



# REPUBLIC OF SAN MARINO

## **We the Captains Regent of the Most Serene Republic of San Marino**

*Having regard to Article 4 of Constitutional Law no. 185/2005 and to Article 6 of Qualified Law no. 186/2005;*

*Hereby promulgate and order the publication of the following Ordinary Law, approved by the Great and General Council during its sitting of 04 September 2014:*

**LAW NO. 141 OF 5 SEPTEMBER 2014**

### **CODE OF CONDUCT FOR PUBLIC OFFICIALS**

#### **Art. 1**

*(Purposes)*

1. The purpose of this Law shall be to clarify the rules on integrity and conduct that public officials are required to observe, to help them respect these rules and to inform users of the conduct that they can legitimately expect from public officials.

#### **Art. 2**

*(Personal scope)*

1. This Law shall apply to all public officials.
2. For the purposes of this Law:
  - a) "public official" means any person who performs a public office or service, employed by the Administration, and any person who performs the function of public official under the Criminal Code;
  - b) "Administration" means all Organisational Units, Departments, Public Entities and Corporations referred to in Annex A to Law no. 188 of 5 December 2011, as well as any Body, Authority and Commission of the State;
  - c) "immediate superior" means the Director or Head of Organisational Units, Entities and Corporations, the President of Bodies, Authorities, Commissions, the Director of the Department and the Directorate General of Public Function in accordance with Article 15, paragraph 3 of Law no. 188/2011.
3. The concept of public official, public employee or public servant contained in special rules falls within the definition of public official referred to in letter a) of paragraph 2 above.
4. The provisions of this Law may also be applied to any person employed by a public or private entity responsible for carrying out public services and to anyone having signed an ongoing

collaboration or consultancy contract, insofar as compatible and without prejudice to special rules. To this end, the administration shall include in the acts pertaining to the provision of public service and in the collaboration and consultancy contracts special provisions and clauses of termination of the employment relationship in case of violation of the obligations arising from this Code.

5. The provisions of this Law shall be reference principles for the conduct of the members of the Great and General Council, the Heads and members of the Township Councils, the members of the Congress of State, the judges and the members of the Police Forces with regard to compatible aspects and without prejudice to the special rules applicable to them.

6. In relation to members of the Police Forces, a specific code of conduct will be approved by means of a delegated decree, in accordance with the guidelines contained in the European Code of Police Ethics referred to in Recommendation REC (2001) 10 adopted by the Committee of Ministers of the Council of Europe on 19 September 2001. Until the adoption of the aforementioned code of conduct, the provision referred to in paragraph 5 shall apply.

### **Art. 3**

#### *(Implementing principles)*

1. From the entry into force of this Law, the Administration and the persons referred to in paragraph 4 of Article 2 having adopted the provisions of this Code shall have the duty to inform public officials and citizens about its provisions, including through computer media.

2. This Law shall be an integral part of the working conditions of public officials.

3. Every public official shall have the duty to take all necessary measures in order to comply with the provisions of this Law.

4. The staff of the public administration shall be offered training activities that provide employees with the guidelines and provisions necessary for the implementation of this Code.

### **Art. 4**

#### *(Legality, impartiality and discretion)*

1. Public officials shall be required to perform their duties in accordance with the law, legitimate instructions and ethical rules relating to their functions.

2. Public officials shall operate in an honest, diligent and effective manner and shall perform their duties to the best of their ability, with competence, fairness and cognition.

3. When the functions of public officials involve the exercise of discretion, they shall be required to exercise it in an impartial manner, in accordance with the law, the principles of professional ethics and the purposes of their office, taking into account only public interest and relevant circumstances.

### **Art. 5**

#### *(Respect for Institutions and political neutrality)*

1. Public officials shall have the duty to respect Institutions and to faithfully serve the Republic and State authorities established in conformity with the law.

2. Public officials shall be required to act in an impartial manner and to comply with the directives, decisions or legitimate actions of public authorities, in full respect for autonomy of the administration from politics. If officials take part in political activities, such participation shall not interfere with the impartial exercise of their functions and with the pursuit of the interest at the basis of the service provided.

