

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (97) 12

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON STAFF CONCERNED WITH THE IMPLEMENTATION OF SANCTIONS AND MEASURES

*(Adopted by the Committee of Ministers on 10 September 1997
at the 600th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to the interest of the Council of Europe in establishing common principles on penal policy for the control of crime and ways of dealing with suspected or sentenced offenders which are effective whilst also respecting human rights;

Recognising the importance of Resolution (66) 26 on the status, recruitment and training of prison staff, and Resolution (68) 24 on the status, selection and training of governing grades of staff of penal establishments, together with the necessity of updating to take account of the changes in penal, administrative and professional practice that have come about since their adoption, and have come to expression, *inter alia*, in Recommendation No. R (87) 3 on the European Prison Rules;

Recognising the necessity also to establish principles for the recruitment, selection, training and status of staff concerned with the implementation of community sanctions and measures that supplement those laid down in Recommendation No. R (92) 16 on the European Rules on Community Sanctions and Measures;

Considering that the satisfactory implementation of community and custodial sanctions and measures requires the use of a highly competent, qualified and committed staff if the purposes of the sanctions and measures are to be achieved;

Recognising that the realisation of the several purposes of community and custodial sanctions and measures increasingly calls for a close collaboration between the staff responsible for their implementation within these two sectors and, therefore, the possibilities of staff mobility deserve consideration;

Considering that it is desirable that staff should be recruited and selected according to qualifications and qualities of personality and character befitting their various tasks;

Affirming that they should be given significant opportunities to continuously develop their knowledge and skills so as to accomplish their tasks and meet new challenges with competence and innovative but realistic imagination;

Considering that collaboration between the various staff responsible for the implementation of sanctions and measures will be facilitated if their work is carried out on the basis of shared knowledge about aims and working methods;

Considering therefore that the recruitment, selection and professional development of staff implementing community and custodial sanctions and measures should be undertaken in accordance with principles that make for a unified approach to their work;

Considering it important that the staff be accorded a status commensurate with the essential functions they carry out on behalf of the community, and have conditions of employment befitting their qualifications and which take account of the demanding nature of their work;

Affirming the importance of making explicit the ethical basis of the work carried out by staff concerned with the implementation of community and custodial sanctions and measures;

Recommends that governments of member states:

– be guided by the principles on the recruitment, selection, training, conditions of work and mobility of staff concerned with the implementation of sanctions and measures contained in Appendix I to this recommendation;

– take appropriate action to provide national ethical guidelines for staff concerned with the implementation of sanctions and measures either by drawing up such ethical guidelines in accordance with the European guidelines set out in Appendix II to this recommendation or by adapting, where necessary, existing national ethical guidelines in accordance with the European guidelines;

– encourage the widest possible dissemination of the recommendation and its explanatory memorandum.

Appendix I to Recommendation No. R (97) 12¹

Principles for the recruitment, selection, training, conditions of work and mobility of staff concerned with the implementation of sanctions and measures

I. General principles

1. An explicit policy concerning the staff responsible for the implementation of sanctions and measures should be laid down in a formal document or documents covering all aspects of recruitment and selection, training, status, management responsibilities, conditions of work and mobility. This policy should emphasise the ethical nature of corporate and individual responsibilities and particular reference should be made to national adherence to human rights instruments. It should be formulated in consultation with the staff and/or its professional representatives. Adequate financial resources should be reserved in the budget of the service(s) for the carrying out of this policy.

2. To the extent that staff policy is influenced by changes concerning the implementation of sanctions and measures and, more generally, by administrative, professional and social developments, the principles of the policy should be reviewed and, if necessary, modified.

3. The staff concerned with the implementation of sanctions and measures should be sufficiently numerous to effectively carry out the various duties incumbent upon them. They should possess the qualities of personality and character as well as the professional qualifications necessary for their functions.

II. Recruitment and selection

4. The principles concerning recruitment and selection should be seen as being broadly applicable not only to recruitment and selection for initial entry at basic level but also to recruitment and selection for other posts within or between the probation and prison services.

5. For assistance with decisions on acceptance or rejection, job descriptions should be used in recruitment procedures. Job descriptions should clearly and concretely describe the aims, duties and responsibilities attached to the work to be undertaken. The conditions of employment, including some account of promotion possibilities, should also be clearly set out.

