Rwanda

Presidential Order determining Professional Ethics for Public Servants
Presidential Order 21 of 2021

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Presidential Order determining Professional Ethics for Public Servants

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Presidential Order determining Professional Ethics for Public Servants

Presidential Order 21 of 2021

Published in Official Gazette special on 25 February 2021

Assented to on 24 February 2021

Commenced on 25 February 2021

We, KAGAME Paul,

President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122 and 176;

Pursuant to Law n° 017/2020 of 07/10/2020 establishing the general statute governing public servants as amended to date, especially in Articles 40, 66, 67 and 68;

On proposal by the Minister of Public Service and Labour;

After consideration and approval by the Cabinet, in its meeting of 02/02/2021;

HAVE ORDERED AND ORDER:

Chapter One
General provisions

Article One – Purpose of this Order

This Order determines:

1° professional ethics required for a public servant;
2° core guiding principles that ensure ethical standards in public service;
3° disciplinary faults and related sanctions;
4° disciplinary faults arising from an offence committed at workplace or out of service;
5° disciplinary proceedings to impose sanctions to a public servant who commits a disciplinary fault.

Article 2 – Scope of application

This Order applies to:

1° a public servant governed by the law establishing the general statute governing public servants;
2° a public servant governed by an employment contract;
3° a public servant governed by a special statute but the latter does not provide for specific professional ethics, faults, disciplinary proceedings and related sanctions.
Article 3 – Definitions

In this Order, the following terms have the following meanings:

1° caught in the commission of act: a situation in which a public servant is caught in the course of committing a disciplinary fault or immediately after committing it and there is reliable evidence proving beyond reasonable doubt such commission;

2° gross misconduct: act, omission or unethical behaviour based on the seriousness or circumstances under which they were committed, that undermine the reputation of the country, public service, service delivery, has a negative financial implication on public funds or properties or any other act that is detrimental to public interest;

3° professional ethics: principles and values that govern good conduct and behaviour of a public servant, as a holder of public trust.

Chapter II

Professional ethics required for a public servant

Section One – Guiding principles of a public servant

Article 4 – Excellence and professionalism

A public servant:

1° is innovative, solution-oriented and contributes to the development aligned with the well-being of the society;

2° performs duties based on the best knowledge and skills in his or her work;

3° strives to keep himself or herself consistently informed about development in his or her relevant field and to have an openness to learn in order to perform his or her duties effectively.

Article 5 – Accountability

A public servant:

1° takes responsibility and ownership for his or her actions and decisions as well as consequences;

2° is answerable for actions and omissions.

Article 6 – Integrity and trustworthiness

A public servant:

1° demonstrates the highest standards of integrity, dignity, acts in good faith and refrains from harming the reputation of the public service;

2° handles State assets and resources entrusted to him or her purposefully, effectively and economically;

3° must not engage in any action that is in conflict with his or her work duties;

4° disclose fraud, corruption, nepotism or any other malpractice.
Article 7 – Person-centeredness of service delivery

A public servant must:

1° be at the service of the citizens;
2° be careful, diligent and polite; and
3° provide efficient service.

Article 8 – Impartiality

A public servant:

1° treats all people equally without any discrimination;
2° is objective in performing duties or while making a decision;
3° acts in the interests of public service instead of personal interest;
4° refrains from gifts, incentives, services or corruption that can call their independence and objectiveness into doubt.

Bias, prejudice, conflict of interest or undue influence do not supersede the professionalism of conduct of a public servant.

Article 9 – Transparency and collaboration

A public servant:

1° exercises public authority in a transparent and understandable manner;
2° must be as open as possible about all the decisions and actions that he or she takes;
3° must collaborate with others for the purpose of attaining common goals and involve stakeholders and the public in the preparation and implementation of Government policies, laws, strategies and decisions.

