

Council of Europe contribution on the role of public service as an essential component of good governance in the promotion and protection of human rights

For the Council of Europe and the international anti-corruption movement corruption remains a serious threat to the functioning of democratic institutions. It is also, ultimately, an affront to human rights which are at the very heart of the Council of Europe's values. For the Council of Europe, fighting corruption and safeguarding the fundamental civil and political rights enshrined in the European Convention on Human Rights are two sides of the same coin. Both objectives revolve around guarding against abuses of power and position and ensuring impartiality, fairness and respect of established rules by those entrusted with a public function and the public service as a whole.

Making the connection between the prevention of corruption and the protection of democratic principles and human rights is therefore mutually beneficial. Even on a prosperous continent like Europe, corruption is sometimes widespread in sectors such as health, education and social services, which are meant to cater for the fundamental needs and rights of citizens. In some countries, for instance, people are expected to pay bribes for public medical services. Those who don't have the means to pay cannot expect proper treatment. The public service in general, but also central state functions such as justice, police, taxation are strongly affected in some countries; this impacts on the democratic functioning of institutions and ultimately on the equality of citizens since those who have powerful relations and sufficient means to buy a decision take advantage of their situation and those who denounce or combat malpractices are subject to retaliation.

It is therefore a more than welcome development that society at large is becoming increasingly reluctant to accept graft or malpractice in the public service, or the abuse of position by elected representatives. There is also growing insistence on high standards of integrity and good governance, in both the public and the private sector. The Council of Europe's Group of States against Corruption (GRECO) has contributed and continues to contribute a great deal to this state of mind which is a *conditio sine qua non* of effective anti-corruption policies.

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on on-site visits, and followed up by an impact assessment ("compliance procedure") examining the measures taken to implement the recommendations emanating from country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups and include recommendations intended to improve the capacity of states to

fight corruption and to promote integrity Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.

Apart from the specific anti-corruption instruments, various other Council of Europe instruments and activities deal with specific aspects of the action of public service in relation to the promotion and the protection of human rights.

Another Convention (although not yet into force) setting specific obligations upon public authorities is the Convention on Access to Official Documents, which in Article 9 obliges the Parties to inform the public about its right to access to official documents and how that right may be exercised, and to take appropriate measures, inter alia, to educate public authorities in their duties and obligations with respect to the implementation of this right. Such principles also appear in a Recommendation adopted in 2002, which as such is addressed to the governments of all Council of Europe member States.

Particular attention is also dedicated to the specific duties of public authorities with respect to “hate speech”. The first Principle in Recommendation R(97)20 on “hate speech” recalls that “[t]he governments of the member states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to refrain from statements, in particular to the media, which may reasonably be understood as hate speech, or as speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, anti-Semitism or other forms of discrimination or hatred based on intolerance. Such statements should be prohibited and publicly disavowed whenever they occur.”. The same principle is expressed, with specific regard to forms of expression (including in the media and on the Internet) promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons in Recommendation Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity.

Moreover, the 2011 Guidelines on eradicating impunity for serious human rights violations underline that “when it occurs, impunity is caused or facilitated notably by the lack of diligent reaction of institutions or state agents to serious human rights violations”. According to the Guidelines, States, inter alia, “elaborate policies and take practical measures to prevent and combat an institutional culture within their authorities which promotes impunity. Such measures should include: promoting a culture of respect for human rights and systematic work for the implementation of human rights at the national level; establishing or reinforcing appropriate training and control mechanisms; introducing anti-corruption policies; making the relevant authorities aware of their obligations, including taking necessary measures, with regard to preventing impunity, and establishing appropriate sanctions for the failure to uphold those obligations; conducting a policy of zero-tolerance of serious human rights violations; providing information to the public concerning violations and the authorities’ response to these violations; preserving archives and facilitating appropriate access to them through applicable mechanisms.”

Finally, within the Directorate General of Human Rights and Rule of Law, an entire Service is dedicated to activities of assistance to national authorities and relevant institutions and bodies in

the fields of independence and efficiency of justice, human rights, and criminal justice reform. The objective is to increase awareness of the Council of Europe's standards to members of legal bodies and other professionals and to enable them to apply such standards in their daily work. In the human rights field, the work on capacity building, awareness raising and training focuses primarily on the European Convention on Human Rights. The European Programme for Human Rights Education for Legal Professionals (the HELP Programme) is aimed at those professional groups that have a direct role in applying or invoking the Convention in the national judicial systems in member States, that is judges, prosecutors and lawyers.