6. In order to attract suitable applicants, recruitment needs and necessary qualifications should be well-publicised.

1. For a definition of certain terms used in this appendix, please see the section on terminology following the two appendices.

7. In addition to having the required level of education, good character and suitable qualifying experience, applicants should have a flexible and stable personality, be manifestly motivated for the work they are seeking, have the qualities necessary for forming good human relationships and be motivated to learn.
8. Recruitment and selection procedures should be explicit, clear, scrupulously fair and non-discriminatory. The body responsible for deciding on acceptance or rejection should be composed of persons with a range of relevant experience. It should work with impartiality.
9. Whatever the instruments used to assess personality characteristics, care should be taken to ensure that the measuring instruments are unbiased and validated.
10. Staff recruitment and selection should be undertaken taking account of the desirability of ensuring an adequate representation of men and women staff members, as well as ethnic minorities, in order to meet the needs of the suspected or sentenced offenders dealt with.
11. Recruitment and selection to higher grades should be based on practical professional experience allied to managerial potentiality. In the interest of developing an effective service or services, recruitment and selection for the higher grades should take account of the need to provide career opportunities as well as to develop new approaches and special skills. Where external recruitment takes place, it is especially important that the experience and aptitudes of any person so recruited and selected are entirely suitable.
12. Where staff are hired on contract or form part of a governmentally grant-aided service responsible for the implementation of sanctions and measures, their recruitment and selection should be such as to ensure that their personal qualities and formal qualifications are fully adequate for their tasks and responsibilities.
13. In order to avoid wastage of manpower through dissatisfaction leading to early resignation, and establish a solid basis for subsequent training, arrangements should be made to orient recruits on entry and give them a realistic perception of their work.

III. Training

14. All training of staff should take strict account of the tasks undertaken by the service for the implementation of sanctions and measures in so far as its aims, content and methods are concerned. The service concerned with the implementation of sanctions and measures should ensure that staff receive an adequate training, including a knowledge of relevant international instruments.
15. Unless the necessary professional training has been undertaken prior to recruitment, the service responsible for the implementation of sanctions and measures should provide such training or ensure that it is provided.
16. The purpose of initial training should be to adapt the new entrant to the tasks to be performed by imparting professional skills and an understanding of the working environment, in particular a knowledge of the problems concerning criminality and its social contexts.

Training should also impart a knowledge of the essential values of the profession and thereby allow the new entrant to find his/her place in the service for the implementation of sanctions and measures.

17. Initial training programmes should combine the theoretical and practical aspects that have a bearing upon the individual's tasks and functions, and the organisation and functioning of the service. In consequence the duration of the training should be sufficiently long.

These programmes should include, *inter alia*, the study of themes concerning the observation and interpretation of behaviour, communication and other human relations skills.

They should be modified to take account of developments concerning the aims and methods of the service for the implementation of sanctions and measures, especially those that entail a change in the nature of particular functions, and any external developments which bear directly upon these matters.

18. Initial training methods should make use of effective learning procedures. When appropriate, use should be made of teachers who are external to the service for the implementation of sanctions and measures.
19. The initial training process should include a verification of the knowledge acquired and permit the evaluation of the trainees. Provision should, therefore, be made for ways of making fair assessments during the training as well as at its conclusion.
20. Continued training should seek to enable staff to achieve continuous improvement and thereby promote increased professionalism. This training should ordinarily lead to a nationally recognised qualification in a particular subject or subjects.

As a general rule such training should be arranged in consultation with the persons concerned. Continued training should be compulsory when new developments create new and essential demands on a service and should be initiated before such changes are implemented. It should also be compulsory when particular aspects of duties so require.

As far as possible such training should include experience at international level when this seems desirable as a way of furthering individual personal development or when it is required for some specific service purpose.

21. The content of continued training should be targeted as far as possible taking into account any work-related needs expressed by the staff. Procedures which allow the expression of these needs should be devised in consultation with the staff.

22. Where special forms of continued training are considered to be of special importance for promotion, the service(s) concerned with the implementation of sanctions and measures should make efforts to provide such training to interested individuals.

23. In the provision of training, use should be made of specialists who are external to the service(s) for the implementation of sanctions and measures. Such training should be conducted in conjunction with specialised bodies external to the service(s) concerned.

