members, a few originated from persons participating in the Council of Europe’s activities without being staff (e.g. experts, contracted service providers, etc.).

The Ethics Officer intervened in 7 cases of identified risks following the DIO annual review of declarations of interest. These resulted in some exchanges of views and written advice to the staff concerned on how to prevent or mitigate risks of conflicts of interest, or on how to report situations providing more details in respect of insufficient declarations, etc.

ADVICE BY CATEGORY	2022
Conflict of interests	20
Gifts/decorations	9
Outside activities	4
Reputational risks	6
Relation to a Staff Association	2
Work-related behaviour	5
Declarations of interest - risks of conflicts of interest	7
TOTAL	56

The data in the table above is reflected in the graphical format below:



EXAMPLES OF REQUESTS FOR ADVICE RECEIVED BY THE ETHICS OFFICER

**the examples are simplified and do not reflect the details and the full context of the particular issues raised, nor the specific advice provided

i) Requests in relation to general issues

During a mission, I was offered a gift from the host authorities. What should I do?

EO: Questions around gifts are among the most frequent. As of 2023, there are new rules in place, which are reflected in “Message of the Ethics Officer”, see above.

Can a staff member who is on unpaid leave from the Council of Europe be recruited by the Council of Europe as a remunerated consultant?

EO: No. While a staff member is on unpaid leave, he or she is still a staff member and, as such, subject to the Council of Europe Staff regulations. Recruiting a staff member as a remunerated consultant for the Council of Europe would in itself give rise to conflicting interests.

Are there restrictions for a staff member to be a reference person for a former colleague?

EO: There is no principal obstacle to be a reference person at the request of a colleague/former colleague as long as there is no risk of a conflict of interest or the perception thereof in the particular situation, e.g. you have no links (private relation, etc.) to the applicant, other than in your professional capacity. That said, as staff members, we are expected to act in an objective manner and independently from any states or third parties, should we be asked for opinions about colleagues/former colleagues.

Can a staff member/expert accept a medal of honour from a member state for work carried out with the authorities of that country?

EO: Offers of medals, honours etc. from member states shall as a main rule not be accepted by staff as long as they are employed by the Council of Europe. This is regulated in Article 1.10 of the [Staff Regulations](#) and, any exception to the main rule is subject to prior authorisation of the Secretary General (Article 170.1 of the related Staff Rules). A similar restrictive policy would be advised to other persons involved in Council of Europe activities, such as experts, on the basis of the Code of Conduct.

Can a serving staff member be nominated as an independent expert for a Committee or monitoring body of the Council of Europe?

EO: It has been found inappropriate for a serving staff member to accept to be nominated by a member state for an election process to a Committee of the Council of Europe, even if

such an appointment would take effect only after the staff member has left the organisation, as it would be incompatible with the independence of the staff member.

A staff member campaigning for general elections in a member state: What are the steps to be taken?

EO: According to Article 1.9 of the Staff Regulations any staff member who becomes a candidate for public office of a political character, including at the local level, is to be placed on unpaid leave and must therefore inform the Directorate of Human Resources. A staff member who is elected and accepts the office must resign from the Council of Europe.

A staff member involved in the work of an intergovernmental committee was offered by a government representative to participate as an expert in an unpaid government activity.

EO: Independence of staff includes, in particular, independence from governments and other authorities. Such involvement with governments should not be accepted in order not to give rise to any conflict of interest which could reflect negatively on staffs' independence and impartiality and/or on the reputation of the Council of Europe. The fact that the suggested work was unpaid would not alter this position.

ii) *Requests relating to co-operation activities, technical assistance, tenders*

Can members of a beneficiary institution that has been awarded a contract or grant by the Council of Europe be contracted as experts in their own (beneficiary) institution?

EO: Members of a beneficiary institution should as a main rule not be engaged as experts in projects intended for the same beneficiary institution as that may give rise to a real, potential or perceived conflict of interests, and should accordingly be excluded from the related procurement procedure. The conflict of interest is even more apparent if the beneficiary organisation was involved in the preparation of the project or decision-making regarding the tender call.

Can a staff member apply to a CoE tender for consultants?

EO: No. This gives rise to a situation of conflicting interests, even if it concerns a staff member with a short term contract and/or the consultancy work would start only after the staff's employment has ended.

Selecting consultants for a technical assistance project when an applicant to the tender is a relative of the project officer. Can this applicant be considered?

EO: The fact that the person applying for the tender is a relative of the project officer gives rise to a real, potential or perceived conflict of interests. As a principle, staff should not manage, or participate in, projects or be involved in procurements/grant awards where they

may have personal interests. As long as the project officer is involved in the tender or the project, the applicant should be excluded from the tender procedure.

