



## PRESIDENCY OF THE COUNCIL OF MINISTERS

### Council of Ministers Resolution No. 184/2019

Summary: Approves the Government's Code of Conduct.

The XXII Constitutional Government has set the valorization of political positions as objective of its Program to ensure transparency and the integrity control of the democratic system, as a way of promoting citizens' confidence in the Rule of Law institutions.

To this end, it is deemed important to expressly define clear and rigorous standards, thus preventing any suspicion of misconduct and contributing to transparency in the shaping and decision-making of political office holders.

This resolution reaffirms the principles and duties already enshrined in existing legislation, namely in the Code of Administrative Procedure and in the XXI Constitutional Government Code of Conduct, approved by the Council of Ministers Resolution no. 53/2016, of 21 September. It updates its implementation, provided for in Law no. 52/2019, of 31 July, that approves holders of political positions and higher public positions performance of duties regime.

For this purpose, international and European guidelines shall be adopted, in particular as regards the acceptance of material goods or services offers and of invitations or similar benefits.

It is Government' responsibility not only to manage direct State administration public services but also to set generic guidelines for indirect State administration and corporate public sector. Therefore, the approved Code of Conduct also covers all senior managers' conduct of those entities.

Accordingly:

Pursuant to subparagraph b) of paragraph 2 of Article 19 of Law no. 52/2019, of 31 July, and of paragraph 2 of Article 198, of subparagraphs d) and g) of Article 199 and subparagraph g) of paragraph 1 of Article 200 of the Constitution, the Council of Ministers resolves:

1 - To approve the Government Code of Conduct, hereafter referred to Code of Conduct, that is annexed to this resolution and which forms an integral part.

2 - To determine that the Code of Conduct shall bind all XXII Constitutional Government members and the members of their cabinets.

3 - To determine that XXII Constitutional Government members shall apply the Code of Conduct guidelines whenever they exercise their management powers over direct



State administration services or of superintendence in a broad sense, over public institutes and public enterprises managers.

4 - To establish that the Code of Conduct guidelines shall apply from the date of adoption of this resolution.

The Presidency of the Council of Ministers, 21 November 2019. - The Prime Minister, António Luís Santos da Costa.

## **ANNEX**

(As referred to in paragraph 1)

### **GOVERNMENT CODE OF CONDUCT**

#### Article 1

##### **Object**

The Code of Conduct is an instrument of self-regulation and constitutes a commitment guidance assumed by the XXII Constitutional Government members and by the members of their respective cabinet offices, in the performance of their duties.

#### Article 2

##### **Scope**

1 - The Code of Conduct shall apply to the XXII Constitutional Government members.

2 - The Code of Conduct shall also apply, *mutatis mutandis*, to the cabinet offices' members of the XXII Constitutional Government, as well as to all Public Administration top managers under the Government direction. In addition, it shall apply to the institutes and state-owned enterprises managers, through the guidelines provided by the Government member that exercises supervisory or oversight powers over them, under the terms of Article 11.

3 - For the purposes of this Code, references to the Government members also cover the persons referred to in the previous paragraph.

#### Article 3

##### **Principles**

1 - The Government members shall observe the following general conduct principles in the exercise of their functions:

- a) Pursuit of the public interest and good administration;
- b) Transparency;
- c) Impartiality;
- d) Probity;
- e) Integrity and honesty;
- f) Urbanity;
- g) Interinstitutional respect;



h) Guarantee of confidentiality with regard to reserved matters of which they are aware in the performance of their duties.

2 - The Government members shall act and decide exclusively in the defense of public interest, and cannot benefit from any financial or patrimonial advantages, direct or indirect, for themselves or for third parties, or any other undue gratuity by virtue of the position they hold.

#### Article 4

##### **Duties**

In the exercise of their functions, Government members shall:

a) Abstain from any action or omission, exercised directly or through an intermediary person, which may objectively be interpreted as intending to unduly benefit a natural or legal third person;

b) Reject offers or any of the advantages identified in Articles 8 and 9, in return for the exercise of an action, omission, vote or influence on any public decision-making;

c) Abstain from using or allowing third parties to use, outside the parameters of reasonableness and social adequacy, public goods or resources made available exclusively to him/her for the performance of his/her duties.