Section 2 – General conduct of a public servant

Article 10 – Conduct of a public servant

A public servant:

1° abides by the law and exercises authority within the limits provided by the law;
2° serves with integrity, impartiality, transparency, objectivity, excellence, and ensures good working relations;
3° is at the service of the people, maintaining focus on public interests over personal interests and aware that his or her decisions impact people and society;
4° conducts himself or herself in a respectable manner, acting responsibly and diligently;
5° executes his or her duties in a professional and competent manner and is accountable for the performance of his or her duties to supervisors and concerned public authority;
6° must avoid any conflict of interest;
7° refrains from personalising public institution’s success;
8° refrains from corruption and any other corrupt related acts;
9° must be loyal and maintain confidentiality. The disclosure of confidential information is done in accordance with relevant laws;

10° refrains from use or consumption of alcohol or other intoxicating substances while on duty.

**Article 11 – Efficient management of property and human resources**

A public servant is required to efficiently manage government resources under his or her responsibility taking into account value for money.

A public servant with the responsibility of managing other public servants is required to ensure their efficient management.

**Article 12 – Relationship with service beneficiaries**

A public servant:

1° must serve beneficiaries with respect;

2° recognises the public's right of access to information, excluding information that is specifically protected by law.

**Article 13 – Relationship with the supervisor**

A public servant with regard to supervisors, must:

1° demonstrate respect and politeness;

2° respect instructions of his or her supervisor;

3° provide accurate information.

**Article 14 – Relationship with employees under his or her supervision**

A supervisor in regard to employees under his or her supervision must:

1° cultivate strong professional ethics and promote good conduct;

2° be committed to optimal development and motivation of employees under his or her supervision;

3° ensure equal treatment of employees under his or her supervision;

4° encourage diversity of ideas and thoughts;

5° create and promote favourable working relationships, teamwork as well as effective and productive communication.

**Article 15 – Relationship with colleagues**

A public servant with regard to colleagues, must:

1° behave with mutual respect;

2° avoid any form of discrimination;

3° not hinder colleagues from performing their duties;

4° ensure a good working relationship for efficient service provision.
Article 16 – Superior responsibility

A supervisor of a public servant does not condone a disciplinary fault committed or about to be committed by an employee under his or her supervision.

A supervisor of a public servant is accountable for inaction regarding a fault committed by an employee under his or her supervision in case he or she was aware that the fault was committed or was about to be committed.

Article 17 – Prohibition from obtaining or accepting gifts

A public servant is prohibited from soliciting or accepting gifts, except for the following purposes:

1° safeguarding the good image of the country;
2° respect of foreign culture;
3° recognition for performance or innovation.

A public servant who receives a gift is required to deliver it to the respective institution with a letter specifying its origin.

If the gift is meant for personal use, a public servant who receives the gift may retain it upon approval by the head of the institution.

Chapter III

Principles governing the disciplinary regime and internal disciplinary committee

Article 18 – Principles governing disciplinary proceedings

Disciplinary proceedings must respect the following principles:

1° a public servant alleged to have committed a disciplinary fault continues to be respected for his or her inalienable rights as a human being;
2° the disciplinary proceedings of a public servant is conducted in writing;
3° no disciplinary sanction can be imposed against a public servant without being given the opportunity to provide written defence, except for some reasons provided for in this Order;
4° the sanction for a disciplinary fault depends on its severity;
5° the disciplinary proceedings and liability are independent from criminal proceedings and criminal liability;
6° no public servant is sanctioned twice for the same disciplinary fault which he or she has already been punished;
7° liability of a disciplinary fault is personal;
8° the disciplinary proceedings is conducted in a transparent manner with impartiality and avoiding nepotism.
**Article 19 – Mitigating circumstances**

The severity of a disciplinary fault may be mitigated by one or several of the following circumstances informed by thorough analysis and supported with reliable evidence if:

1° an alleged public servant commits a disciplinary fault for the first time in public service, yet he or she has consistently demonstrated good behaviour and is exemplary at work and if it can be established that he or she committed the fault unintentionally;

2° a public servant admits the disciplinary fault and is remorseful before commencement of disciplinary proceedings;

3° the act or conduct that resulted into a disciplinary fault was triggered by provocation from another person.