During the assessment of a tender call for our project we received applications from civil servants. Can we contract them?

EO: While there is no blanket prohibition to contract a national civil servant to be a consultant for the Council of Europe, such situations require caution in terms of risks of conflicts of interest (e.g. in terms of issues covered by the consultancy, double employment, etc.) The consultant should declare that there is no such conflict. A civil servant shall not be contracted as consultant to carry out work in his “own” beneficiary institution.

STRATEGIC ADVICE AND DIALOGUE

As in previous years, the dialogue on the development of the regulatory framework for ethics continued in 2022 with DGA, which is responsible for the drafting of these instruments, as well as with DIO and DLAPIL.

In addition, the following advice of a strategic character was submitted to the Administration/Private Office:

- Comments on the draft Speak-Up policy to DGA (18 March and 28 September);
- Advice to Private Office, on the employment of consultants (21 March);
- Advice to Private Office, on the gift policy, as requested by DIO in its audit of the Congress of Local and Regional Authorities (30 June);
- Comments on parts of the draft Staff Rules to DGA (18 July);
- Advice on a situation relating to conflicts of interest, requested by DGA;
- View on a common conflict of interest clause for the CoE to DGA and DLAPIL (14 December).

On 15 June 2022, the Ethics Officer met with the Oversight Advisory Committee (OAC). The dialogue aims at providing feedback to the OAC in respect of the on-going work to further develop the ethics function of the Council of Europe and provide it with clear terms of reference, appoint a full time Ethics Officer with appropriate resources and to further enhancing the awareness of ethics/integrity among staff and others participating in the Council of Europe activities.

The Ethics Officer also met with the following entities:

- Data Protection Commissioner and the Data Protection Officer for exchanges of views and synergy (8 February);

- Parliamentary Assembly Committee on Rules of Procedure, invitation (together with the Deputy Secretary General) to present the work of the Ethics Officer at a hearing on integrity rules (29 April);
- Head of Protocol, exchange of views on the gifts' reporting policy (13 May);
- Discussion on a common clause on conflicts of interest, DLAPIL and DGA (15 November);
- Head of the Staff Committee on the new regulatory framework (5 December).

TRAINING AND OUTREACH

While the focus in 2022 has been on putting in place the new normative ethics framework of the Organisation, this will have to be followed up with suitable training and counselling. The intention is to establish training modules based on the new standards. This will be a priority in the years to come and it needs to be done together with the training department of the Directorate of Human Resources (DHR).

Currently, the e-learning programmes developed by the DIO on '*Ethics*' launched in June 2019 and the one on '*Fraud Awareness and Prevention*' launched in November 2019 are central. These trainings, which have become obligatory for all staff, are managed by DHR. By the end of 2022, 90% of staff had undertaken the ethics training and 82% had completed the fraud awareness training. All induction courses for newly recruited staff include references to these compulsory trainings.

SYNERGIES WITH INTERNATIONAL ORGANISATIONS

The Ethics Officer of the Council of Europe is a member of the [Ethics Network for Multilateral Organisations](#) (**ENMO**) which brings together senior officials responsible for the ethics functions in about 50 intergovernmental organisations. This network provides a forum to exchange information and promote standards and best practices in this area. The cooperation provides the possibility to spontaneously consult colleagues and access platforms for information on specific issues, providing useful synergies. The ENMO also organises conferences and seminars.

In 2022, the Ethics Officer participated in ENMO's 14th Annual meeting organised and hosted by UNESCO on 5-8 July focusing on (i) Conflicts of Interests and Outside Activities (ii) Behavioural Science and Ethical Behaviour (iii) Training in a Hybrid Environment (iv) Data Analytics and (v) Internal Whistleblowing. The Ethics Officer also participated in exchanges of views and responded to requests for information in the context of the ENMO network and beyond.

UPHOLDING THE CORE VALUES OF THE COUNCIL OF EUROPE

The core values of those who work for the Council of Europe (the leading European organisation of democracy, protection of human rights and the rule of law) as identified by staff themselves are **professionalism, integrity, and respect**. These values help us define what is important for our Organisation and guide our behaviours, attitudes and principles, allowing us to establish what is expected from all our colleagues, staff, and any person participating in Council of Europe activities.

The Ethics Officer is instrumental in upholding ethical norms and values in the Council of Europe, while performing advisory and preventive functions. If the Ethics Officer's advice (which is confidential and non-binding) is effectively implemented, it can positively contribute to achieving the Organisation's goal to adhere to the highest ethical standards and mitigate the risk of damage to the functioning and reputation of the Council of Europe.

Information disclosed to the Ethics Officer will be handled confidentially. If you have an ethics-related question, please send an e-mail at ethics@coe.int. More information about the Ethics Officer is available at www.coe.int/ethics.