



COUNCIL
of ETHICS
for Public
Officials



FUAT CANAN
Ethical control of senior public
officials by the Council of Ethics
Board in Turkey

POLITICAL CONTROL

- Parliament
- Council of Ministers

ADMINISTRATIVE CONTROL

- Inspection Boards
- Internal Auditors
- Auditing Board of the Presidency
- Ombudsman
- Council of Ethics

JUDICIAL CONTROL

- Administrative Courts
- Council of State (Danıştay)
- High Court of Accounts (Sayıştay)

PUBLIC CONTROL

- Media
- NGO's

PUBLIC ADMINISTRATION

About the Council

- Council of Ethics for Public Officials (Council) was established by Law No. 5176 in 2004

The Council works under the Office of Prime Minister

The purpose of the Law is:

- to improve integrity in public administration,
- to determine ethical rules of conduct that must be followed by public officials in the performance of their duties,
- to guide them in acting according to these principles,
- to increase public trust towards public administration.

Duties of the Council

- to determine ethical principles to be abided by public officials while performing their duties,
- to conduct necessary inquiry on the basis of applications claiming the violation of ethical principles by senior public officials,

(Before its establishment, no specific institution had mandate for ethical control over senior public officials. Number of senior public officials that might be subject to ethical inquiry by the Council is around 3220.)

- to convey relevant authorities the result of its inquiries made after the allegations,

Duties of the Council

- to perform trainings in order to establish ethical culture within the public administration and support the projects to be performed in this regard,
- to examine, when necessary, the asset declarations of public officials given in accordance with Law no 3628,
- to determine the scope of the gift prohibition for public officials. The Council can request the list of gifts received by senior public officials at the end of each year.

With these mandate given to the Council and its special task in overseeing ethical control of senior public officials upon allegations represent significant step in improving integrity of public administration.

Ethical principles and standards

- Before 2004, ethical principles to be followed by public officials were dispersed among different pieces of legislation
- The “Regulation on the Ethical Rules of Conduct for Public Officials and the Procedures and Principles for Application”, prepared by the Council, is important in terms of bringing together the collection of **ethical principles and standards** that must be respected by public officials in the performance of their duties.

Ethical principles and standards

- • Public service consciousness in performing a duty (art. 5)
- • Consciousness of serving the community (art. 6)
- • Compliance with the service standards (art. 7)
- • Commitment to the objective and mission of public agency (art. 8)
- • Integrity and impartiality (art. 9)
- • Respectability and confidence (art. 10)
- • Decency and respect (art. 11)
- • Notification to the authorities (art. 12)
- • Avoiding conflict of interest (art. 13)
- • Prohibition against the misuse of duty and authority for deriving benefits (art. 14)
- • Prohibition of receiving gifts or deriving benefits (art. 15)
- • The proper use of public properties and resources (art. 16)
- • Avoiding extravagance and waste (art. 17)
- • Unauthorised and factitious statement (art. 18)
- • Transparency (art. 19)
- • Accountability of administrators (art. 20)
- • Restrictive relations with former public servants (art. 21)
- • Declaration of assets (art. 22)

Ethical principles and standards

- All public officials are obliged to abide by the ethical rules of conduct set forth in the Regulation when performing their duties. These principles constitute a part of the legislative provisions that regulate the employment of public officials
- **Exceptions:** the President, MP's, ministers, members of the Turkish Armed Forces, members of the judiciary and universities

Composition of the Council

- 11 members, elected and assigned by the Council of Ministers:
 - 1 member who previously acted as a Minister
 - 1 member who previously acted as Provincial Municipal Mayor
 - 3 members who retired from the High Court of Appeals, Council of State, the High Court of Public Accounts,
 - 3 members who previously acted as Undersecretary, Ambassador, Governor, or head of independent regulatory authority,

Composition of the Council

- 2 members who previously acted as a Rector or Dean at universities
- 1 member who acted as top level manager at the occupational institutions

They serve for four years term at the Council.

The Council members meet 4 days in a month and receive honorarium.

Council secretariat

- Currently, the secretariat of the Council functions with 19 personnel.

4 main units within the secretariat:

- **1. Inquiry Unit:** staff working at this unit is also referred as *rapporteurs*. 9 *rapporteurs* generate reports on investigated cases.
- **2. Project Unit:** Develop and implement projects
- **3. Training Unit:** Develop training strategies and provide ethics training to public institutions and agencies requesting such activity.
- **4. Administrative Affairs Unit:** Conducts the secretariat's correspondence and administrative work.

How does the Council control unethical practices?