**Article 20 – Aggravating circumstances**

The severity of a disciplinary fault may be aggravated by one or several of the following circumstances based on thorough analysis and supported with reliable evidence:

1° recidivism that occurs within two (2) years in public service;

2° concurrence of disciplinary faults;

3° a disciplinary fault that has caused a negative impact on public interest;

4° proven conspiracy and premeditation to commit a disciplinary fault;

5° a disciplinary fault jointly committed by more than one public servant;

6° a disciplinary fault committed by a public servant who has employees under his or her supervision.

**Article 21 – Determination of the severity of a disciplinary fault**

The severity of a disciplinary fault is determined in consideration of the circumstances in which the fault was committed and the related consequences.

The competent authority, basing on the mitigating or aggravating circumstances of a disciplinary fault as provided for in Articles 19 and 20 of this Order, may impose to a public servant a sanction that is less or higher than the sanction provided for the disciplinary fault. In all cases, the highest disciplinary sanction is dismissal.

The competent authority who imposes a disciplinary sanction considers mitigating or aggravating circumstances which preceded or followed a disciplinary fault.

The competent authority justifies in a letter imposing the disciplinary sanction, the consideration of mitigating or aggravating circumstances related to a disciplinary fault and the corresponding sanction.

**Article 22 – Establishment of an internal disciplinary committee**

Each public institution establishes an internal disciplinary committee comprised of at least five (5) members.

The internal disciplinary committee is composed of at least the following members:

1° a public servant at managerial level appointed by the head of a public institution, to act as a chairperson of the committee;

2° the director of unit in charge of human resources or a staff member in charge of human resources, where there is no director of unit in charge of human resources, to act as the secretary of the committee;

3° a staff member in charge of legal affairs;

4° a public servant from the category of professionals elected by his or her peers;
5° a public servant from the category of support staff elected by peers.

Without prejudice to the provisions of Paragraph 2 of this Article, a public institution with other categories of employment adds to the members of the internal disciplinary committee a staff member from each job category to represent his or her peers.

Except the staff member in charge of legal affairs of the institution and the secretary of the committee who are permanent members, other members of the internal disciplinary committee are elected for a term of two (2) years, renewable once (1).

In case a member of the internal disciplinary committee is suspected of a disciplinary fault, he or she is excluded from the committee proceedings related to his or her case. The head of a public institution designates a temporary substitute.

In case a public servant suspected to have committed a disciplinary fault is at a higher level than that of members of the internal disciplinary committee, the head of a public institution appoints another senior staff at the same level or above the level of the suspect to be a member of the internal disciplinary committee.

If members of the internal disciplinary committee specified in Items 2° and 3° of Paragraph 2 of this Article are no longer in service and a public institution has not yet found other staff to replace them, the head of the public institution appoints other temporary public servants to replace them.

**Article 23 – Responsibilities of the internal disciplinary committee**

The internal disciplinary committee has the following responsibilities:

1° to promote professional ethics among public servants;

2° to carry out administrative investigations on a disciplinary fault allegedly committed by a public servant with intention to analyse the circumstances surrounding the fault, its consequences and evidence;

3° to submit to the competent authority an investigation report that includes at least the fault allegedly committed by a public servant, the analysis conducted, evidence and a recommendation.

The internal disciplinary committee carries out its responsibilities independently and does not receive injunctions from any person.

In case a head of a public institution is suspected to have committed a disciplinary fault in collaboration with the employee under his or her supervision, the Minister in charge of public service, establishes an *ad hoc* committee to conduct disciplinary proceedings for both of them.

**Article 24 – Establishment of an *ad hoc* disciplinary committee and its responsibilities**

A competent authority establishes an *ad hoc* disciplinary committee to carry out administrative investigations on senior officials on job level 1.IV and above.

An *ad hoc* disciplinary committee referred to in Paragraph One of this Article has the same responsibilities as of the internal disciplinary committee provided for in Article 23 of this Order.

The *ad hoc* disciplinary committee consists of at least five (5) members.
Chapter IV
Disciplinary faults, sanctions and disciplinary proceedings

Section One – Disciplinary faults and sanctions

Article 25 – Effects of breaching professional ethics
A public servant who acts contrary to the professional ethics required of a public servant commits a disciplinary fault and is liable to a sanction.