24. Arrangements should be made concerning hours of work to allow staff to follow continued training sessions in ordinary working time. This should not preclude the possibility of requiring some study in spare time.

25. In order to secure a high quality of service, continued training should include programmes undertaken in common with different categories of staff, regardless of grade or function, so as to improve collaboration between these categories within the service(s) concerned with the implementation of sanctions and measures. The programmes should, therefore, seek to familiarise staff with work carried out in multidisciplinary teams.

26. Management training should offer staff programmes with a wide range of content and methods with a view to developing capacity for administration and team leadership, and, where appropriate, the mobilisation of external resources. The delegation of responsibility should be given a special place among the various themes taken up.

Management training appropriate to the nature of assigned responsibilities should be obligatory both for the higher grades of management as well as for those exercising direct managerial responsibility for work units.

27. Systematic evaluations of training should be carried out in order to measure the effectiveness of training both in terms of what is learned as well as the way any knowledge gained is put into practice at the place of work. Such evaluations should lead to any necessary adaptations either to training programmes or the conditions for applying the results of training.

28. Since the choice of the training personnel is strictly dependent upon the kind of training that is to be arranged, a wide diversity of choice should be encouraged. They should possess professional attitudes, an experience combining both theoretical and practical aspects, an excellent capacity for the analysis of human behaviour and an ability to listen to others.

29. Training personnel should be recruited using procedures that make it possible to objectively ensure that they possess to a high degree the human and professional qualities necessary for carrying out their functions. They should receive any training necessary for carrying out these functions as and when required.

30. When training personnel are drawn from the staff of the service concerned with the implementation of sanctions and measures, their position and duties should be clearly defined. When necessary, in order to keep their knowledge and practical experience up-to-date, they should return to work in the field. Any significant time spent on temporary appointment to carry out training activities should be recognised for career purposes.

31. Since the training of staff of all grades should be considered an essential investment to achieve effectiveness, an adequate proportion of the budget of the service for the implementation of sanctions and measures should be earmarked for training expenses.

Any substantial change of policy concerning the implementation of sanctions and measures that entails consequences for staff training should be accompanied by an estimate of corresponding budgetary needs. This should be the case, in particular, when special projects for suspected or sentenced offenders are set up which might require supplementary training of the staff involved.

32. The decentralisation of training activities should always be accompanied by the allocation of an individual budget to the decentralised training authorities.

33. The members of staff exercising a specialist function, whether employed full- or part-time, should be given the opportunity on entry into the service for the implementation of sanctions and measures, to undertake training designed to facilitate their adjustment to a new environment for the exercise of their particular function.

Where the need arises, these categories of staff should be offered any form of supplementary training necessary for the proper carrying out of their tasks.

IV. Conditions of work and management responsibilities

34. Effectiveness requires that staff be aware of the fundamental principles that provide the framework for their work. To that end, a policy statement should be published, and updated, as necessary, that defines the general aims, principles, values and methods of the service concerned.

35. The preparation of such a policy statement should be undertaken in broad consultation with the staff in order to secure interest and involvement from the outset.

36. The policy statement should cover the activities of the service(s) responsible for community and custodial sanctions and measures and emphasise the importance of collaboration and mutual understanding. Where the service(s) responsible for both the community and custodial sanctions and measures are separately administered the two documents should be harmonised so as to ensure that there are no contradictions in the principles and values underlying the work undertaken by each service.

37. The policy statement should be supplemented by a plan to achieve stated objectives. Such objectives should be realistic and potentially attainable. The professional opinions of the staff should be sought and taken account of when objectives are set.

38. The methods by which objectives are to be attained should seek to engage the professional creativity and sense of responsibility of staff at every level of the organisation. For this reason, management at all levels should affirm, maintain and develop the professional identity and skills of all staff members.

39. Professional identity is rooted in the understanding and ethical application of a body of specialised, developing knowledge, and work skills. A variety of learning opportunities should therefore be routinely offered to staff of all grades and categories to enable them to keep abreast of new developments in their field of activity. In particular, opportunities should be offered to probation staff to learn about the problems of prison work and the attempts made to overcome them. Prison staff should be offered similar opportunities to learn about probation work.

40. The conditions of work and pay should permit an effective staff to be recruited and retained, and enable its members to carry out their functions correctly and develop their awareness of professional responsibilities.