1- Starting inquiry upon the complaints received

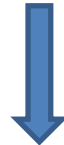
2- On its own initiative (ex-officio): Analysis of media coverage and other findings on corrupt practices of senior public officials

Ethical control process

Application to the Council



Assessments of applications by *rapporteurs*



Submission of reports to the Council



Investigation of complaints



Decision by the Council

Ethical control mechanism

Application to the Council

- Citizens of Turkey and foreign real persons residing in Turkey can make an application to the Council of Ethics claiming that public officials who hold the status of at least a director general or equivalent and higher status have acted against ethical codes of conduct.
- Applications can be sent by post or e-mail
- On average, 182 application received per year

Application to the Council

- The petition shall include explicit and detailed information and documents regarding the claim on actions against ethical principles. Documents shall be annexed to the petition. The claim on misconduct shall be indicated in a concrete way including names of persons, dates and place of work.
- Application petitions that do not bear a name, surname, residential address and signature shall not be processed.
- e-mail applications that bear a false name and surname shall not be processed.

Assessments of applications by *rapporteurs*

After receiving the application, allegations are reviewed by *rapporteurs* to assess subject of dispute, whether ethical principles are violated or not and ethical basis of alleged offence. However,

- applications aiming at smearing public officials' reputation,
- applications not based on fair reasons,
- applications without sufficient information and document on the subject of application,
are **not** taken into consideration by the Council.

Assessments of applications by *rapporteurs*

- Applications currently being examined at the courts or already being decided by a verdict can not be investigated at the Council
- Applications that are not made within two years as of the date of occurrence of the unethical conduct shall not be processed
- A subject of complaint that has previously been examined by the Council shall not be resubmitted unless new evidence has been produced.

Submission of reports by *rapporteurs* to the Council

- Allegations which meet those criteria are presented by *rapporteurs* in the form of a summary report to the Council.
- In its first hearing the Council may decide to drop the allegation.
- If the Council decides to proceed the allegation, it may ask the *rapporteurs* (investigator) to send a letter to the relevant public institution describing allegations and requesting documents and information
- The Council may decide to dispatch *rapporteur* to workplace where the incident happened.
- In its first hearing the Council may decide to ask explanations from the alleged senior official

Investigation of complaints

- In relation to investigations, the Council has the right to call for related documents and relevant information from the ministries and other public institutions. They are obliged to provide related documents and give information regarding the subject of application.
- The documents and information received from institutions and explanations received from the alleged senior official are then reviewed by investigator (*rapporteur*) in relation to allegation claim.
- Investigators make their assessments on the basis of documents and information received and reflect it on their reports signed by investigator.

Responsibility of investigators

- They are responsible for seeking information, relevant documents and facts regarding the complaint on behalf of the Council.
- They are not responsible for deciding whether the allegation is true or not.
- The inquiry is not a trial but the collection and evaluation of documents at hand.
- Allegations, which may include a criminal dimension must be redirected to the Prosecutors Office.

Evaluating investigation reports at the Council

- On the basis of documents and information received, investigators present their reports to the Council and explain the case in detail.
- Ethical control by the Council mainly involves making assessments of ethical code breaches on the basis of allegation claims, documents and information received
- Discussion of what is “improper” to evaluate acts/behaviours of senior public officials in the gray zones of unethical practices
- If the Council does not satisfy with documents and explanations of the alleged senior official, then it has the right to call relevant representatives from public institutions and private enterprises to the Council hearings.
- When necessary the Council is authorized to examine the asset declarations of investigated public official respecting to protect its content.

Council decisions

- Requirement: No less than 6 members to hold a session
- absolute majority is needed to reach a decision
(6 or more)
- The Council is obliged to finalize its investigation within 3 months period.

Content of the Council decisions

- name and surname of the applicant,
- Name and surname of the public official under investigation
- Summary of the documents and information received along with explanations of the alleged senior official
- Decision,
- the names and signatures of the Council members,
- the votes of minority with explanation

Outcomes

- If the Council decides that a public official has performed an administrative action violating ethical principles, this decision is announced to the public through the Council's web site respecting the privacy of senior public official under investigation.
- This is the only sanction of the Council as a result of the investigation it proceeded.

Outcomes

Notifying relevant authorities and publishing

- Council decisions are communicated to the Office of Prime Minister, relevant government institution, the applicant and the official under investigation.
- the Office of Prime Minister or relevant government institution may take further action in response to the Council decision.
- Publishing senior public officials' ethical violation decisions at its web site, the Council aims at informing public officials for possible unethical practices at work and raising public awareness on some of the unethical practices in public institutions. The Council aims at improving sense of responsibility of senior public officials from their actions as well.

Thank you.