Article 26 – Disciplinary sanctions
Disciplinary sanctions of the first category from the less severe to the most severe are as follows:

1° warning;
2° reprimand.

Disciplinary sanctions of the second category from the less severe to the most severe are as follows:

1° suspension without pay for a maximum period of three (3) months;
2° dismissal.

Article 27 – Warning
A public servant is sanctioned by warning if he or she:

1° arrives late on duty without a valid reason;
2° fails to submit a work related report in due time; or
3° loses or causes damage to service equipment whose value is equal to or less than five hundred thousand Rwandan francs (FRW 500,000) when there has been evidence of his or her carelessness.

Article 28 – Reprimand
A public servant is sanctioned by reprimand if he or she:

1° is absent from work for one (1) day without a valid justification;
2° closes an uncompleted work file;
3° does not disclose a disciplinary fault which is committed by another public servant that he or she is aware of;
4° performs non work-related activities during working hours;
5° does not perform his or her duties, does not perform them on time or perform them inappropriately;
6° loses or causes damage to service equipment whose value is above five hundred thousand Rwandan francs (FRW 500,000) but less than one million Rwandan francs (FRW 1,000,000) when there has been evidence of his or her carelessness.
Article 29 – Suspension for a maximum period of three (3) months

A public servant is sanctioned by a suspension without pay for a maximum period of three (3) months if he or she:

1° insults or defames another public servant or a service beneficiary;
2° provides inaccurate information in matters pertaining to work;
3° does not diligently serve a service beneficiary;
4° is insubordinate to supervisor or superior;
5° deters colleagues from performing their duties;
6° is absent from work for at least two days (2) but not exceeding six (6) days without a valid justification;
7° pursues personal interest in performing his or her duties;
8° consumes alcohol or other intoxicating substances while on duty;
9° fabricates or disseminates inaccurate information;
10° misuses his or her professional status for personal interest;
11° fails to disclose conflict of interest;
12° loses or causes damage to service equipment whose value is equal to or higher than one million Rwandan francs (FRW 1,000,000) when there has been evidence of his or her carelessness.

Article 30 – Dismissal

A public servant is considered to have committed a gross misconduct sanctioned by dismissal if he or she:

1° embezzles or mismanages public funds;
2° solicits, receives or offers a bribe or illegal benefit;
3° commits fraud;
4° commits forgery or usurps powers;
5° harasses, assaults or fights another person;
6° discloses confidential information;
7° steals;
8° commits any form of violence;
9° commits a cybercrime;
10° abuses power entrusted to him or her;
11° destroys work related information;
12° does not perform his or her duties, performs them inappropriately or delays to perform them on time with serious consequences to the institution or the country;
13° deserts work for a period of at least seven (7) working days.
Article 31 – Determination of other acts considered as disciplinary faults

The Minister in charge of public service upon recommendations of the head of a public institution may determine any another disciplinary fault that is not mentioned in this Order and imposes a sanction, among the sanctions provided for by this Order. The recommendations of the head of a public institution are accompanied by the advice of internal disciplinary committee.

Article 32 – Disciplinary faults arising from an offence

Except disciplinary faults provided for in Items 12° and 13° of Article 30 of this Order, other disciplinary faults provided for in Article 30 of this Order are considered as disciplinary faults resulting from the offence committed at work or outside of service. Their disciplinary proceedings and sanctioning are conducted in accordance with provisions of this Order.

Article 33 – A public servant sentenced to an imprisonment

A public servant sentenced in a last instance judgement to imprisonment for a term less than six (6) months is reintegrated in his or her job position after he or she has served his or her sentence, unless the disciplinary liability of that public servant has proven that he or she has to be dismissed.

A public servant who is sentenced in a last instance judgement to imprisonment for a term equal to or exceeding six (6) months is dismissed from office in the public service. The decision of dismissing the public servant does not require disciplinary proceedings provided for in Article 36 of this Order.

Article 34 – Dismissal of a public servant due to desertion

The competent authority, without requesting the disciplinary committee to meet, dismisses a public servant who has deserted work for a period equal to or more than seven (7) days if the public servant has not provided written explanations within the time limit provided for in this Order.