## **Art. 6**

### *(Relations with users and professional field)*

1. Public officials shall have the duty to always act in a manner as to preserve and strengthen the confidence of citizens and users in general in the integrity, impartiality and effectiveness of the Administration, institutions and public authorities.
2. In their relationship with users, public officials shall be recognisable through a badge made available by the Administration and by the persons referred to in paragraph 4 of Article 2, unless otherwise ordered.
3. In exercising their functions, public officials shall not act or omit to act in an arbitrary or discriminatory manner to the detriment of any person, group of persons or organisations and shall give due consideration to the rights, obligations and legitimate interests of others.
4. Public officials shall be required to be polite and respectful and helpful in their relations with citizens and users in general, as well as in their relations with superiors, colleagues and subordinates.
5. Public officials shall be liable to their immediate superior, except as otherwise required by law.

## **Art. 7**

### *(Reporting)*

1. Public officials shall be required to submit complaints and reports in the event that:
  - a) they believe that they have been asked to act in an irregular or illegal manner, or contrary to the principles of ethics and good performance of the Administration, or otherwise in a way inconsistent with this Law;
  - b) they become aware of a violation of this Law committed by other public officials;
  - c) they become aware, in the performance of their functions, or as a result thereof, of any element, indication or reasonable suspicion of illegal or criminal activity concerning the public function.
2. The complaint or report referred to in the preceding paragraph may be submitted to the immediate superior, the judicial or police authority in writing or in other specific forms envisaged by the legislation in force.
3. The complaint or report shall not constitute a breach of professional secrecy.
4. The Administration shall ensure that public officials submitting, under this Article, a complaint or report based on reasonable suspicion and in good faith do not suffer any damage. The sanctions or disciplinary measures adopted in violation of the provisions of the preceding paragraph shall be null and void.
5. The Administration shall take appropriate measures to ensure the confidentiality of the identity of the public official who has submitted the complaint or report. The identity may be revealed only if this is essential to fully guarantee the right of defence of the reported person.
6. In case of communication, report or complaint to the Judicial Authority, the identity of the public official who has reported the fact, even if known, shall not be mentioned. The identity of the public official may be revealed only when the Judicial Authority, by reasoned decree, declares it essential for the purposes of investigating the offences prosecuted.

## **Art. 8**

### *(Exercise of powers to one's own advantage)*

1. In performing their duties, public officials shall avoid being influenced by their private interests. It shall be their responsibility to avoid conflicts of interest, regardless of whether these are real, potential or apparent.
2. Public officials shall not in any case take undue personal gain from their office.

**Art. 9**  
*(Conflict of interests)*

1. A conflict of interests shall arise from a situation in which a public official has a personal interest influencing, or apparently influencing, the impartial and objective exercise of his functions.
2. The personal interest of the public official shall include any advantage for himself or to the benefit of the spouse, cohabiting partner, relatives to the fourth degree and the like, or of persons with whom the public official has or has had in the two previous years business or political relations, or of organisations in which he holds or has held in the two previous years management or control positions.
3. Public officials shall be personally responsible for:
  - a) identifying any actual, potential or apparent conflict of interests;
  - b) informing their immediate superior in writing about any conflict of interests from the moment they become aware thereof;
  - c) complying with any final decision that requires them to get out of the situation in which they are, including, if applicable, the indication to refrain from any act relating to the procedure or administrative activity in relation to which a conflict of interests has been identified.
4. Without prejudice to paragraph 5 of Article 2, if the public official is part of a commission or a decision-making body, he shall refrain from attending the session or part thereof dealing with the matter in which he has a personal interest.

**Art. 10**  
*(Declaration of interests)*

1. Public officials holding a position in which their personal or private interests could be related to their official duties shall be required to declare the nature and extent of such interests to their immediate superior, in accordance with the law, at the time of appointment, and thereafter at regular intervals, as defined on the basis of the circulars referred to in paragraph 2 of Article 23, or in case of changes, or upon request.
2. Public officials shall be required to inform in writing their immediate superiors of their adherence to or membership in associations, foundations or organisations, whose areas of interest might create situations of conflict or affect the conduct of the public activity.

