

states in criminal justice and law reform and organizing seminars for training law enforcement and criminal justice personnel;

11. Also requests the Secretary-General to seek the views of Member States and relevant organizations on the advisability of preparing a manual on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;

12. Further requests the Secretary-General to encourage the coordination of activities related to the use and application of standards and norms between the Crime Prevention and Criminal Justice Branch of the Secretariat and other relevant United Nations entities, such as the United Nations International Drug Control Programme and the Office of the United Nations High Commissioner for Human Rights, so as to heighten their efficacy and avoid overlapping in the implementation of their programmes;

13. Expresses its appreciation to the United Nations network of institutes and intergovernmental and non-governmental organizations for their valuable contribution to the effective use and application of United Nations standards and norms in crime prevention and criminal justice.

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1995/14. Action against corruption

The Economic and Social Council,

Concerned at the seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development,

Also concerned about the links of corruption with other forms of crime, particularly organized crime, economic crime and money-laundering,

Convinced that since corruption is a phenomenon that can cross national borders and affect all societies and economies, international cooperation to prevent and control it is essential,

Deeply concerned about the problems faced by States in this regard,

Convinced of the need to provide technical assistance to developing countries and countries in transition designed to improve public management systems and enhance accountability and transparency,

Recalling the resolution on corruption in government, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 50/

50/ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.7.

Recalling also General Assembly resolutions 45/121 of 14 December 1990 and 46/152 of 18 December 1991 and Economic and Social Council resolutions 1992/22 of 30 July 1992, 1993/32 of 27 July 1993 and 1994/19 of 25 July 1994,

Welcoming the results of the special plenary meeting on corruption involving public officials, held during the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 51/

1. Urges States, as necessary, to develop and implement specific and comprehensive anti-corruption strategies to enhance accountability, by adopting and enforcing civil, administrative, fiscal and criminal law measures, emphasizing, inter alia, transparency and fairness, including legislation to regulate and sanction corrupt forms of corporate behaviour and provide for the forfeiture and/or confiscation of proceeds derived from corrupt practices;

2. Also urges States to increase their capacity for the prevention, detection, investigation and prosecution of corrupt practices, by promoting public awareness, by appropriately strengthening their criminal justice systems and by establishing, as appropriate, independent bodies for the prevention and control of corruption;

3. Further urges States to increase and improve international cooperation for the prevention and control of corruption, including the use of arrangements for extradition, mutual legal assistance, the sharing of information and the collection of evidence;

4. Takes note of the draft international code of conduct for public office holders, in its revised form, annexed to the present resolution, and of the work done to date in revising the text on the basis of comments received from Governments, and requests the Secretary-General to continue his consultations with Governments to revise the text further and to submit it to the Commission on Crime Prevention and Criminal Justice at its fifth session for consideration and action;

5. Urges States to provide their comments to the Secretary-General so as to facilitate the further revision of the draft international code of conduct for public office holders;

6. Requests the Secretary-General to review and expand the manual on practical measures against corruption, 52/ seeking contributions from relevant international organizations, with a view to increasing its use, in advisory services, training and other technical assistance activities;

7. Requests the Secretary-General to cooperate and coordinate with other entities of the United Nations system and relevant international organizations, within their respective mandates, in undertaking joint activities in the field of the prevention and control of corruption and in maximizing the effect of such activities;

51/ See A/CONF.169/16.

52/ International Review of Criminal Policy, Nos. 41 and 42 (United Nations publication, Sales No. E.93.IV.4).

8. Calls upon States, relevant international organizations and financing institutions to extend to the Secretary-General their full support and assistance in the implementation of the present resolution;

9. Requests the Secretary-General, in cooperation with the interregional and regional institutes of the United Nations crime prevention and criminal justice programme network, to study the effects of anti-corruption strategies in order to provide a comparative review of the most effective practices and to develop training and awareness curricula;

10. Requests the Commission on Crime Prevention and Criminal Justice to keep the issue of action against corruption under regular review;

11. Requests the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its sixth session on the implementation of the present resolution.

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24 July 1995

Annex

DRAFT INTERNATIONAL CODE OF CONDUCT FOR PUBLIC OFFICE HOLDERS a/

I. GENERAL PRINCIPLES

1. A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the primary loyalty of public office holders shall be to the public interests of their country as expressed through the democratic institutions of government, and not to persons, political parties or specific government departments or agencies.

2. Public office holders shall ensure that they perform their functions in an efficient and effective manner. They shall at all times seek to ensure that

a/ The draft international code of conduct for public office holders was prepared by the Secretariat pursuant to resolution 7 of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. An earlier version of it was contained in annex II to the discussion guide on demonstration and research workshops (A/CONF.169/PM.1/Add.1). The Commission on Crime Prevention and Criminal Justice reviewed the draft and commented on it at its third session. Pursuant to Economic and Social Council resolution 1994/19, adopted on the recommendation of the Commission, the Director-General of the United Nations Office at Vienna sent the draft code to Member States seeking their comments. To date only two countries have provided comments and suggestions for amendments. The draft code in its present form was prepared by the Secretariat in the light of those comments and suggestions, the observations made during the third and fourth sessions of the Commission, and the input of the five regional preparatory meetings for the Ninth Congress. Revisions in the text are clearly marked for ease of reference.