#### Article 5

##### **Responsibility**

1 – Non-compliance with the provisions of this Code implies:

a) Political responsibility to the Prime Minister in the case of Government members;

b) Responsibility to the respective Government member, in the case of cabinet members or of senior managers subject to the respective power of direction, authority or superintendence.

2 - The provisions of this Code do not exclude or prejudice other liability forms, namely criminal, disciplinary or financial ones, fitting the case, under the terms of the law.

#### Article 6

##### **Conflicts of interest**

A conflict of interest exists when Government members are in a situation whereby one may reasonably doubt seriously the impartiality of their conduct or decision, pursuant to Articles 69 and 73 of the Code of Administrative Procedure.

#### Article 7

##### **Suppression of conflicts of interest**

1 - Any Government member facing a conflict of interest must inform the Prime Minister, in the case of a minister or secretary of State directly depending on him or her, or to the respective minister, in the case of a secretary of State, as soon as he or she detects the potential risk of conflict.



2 - Any Government member that is faced with an actual or potential conflict of interest shall immediately take the necessary measures to prevent, resolve or to bring an end to the conflict in question, in accordance with the provisions set out in this Code and in the law.

#### Article 8

##### **Gifts**

1 - The Government members shall refrain from accepting offers, in whatever context, of material, consumable or durable goods or of services, which may condition the impartiality and integrity of the performance of their functions, from natural and private legal persons, national or foreign, and from foreign public legal persons.

2 - For the purposes of this Code, it is deemed to exist impartiality and integrity constraint in the exercise of functions when there is acceptance of assets of estimated value of €150 or more.

3 - The offers value is calculated taking into account all gifts sum from the same natural or legal person, in the course of a calendar year.

4 - All the gifts covered by paragraph 2 that constitute or may be considered by its refusal, as a breach of Interinstitutional respect, in particular in the framework of interstate relations, shall be accepted on behalf of the State, without prejudice to the duty of presentation and register provided for in Article 9.

#### Article 9

##### **Delivery and registration duty**

1 - The gifts received by the Government members, under the terms of paragraph 4 of previous article, within the scope of the exercise of their functions, must be submitted to the respective Secretariat General, which keeps it on a publicly accessible register.

2 - The final destination of gifts subject to the delivery duty is established by the respective Secretariat General, taking into account its nature and relevance.

#### Article 10

##### **Invitations or similar benefits**

1 - The Government members shall abstain from accepting invitations, in whatever context, from national or foreign natural and private legal persons and from foreign public legal persons, to attend social, institutional or cultural events, or other similar benefits which may condition the impartiality and integrity of the performance of their duties, without prejudice to provisions set out in paragraphs 3 and 4.

2 - It is considered that there is an impartiality and integrity conditioning of the exercise of functions when there is acceptance of invitations or other similar benefits with estimated value above €150.

3 - The Government members invited in this capacity may accept invitations addressed to them for official events or from national or foreign public entities.

4 - The Government members invited in this capacity may also accept any other invitation addressed to them from private entities up to an estimated maximum value of €150:



a) That are compatible with the institutional nature or with the representation relevance of the respective position; or

b) That constitute a socially appropriate conduct and in accordance with habits and customs.

Article 11

**Extension of the regime**

1 - The principles and duties contained in this Code shall constitute a general guideline for the orders, instructions, guidelines and directives issued by Government members to direct State administration top managers and to public institutes' managers and public managers.

2 - The Government members shall include standards of governance conduct consistent with this Code in the management goals of senior managers' mission statement, appointed by them, as well as in the management contracts concluded with public managers.

Article 12

**Sectoral codes of conduct**

Government members shall encourage the codes of conduct adoption in the services they steer and in public institutes and companies over which they exercise the power of supervision, which should take into account the specificities existing in the various sectors.