**Art. 11**  
*(Incompatibilities)*

1. Without prejudice to the incompatibilities provided for public employees and Directors under Law no. 38 of 8 September 1967, Law no. 41 of 22 December 1972, Law no. 108 of 31 July 2009, Law no. 188 of 5 December 2011 and those laws specially governing Bodies and Organisational Units, public officials shall not be involved in any activity or operation, hold any office or perform any function, regardless of whether it is paid or not, which is incompatible with the proper exercise of their public duties or which would prejudice such exercise. In case it is not clear whether or not an activity is compatible, public officials shall in any case report it to their immediate superior.
2. Regarding incompatibilities with the office of member of elected bodies representing the people, reference shall be made to the special rules governing this matter.

**Art. 12**  
*(Political or public activity)*

1. Without prejudice to the fundamental rights guaranteed in the Declaration on the Citizens' Rights, public officials shall be required to ensure that their participation in political activities, or

their involvement in public or political debates, does not interfere with the impartial exercise of their functions and with the pursuit of the interest at the basis of the service provided, and does not alter the confidence of the public and the Administration in their ability to carry out their duties with impartiality and loyalty.

2. In exercising their functions, public officials shall not commit for political purposes or in any case partisan interests.

### **Art. 13**

#### *(Protecting the privacy of public officials)*

1. The Administration shall take all measures necessary to ensure that the privacy of public officials be respected in an appropriate manner; therefore, statements and reports envisaged in this Law shall remain confidential, except as otherwise prescribed by special rules.

### **Art. 14**

#### *(Gifts)*

1. Public officials shall neither request nor accept gifts, favours, invitations or any other benefit to them or to their spouses, cohabiting partners, relatives to the fourth degree and the like, or persons with whom public officials have or have had in the two previous years business or political relations, or organisations in which they hold or have held in the two previous years management or control positions that may influence or appear to influence the impartiality with which they perform their duties, or may constitute or appear to constitute a reward in relation to their functions. This shall not include conventional hospitality or gifts worth less than € 100.00, which shall in any case be occasional.

2. In cases of doubt about the possibility to accept a gift, public officials shall ask their immediate superior whether to accept a gift, advantage or invitation.

3. Public officials shall deliver to their immediate superior the gifts whose value is higher than that provided for in paragraph 1 and that cannot be refused as a matter of courtesy and protocol. These gifts shall become part of the State assets and, in case of perishable materials, they shall be transferred to the Organisational Units where they can be used or, ultimately, be donated to non-profit organisations.

4. In all cases in which public officials accept an invitation or any advantage that cannot be refused or returned, they shall notify this in writing to their immediate superior.

### **Art. 15**

#### *(Reaction to offers of an undue advantage)*

1. Without prejudice to the provisions of the preceding Article, if public officials are offered an undue advantage they shall be required to take the following measures:

- a) refuse the undue advantage because they do not have to accept it in order to use it as evidence;
- b) report as soon as possible the offer of an undue advantage to their immediate superior or directly to the competent criminal authority;
- c) deal with the case for which the undue advantage was offered in the same way as all other cases and follow the instructions, if any, given by the immediate superior.

### **Art. 16**

#### *(Vulnerability to the influence of others)*

1. Public officials shall not let others force them, or pretend that they are forced, to reciprocate a favour to any natural or legal person. Similarly, their conduct, both public and private, shall not make them vulnerable to the undue influence of others.

**Art. 17**  
*(Abuse of official duties)*

1. Public officials shall not offer any advantages related in any way to their duties as public officials, unless lawfully authorised to do so in the public interest.
2. Public officials shall not seek to influence for private purposes any person or organisation, including other public officials, by means of their official duties, or offering personal benefits.

**Art. 18**  
*(Information held by public authorities)*

1. Taking due account of the right of access pursuant to Law no. 160 of 5 October 2011, public officials shall treat in an appropriate manner, with all the necessary confidentiality, any information and documents acquired during or as a result of the exercise of their functions.
2. Public officials shall not disclose information except in compliance with the rules and requirements applicable to the office, entity or authority by which they are employed.
3. Public officials shall be required to take appropriate measures to ensure the security and confidentiality of the information for which they are responsible or of which they are aware, and to prevent any dispersal of data, by complying with security provisions.
4. Public officials shall resort only to documents, files, databases and archives, to which they have been authorised to access and they shall not seek access to any information, the holding of which by them would not be appropriate to or justified by their functions. Public officials shall not make improper use of information that may be obtained during or as a result of the exercise of their functions; they shall be required to use it in compliance with the duties of their office and to allow access to such information by those entitled thereto.
5. Public officials shall have the duty not to withhold official information that may or should legitimately be made public, and not to disclose information if they know or have reasonable grounds to believe that such information is false or misleading.