Article 35 – Faults relating to declaration of property

A public servant who commits a disciplinary fault related to declaration of property is punished in accordance with provisions of the law relating to declaration of assets.

Section 2 – Disciplinary proceedings

Article 36 – Disciplinary proceedings of a public servant on alleged disciplinary fault

A competent authority who suspects a public servant to have committed a disciplinary fault requests the public servant to provide written explanations. A public servant provides explanations within five (5) working days from the date he or she received the letter requesting for explanations.

However:

1° when a public servant is caught in the commission of act for a fault of second category, a statement establishing the facts is drawn up and the competent authority suspends from duties the public servant for a maximum period of three (3) months. The request for explanations and investigation of the alleged fault are made after the decision of suspension is taken;

2° the appointing authority may, without requesting for written explanations, suspend from duties, for a maximum period of three (3) months, a public servant appointed by a Presidential Order or a Prime Minister's Order in accordance with the provisions of the law establishing the general statute governing
public servants. The request for explanations and investigation of the alleged fault are made after a
decision of the suspension from duties is taken;

3° the appointing authority may dismiss a public servant appointed by a Presidential Order or a Prime
Minister’s Order without complying with the disciplinary proceedings provided in this Order, if there is
tangible evidence that the public servant committed a fault of the second category.

If a public servant specified in items 1º and 2º of Paragraph One of this Article provides satisfactory explanations,
the disciplinary proceedings is withdrawn, the file related to the proceedings is closed and the public servant is
notified thereof.

If a public servant admits in writing a disciplinary fault, the competent authority takes a decision without
referring their case to the internal disciplinary committee.

If a public servant provides unsatisfactory explanations, the competent authority sends the case to the internal
disciplinary committee for investigation and provides a copy to the concerned public servant.

A public servant who is under disciplinary proceedings for a disciplinary fault of the second category, cannot be
sent on training or be authorised to leave the public institution before a final decision on the fault is taken.

Article 37 – Suspension from duties during disciplinary investigation

Without prejudice to exceptions provided for in Article 36 of this Order and in Paragraph 2 of this Article, a
public servant who is suspected to have committed a disciplinary fault of the second category remains on duty
while disciplinary investigation is being conducted.

However, a competent authority who is not satisfied with explanations provided by a public servant for the
fault of second category may suspend him or her from duties for a maximum period of three (3) months. If the
competent authority decides to suspend from duties a public servant, he or she refers the case to the internal
disciplinary committee for investigation. The suspension from duties is done in accordance with provisions of the
law establishing the general statute governing public servants.

Article 38 – Payment of salary during suspension from duties

During suspension from duties, the salary and fringe benefits of the suspended public servant continue to be
calculated and retained for him or her.

A public servant proven innocent is entitled to his or her salary and fringe benefits retained. However, a public
servant found guilty of a disciplinary fault of the second category is deprived of the right to the salary and other
fringe benefits that were retained for him or her.

A public servant who was suspended from duties but found guilty of a fault of the first category is entitled to the
full salary and fringe benefits retained.

In case a public servant who was suspended from duties for the purpose of investigation is found guilty,
the sanction imposed against him or her takes effect from the date on which he or she was suspended for
investigation purposes.

Article 39 – Deadline for proceedings over a disciplinary fault

The proceedings of a public servant over a disciplinary fault punishable by a sanction of the first category is
concluded within thirty (30) consecutive days counted from the date on which he or she was requested to provide
explanations.

The proceedings of a public servant over a disciplinary fault punishable by a sanction of the second category
is concluded within three (3) months counted from the date on which he or she was requested to provide
explanations.
Article 40 – Competent authority for disciplinary proceedings and imposition of a disciplinary sanction

Disciplinary proceedings for a fault of first category is conducted by immediate supervisor. The head of a public institution or a delegated person is the one competent to impose sanctions of the first category.

Disciplinary proceedings for a fault of the second category are conducted by the head of a public institution or a delegated person. The sanction is imposed by the appointing authority or a delegated person.

Provisions of Paragraph 2 of this Article do not apply to public servants on job level 1.IV and those above whose disciplinary proceedings are conducted and sanctions imposed by the appointing authority or a delegated person.