41. Efforts should be made to ensure that the work of staff concerned with implementing sanctions and measures receives the social recognition which it merits.

42. Management at all levels should strive to prevent working conditions likely to give rise to stress symptoms among the staff by suitable arrangements for physical safety, reasonable working hours, decision latitude, open communication and a psychologically supportive climate in each work unit.

43. Where staff have been exposed to traumatic incidents in the course of duty, they should be offered immediate assistance in the form of debriefing sessions followed, if necessary, by personal counselling and any other necessary long-term measures.

44. Staff welfare policies should be instituted to provide help to staff with personal and private problems likely to affect their work. Full information should be made available to staff about the nature of the help which can be offered.

45. Realistic information about promotion possibilities should be made available to staff. Promotion decisions should emphasise competence, that is, possession of the skills necessary to perform a particular job well. In assessing this, selection procedures should enable due account to be taken of work experience, work effort and the professional quality of work done, including the capacity to collaborate with, and secure collaboration from, others. Regular and reasonably frequent performance appraisals should be the subject of discussion with the individual concerned so as to help staff develop their full potential and prepare for possible promotion.

46. Promotion need not be the only form of recognition of competence. Other forms of recognition of competence should be sought and used when appropriate.

47. Research on staff functioning should be encouraged. Such research should seek to determine, *inter alia*, to what extent the work of a given service could be significantly improved by better forms of staff recruitment, selection, training, work organisation, incentives and professional support.

V. Mobility

48. In order to enhance effective working within and between the prison and probation services, the possibility for those working in one service to be seconded to undertake training in the other service should be encouraged. Such a secondment should take place only with the consent of the individual concerned, should be provisional and should not entail any change in the formal status of the individual member of staff.

49. In order to improve the working of the service(s) for the implementation of sanctions and measures, the temporary secondment of probation staff to undertake prison work and prison staff to undertake work in the probation field, should be possible. The length of the secondment period, which should not amount to a permanent change of employment, should be determined in the light of its purpose or purposes.

50. Temporary secondment should be dependent upon the possession of appropriate qualifications by the person concerned. Budgetary constraints should never lead to the secondment of persons who lack the necessary qualifications. Arrangements should be made for the selection of suitable persons. Any necessary forms of training or preparation should be provided prior to carrying out the secondment.

51. The permanent change by a staff member from prison to probation work or vice versa should be considered following an application for such employment and be subject to national conditions governing such an application.

Appendix II to Recommendation No. R (97) 12¹

European guidelines for national ethical guidelines for staff concerned with the implementation of sanctions and measures

I. Ethical requirements in general

1. Staff concerned with the implementation of sanctions and measures must loyally and conscientiously carry out the duties assigned to them by the legal instruments applied by the state. The same must apply as regards compliance with the policies, practices and instructions of the service(s) concerned with the implementation of sanctions and measures pertaining to the performance of those duties, in so far as they are not obviously at variance with the legal instruments applied.

2. The service(s) concerned with the implementation of sanctions and measures has/have an obligation to make clear to its/their staff the ethical requirements involved in the implementation of sanctions and measures so that work at every level of the organisation can be based on defensible ethical premises. The service(s) concerned should seek to prevent or, where necessary, resolve ethical doubts felt by staff about its/their policies, practices or instructions by instituting appropriate procedures and providing guidance.

3. Staff concerned with the implementation of sanctions and measures must conduct themselves, both on and off duty, in a manner which is in keeping with the policies, principles and instructions of the service(s) concerned, has no adverse effect on the performance of their duties and does not undermine the credibility of the service(s). Staff must immediately inform their superior of any conduct or action liable to have adverse consequences for the service(s).

4. Staff must abstain from conduct which may give rise to a suspicion that money or other resources provided for service use is used improperly. In any case of doubt, guidance should be sought by the individual and provided by the service.

5. When information concerning a suspected or sentenced offender has to be transmitted to an authority entitled to receive it, staff have an ethical obligation to ensure that such information is objective, frank and complete, particularly if the information relates to any unlawful activity on the part of the offender.

6. A spirit of co-operation and mutual support must govern relations between colleagues, with a view to promoting a working environment that is physically and psychologically healthy and safe for both staff and suspected or sentenced offenders. Staff must readily offer their assistance to any colleague who needs such assistance in the course of his or her duties, especially concerning an outbreak of violence or any other distressing incident.