**Art. 19**  
*(Public and official resources)*

1. In exercising their discretionary powers, public officials shall be required to ensure that the staff, on the one hand, and, on the other hand, goods, facilities, services and financial resources entrusted to them are managed and used in an effective, efficient and economical way, and not for private or personal purposes, except in case of authorisation granted in accordance with the law.

**Art. 20**  
*(Liability of immediate superiors)*

1. It is a responsibility of immediate superiors to guarantee that public officials subject to their control or direction comply with this Law.
2. Immediate superiors shall be required to control or instruct their staff in accordance with the directives and programs approved by the Directorate General of Public Function and by the Congress of State. They shall be liable for the acts and omissions of their staff violating these directives and objectives if they failed to take the reasonable measures required of a person as part of his job to prevent such acts or omissions.
3. Immediate superiors shall take all necessary measures to prevent that their staff commit acts of corruption in relation to their office. They shall ensure compliance with laws and regulations, provide appropriate training against corruption, pay attention to financial or other

difficulties that their staff may face and provide, thanks to their personal conduct, an example of integrity.

**Art. 21**

*(Termination of public functions)*

1. Public officials shall not take improper advantage of their public office in order to be employed outside the public sector.
2. Public officials shall not allow that the prospect of another job creates a real, potential or apparent conflict of interests. They shall promptly report to their immediate superiors any real offer of employment that could create such a conflict. They shall also report to their superiors the acceptance of any offer of employment.
3. In accordance with the rules in force concerning job rotation and for a term of two years from the termination of the employment relationship, former public officials who have adopted a decision in the context of their administrative activities shall not operate on behalf of any person or organisation in relation to matters involved by this decision, which would provide a particular advantage to said person or organisation.
4. Former public officials shall not use or disclose confidential information obtained in their capacity as public officials, unless authorised to do so.

**Art. 22**

*(Relationship with former public officials)*

1. Public officials shall not grant preferential treatment or privileged access to the public service to former public officials, nor behave in such a way as to penalise them.

**Art. 23**

*(Compliance with this Law and sanctions)*

1. The Ministry responsible for Public Function and the Directorate General of Public Function shall be responsible for the dissemination of this Law. Public officials shall be required to behave in accordance with the law and shall, as a consequence, be aware of its provisions and of any amendments. In case they are not sure how to proceed, they shall contact their immediate superior.
2. The Directorate General of Public Function shall issue circulars implementing this Law, provide effective support to the activities of public officials also through IT instruments and promote appropriate training activities.
3. The provisions of this Law shall supplement the duties of public officials. Without prejudice to the possible application of criminal rules, failure to comply with the provisions of this Law shall entail the application of sanctions in accordance with the disciplinary rules in force.
4. The contracts signed and the duties assigned in violation of the provisions of Article 21, paragraph 3, shall be null and void. Moreover, private parties having concluded those contracts or having assigned those duties shall be prohibited from contracting with the Administration for the next two years and shall be obliged to return any remuneration received and established that relates to them.
5. This does not affect the possibility to pursue an action for compensation for the damage caused to the image of the Administration, in conformity with the legislation in force.
6. This Law may be amended by means of a delegated decree, in order to bring it in line with international directives and provisions in this field.

**Art. 24**

*(Costs related to the implementation of the Code of Conduct)*

1. The requirements envisaged by this Law shall be met, and its provisions shall be implemented by resorting to human and financial resources already available, without any new or higher burdens on public finances.

**Art. 25**

*(Entry into force)*

1. This Law shall enter into force on the fifth day following that of its legal publication.

*Done at Our Residence, on 5 September 2014/1714 since the Foundation of the Republic.*

THE CAPTAINS REGENT  
*Valeria Ciavatta – Luca Beccari*

THE MINISTER  
OF INTERNAL AFFAIRS  
*Gian Carlo Venturini*