Article 41 – Proceedings against a public servant who moves from one public institution to another

If a public servant commits a disciplinary fault in its employing institution and moves to another public institution, before being subject to disciplinary proceedings for the alleged fault, the competent authority in the new employing public institution has powers to conduct disciplinary proceedings, upon request by the former employing institution or another public institution. A decision taken on the alleged disciplinary fault is communicated to the former employing institution.

Article 42 – Modalities of imposing a disciplinary sanction

A competent authority imposes a disciplinary sanction in writing. The competent authority clarifies in details the fault committed and its consequences.

If a public servant is sanctioned to suspension without pay for a maximum period of (3) months, the competent authority indicates in writing the dates of the beginning and end of the suspension,

Article 43 – Blacklist

The file of a public servant dismissed from the public service is submitted to the Ministry in charge of public service for the purpose of listing the dismissed public servant among persons prohibited from being recruited or appointed in public service.

Article 44 – Payment for loss or damage of service equipment

A public servant on whom a sanction was imposed due to the loss or damage of service equipment is also ordered to pay for the service equipment damaged or lost. The value of the property to be refunded is the actual value when the property was lost or damaged.

Article 45 – Sanctioning concurrent disciplinary faults

A public servant who is guilty of concurrent disciplinary faults as a result of one act is punished with only the most severe sanction among sanctions provided for the faults he or she committed.

Chapter V
Rehabilitation and prescription of a disciplinary fault

Article 46 – Rehabilitation

A public servant, after a sanction, may request in writing the authority who imposed the sanction for rehabilitation.
Article 47 – Competent authority with power to grant rehabilitation

The head of a public institution grants rehabilitation to a public servant to whom a sanction of the first category or a sanction of suspension was imposed.

The authority that imposed the sanction of dismissal consults the Minister in charge of public service before taking the decision on rehabilitation.

Article 48 – Requirements for granting rehabilitation

A public servant who applies for rehabilitation may be granted rehabilitation if he or she demonstrates remorse and good behaviour after the sanction.

Rehabilitation on sanctions of the first category may be granted at least two (2) years after the public servant is sanctioned.

Rehabilitation on sanctions of the second category may be granted at least five (5) years after the public servant is sanctioned.

In case a person’s application for rehabilitation is rejected due to the fact that he or she does not meet the requirements, he or she re-applies for the rehabilitation after one (1) year in case of sanctions in the first category and two (2) years in case of sanctions in the second category.

However, due to public interest, a competent authority may rehabilitate a dismissed public servant before the period specified in this Article elapses, if there is sufficient evidence that he or she has demonstrated remorse and good behaviour after the sanction.

Article 49 – Effects of rehabilitation

Rehabilitation puts an end to a sanction imposed to a public servant. Rehabilitation takes effect from the date on which it is granted.

The document of rehabilitation is kept in the public servant's file.

Article 50 – Prescription of a disciplinary fault

A disciplinary fault punishable by a sanction of the first category that is not punished within one (1) year can no longer be punished.

A disciplinary fault punishable by a sanction of the second category that is not punished within (2) years can no longer be punished.

The period of time specified in this Article is counted from the date on which the competent authority became aware of the occurrence of the fault.

Chapter VI
Miscellaneous and final provisions

Article 51 – Pending disciplinary cases

A disciplinary fault committed when the Presidential Order n° 65/01 of 04/03/2014 determining modalities of imposing disciplinary sanctions to public servants was in force, where the disciplinary proceedings on that disciplinary fault were interrupted by the repeal of the Presidential Order n° 65/01 of 04/03/2014 on 07/12/2020 in accordance with the Law n° 017/2020 of 07/10/2020 establishing the general statute governing public servants while the disciplinary proceedings were still underway, the disciplinary proceedings of that fault are conducted and the fault sanctioned in accordance with provisions of this Order.
Article 52 – Authorities responsible for the implementation of this Order
The Prime Minister and the Minister of Public Service and Labour are entrusted with the implementation of this Order.

Article 53 – Repealing provision
All prior provisions contrary to this Order are repealed.

Article 54 – Commencement
This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.