1. For a definition of terms used in this appendix, please see the following section on terminology.

7. Staff concerned with the implementation of sanctions and measures must respect the rights of their colleagues, whatever their race, ethnic or national origin, colour, language, religion, age, gender, sexual inclination or physical or mental condition. They must not under any circumstances take part in any form of harassment or discrimination, or even attempt to excuse such behaviour.

8. Staff concerned with the implementation of sanctions and measures must show due regard for diverging opinions, so as to avoid offending anyone and ensure respect for others. They must not criticise colleagues in front of a suspected or sentenced offender or any of his or her family or circle of acquaintances.

9. Staff concerned with the implementation of sanctions and measures must fulfil their duties in an honest manner and with openness towards other people or bodies working with the service(s) concerned with the implementation of sanctions and measures and with the public, so as to foster confidence in the service and its staff.

10. The service(s) concerned with the implementation of sanctions and measures has/have an ethical obligation to ensure that members of staff are fully informed about the nature of the contact they may have with the media in accordance with any relevant national legislation on freedom of expression and any policy or instructions based on it. When staff make statements to the media they must loyally act in accordance with such legislation, policy or instructions. On such occasions they must demonstrate honesty, objectivity and frankness.

II. Ethical requirements in relation to suspected or sentenced offenders

11. All work in connection with the implementation of sanctions and measures must be based upon respect for the worth of the individual human being and the rights conferred on the suspected or sentenced offender by national or international legal instruments. The respect accorded to the suspected or sentenced offender must include his or her family and relatives.

12. In their work with suspected or sentenced offenders all staff must loyally seek to promote the purposes of the sanction or measure in accordance with the policies and practice of the service(s) concerned with the implementation of sanctions and measures.

13. Staff must abstain from inflicting violence or any other form of physical or mental ill-treatment on suspected or sentenced offenders in their charge and must do all in their power to ensure that such behaviour is not engaged in by others.

14. Staff must abstain from any form of discrimination in the implementation of sanctions and measures and do all in their power to prevent discrimination by other persons and bodies.

15. Staff must abstain from any behaviour which provokes suspected or sentenced offenders in their charge. Conversely, staff must seek to evoke positive behaviour in suspected or sentenced offenders by providing a constructive example in attitudes, words and actions.

16. Staff working directly with suspected or sentenced offenders have an ethical responsibility to inform them about their obligations and rights in relation to the sanctions and measures applicable as well as about the forms of help that can be offered to assist them to adopt law-abiding behaviour.

17. Information about suspected or sentenced offenders and their situation as well as that concerning their families must be handled with respect and treated in accordance with any legislative or administrative provisions on confidentiality. Staff must loyally follow the instructions contained therein.

18. Staff must not under any circumstances accept bribes or engage in corrupt activities with suspected or sentenced offenders or their families and must do all in their power to ensure that such acts are not engaged in by other members of staff.

19. Individual staff members must establish and maintain professional relationships with suspected or sentenced offenders and their families. They must request guidance whenever they experience doubts about the correctness of their relations with offenders and their families. Staff members with supervisory responsibilities must not hesitate to take appropriate action concerning any subordinate's doubtful relations with offenders and their families.

Terminology

1. The term “sanctions and measures” means both custodial and community sanctions and measures. Community sanctions and measures, as defined in Recommendation No. R (92) 16 are those which maintain the offender in the community and involve some restriction of his or her liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designated in law for that purpose. “Measures” are those forms of action decided on in connection with an alleged offence before, or instead of, a decision on a sanction as well as to ways of enforcing a sentence to deprivation of liberty outside a prison establishment.
2. “Staff concerned with the implementation of sanctions and measures” means the staff of the service having operational or managerial responsibility for the implementation of sanctions and measures, as defined above (usually prison staff and probation staff).
3. Reference is made in the text to “suspected offenders” since the service concerned with the implementation of sanctions and measures may be responsible for measures taken before trial. Examples of this are remand in custody, the provision of a supportive contact person before trial or, under certain conditions and with certain safeguards, the commencement of treatment planning.
4. Since Appendix II sets out binding ethical precepts and not rules, “must” (in French, the verb “devoir”) has been used for the verb forms . This is meant to imply that the precepts are intended to exert compelling ethical force.