The deletions mentioned in the notes below refer to words appearing in the version of the draft international code contained in the discussion guide (A/CONF.169/PM.1/Add.1, annex II) or in the background paper prepared by the Secretariat on international action against corruption (A/CONF.169/14, annex I).

public resources for which they are responsible are administered in the most effective and efficient manner. b/

[2 bis. Public office holders shall be responsible for the proper conduct of the functions assigned to them by their hierarchical superior. Public office holders shall be under the obligation not to obey orders which do not conform to law and to inform their hierarchical superior accordingly. If their hierarchical superior reiterates the order in writing, such order shall be executed. In this case, responsibility shall rest with the hierarchical superior. The order whose objective constitutes a crime shall not be executed under any circumstances.]

3. Public office holders shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual, discriminate against any group or individual, or otherwise abuse the power c/ and authority vested in them. [This provision should not be interpreted as excluding any officially approved affirmative action policies to assist disadvantaged groups.]

II. CONFLICTS OF INTEREST AND DISQUALIFICATION

4. Public office holders shall never in any way use their official authority for the d/ advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function, or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties, or the discharge thereof.

5. All public office holders designated under national law shall, unless exempted, declare relevant business, commercial and financial interests, or activities undertaken for financial gain upon entering the service. This information shall be updated regularly. In situations of possible or perceived conflict of interest between public office holders' public duties and private interests, they shall disqualify themselves from any decision-making process relating to such conflict of interest.

6. Public office holders shall at no time use public property, services, or information acquired in the performance of, or as a result of, their official duties for activities not related to their official work.

7. Within a stated period after separation from public service, public office holders holding managerial positions shall, within the framework of national law, obtain governmental permission prior to accepting employment or consultancy assignments from business or private concerns that are in financial relationship with the governmental department or agency in which such officials were employed. During the same period after separation, such permission shall also be required prior to engaging in any private or business activity related to, or dependent on, their previous position in public service.

b/ Former paragraph 2 deleted.

c/ It was suggested that a separate paragraph deal with the issue of abuse of power. However, no specific language has been provided.

d/ The word "improper" was deleted.

III. DISCLOSURE OF ASSETS

8. Public office holders holding managerial or policy-making positions as designated by and pursuant to procedures established by national law, shall e/ disclose f/ all personal property, assets and liabilities, as well as those of their spouses and/or other dependants. Such office holders shall also provide detailed information on the source of any property or asset acquired after their appointment to a senior post. All information provided shall be treated as confidential and may be disclosed only within the framework of special procedures.

IV. ACCEPTANCE OF GIFTS OR OTHER FAVOURS

9. Public office holders shall not place themselves in a position of being under the moral obligation to accord preferential treatment of special consideration to any person or entity [, for instance by accepting directly or indirectly any gift, gratuity, favour, entertainment, loan or anything of monetary value, above a certain limit to be defined by their employer].

[Alternative formulation: Public office holders must, as a matter of principle, refuse any gift which may have an influence on the exercise of their functions, performance of their duties or their judgement.]

V. CONFIDENTIAL INFORMATION

10. Matters of a confidential nature in the possession of public office holders shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise. g/ Such restrictions shall apply also after separation from service.

VI. POLITICAL ACTIVITY

11. The political activity of public office holders shall not be such as to impair public confidence in the impartial performance of their functions and duties. h/

e/ The words ", upon request from their supervisors or other person having an official audit function who has reasonable cause to consider that this is necessary or desirable," were deleted.

f/ The words "to their employers" were deleted.

g/ See the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex, article 4).

h/ Former paragraph 13 deleted.

VII. REPORTING, DISCIPLINARY ACTION AND IMPLEMENTATION

[12. Public officials should report violations of this Code to the appropriate authorities. i/]

[13. Public officials who knowingly and deliberately, or recklessly disregard the provisions of this Code shall be subject to the appropriate disciplinary and administrative measures.]

[14. Serious violations of the provisions of this Code may also be punishable by criminal sanctions, including forfeiture and confiscation of illicit proceeds with compensation to any injured party.]

[Alternative formulations for a single paragraph to replace paragraphs 13 and 14:

Alternative 1: Public office holders who violate the provisions of this Code shall be subject to the appropriate disciplinary, administrative or penal measures, as determined by national legal principles and procedures.

Alternative 2: Public office holders who deliberately or negligently violate the provisions of this Code shall be subject to disciplinary measures. Serious violations may also be punishable by criminal sanctions, including forfeiture and confiscation of illicit proceeds with compensation to any injured party.]

1995/15. Technical cooperation and interregional advisory services in crime prevention and criminal justice

The Economic and Social Council,

Recalling its resolution 1994/22 of 25 July 1994, on technical cooperation in the field of crime prevention and criminal justice,

Recalling also its resolution 1994/16 of 25 July 1994, in which it requested the Secretary-General to provide adequate funds to build and maintain the institutional capacity of the United Nations crime prevention and criminal justice programme to respond to requests of Member States for assistance in the field of crime prevention and criminal justice, if necessary through the reallocation of resources,

Recalling further General Assembly resolution 49/158 of 23 December 1994, on strengthening the United Nations crime prevention and criminal justice programme, particularly its technical cooperation capacity,

Convinced that establishing the rule of law and maintaining efficient criminal justice systems is one of the essential elements of developmental efforts, and recognizing the direct relevance of crime prevention and criminal justice to sustained development, stability, security and improved quality of life,

i/ Deletion.