

MINISTRY OF PUBLIC ADMINISTRATIONS

3724 MINISTERIAL ORDER APU/516/2005, of 3 March, decreeing the publication of the Cabinet Agreement of 18 February 2005, approving the Code of Good Governance of the members of the Government and the senior officers of the General State Administration.

The Cabinet, in its meeting of 18 February 2005, adopted an Agreement approving the Code of Good Governance of the members of Government and the senior officers of the General State Administration.

Considering that general knowledge of the aforesaid Agreement, which is inserted below, is necessary, I hereby order it be published in the "Official State Gazette".

Madrid, 3 March 2005.

SEVILLA SEGURA

AGREEMENT APPROVING THE CODE OF GOOD GOVERNANCE OF THE MEMBERS OF GOVERNMENT AND THE SENIOR OFFICIALS OF THE GENERAL STATE ADMINISTRATION

Ever since the coming into force of the Spanish Constitution, the Spanish legal system has been enriched by different regulations establishing the framework within which senior officials, government workers, and the remaining staff of the Public Administrations must act in order to carry out their responsibilities in accordance with the law, which guarantees transparency, efficiency and total dedication to public functions, avoiding any activity or interest which might compromise the independence and impartiality of said workers or be detrimental to the performance of public duties.

Nonetheless, at the present juncture, it is necessary for public authorities to offer citizens an undertaking that all the senior offices must satisfy not only the obligations laid down by law, but, in addition, their conduct must be inspired and be guided by principles of ethics and good conduct which have not yet been expressly stated in the regulations – although they are no doubt implicit – and which offer a code of good governance.

The guiding principle of the aforesaid code is therefore respect for a broad range of requirements, including not only compliance with the law and other regulations but also other guarantees, so establishing an undertaking of the public authorities to citizens vis-à-vis the principles by which Spanish democratic institutions operate.

The drawing up of this code closely follows the guidelines of the Organisation for Economic Cooperation and Development (OECD) and other international organisations, comprising therefore an efficient policy for the prevention and management of these conflicts, in accordance with similar experiences adopted by other countries with democratic tradition and foundations.

Therefore, as far as the General State Administration is concerned, the objective is to offer citizens a code of good governance, which may define and set forth the fundamental values which must govern the actions of members of the Government and its senior officers in response to the demands and requirements of citizens as participants in the political community in which they live and offer a solid undertaking of respect, protection, and fostering of all the aspirations of individuals in a

framework of solidarity, liberty and justice.

The fundamental values do not entail a repertory of ethical principles devoid of legal significance. In fact they are principles inferred from the current rules in the Spanish legal system, so that each one of said principles is explicitly stated in a rule providing the legal consequence in the event of non-compliance or defective compliance. The obligation to abide by said principles shall in any event be made in the terms laid down in the legal system, mainly in the Constitution and in Act 50/1997, of 27 November, of the government, concerning members of the same.

In this respect, the Cabinet, following the proposal of the Ministry of Public Administrations, in its meeting of 18 February 2005, approves the following Agreement:

First.—The Code of Good Governance applicable to members of Government, to Secretaries of State and the rest of the senior officers of the General State Administration and public and private institutions in the public state sector, associated with or dependent upon said General State Administration, is approved.

Second.— For the purposes of this agreement, senior officers shall be considered to be those holding that rank in the regulation on incompatibilities.

APPENDIX

First. *Basic principles* — Members of the Government and the senior officers of the General State Administration shall carry out their activities in accordance with the Constitution and the rest of the legal system, following the following principles of ethics and good conduct developed in this Code: objectivity, integrity, neutrality, responsibility, credibility, impartiality, confidentiality, dedication to public service, transparency, exemplary conduct, austerity, accessibility, efficiency, honesty and promotion of the cultural and environmental environment and of equality between the sexes.

Second. *Ethical principles*.

1. The senior offices shall foster human rights and the liberties of citizens, and shall avoid any conduct which may cause any kind of discrimination on the grounds of race, gender, religion, opinion, or any other personal or social condition or circumstance.
2. Decision-taking shall always seek to satisfy the general interests of citizens and shall be based on objective considerations focused on the common interest, regardless of any other factor implying personal, family, corporate, client-based positions or any others which might collide with this principle.
3. They shall refrain from any private activity or interest which may entail a risk of posing conflicts of interest with their public post. A conflict of interests is understood to exist when senior officers take part in decisions relating to matters in which interests of their public post and their own personal matters, or those of direct family members, or interests shared with third parties, happen to coexist.
4. They shall endeavour to promote the respect for equality between the sexes, and shall remove obstacles which might detract from this equality.
5. They shall be subject to the same conditions and requirements laid down for other citizens in the financial transactions, asset obligations or legal activities they perform.
6. They shall not accept any preferential treatment or situation which may imply a privilege or an unjustified advantage, by legal persons or private companies.
7. They shall not exert any influence vis-à-vis the expediting or resolution of administrative

proceedings without just cause, and under no circumstances when this might entail a privilege benefiting the senior officers or their direct family or social environment or when this is detrimental to the interests of third parties.

8. They shall act in accordance with the principles of efficiency and economy, endeavouring at all times to act in favour of the general interest and complying with the objectives of the organisation.

9. They shall refrain from any kind of businesses and financial activities which may compromise the objectivity of the Administration in serving general interests.

10. Their public activities shall be transparent and accessible to citizens, the only exceptions those laid down by law.

11. They shall be held responsible, at all times, for their own decisions and actions and those of the institutions they direct, without prejudice to others that might be legally required.

12. They shall be held responsible for their actions before their superiors and shall not direct said actions towards their subordinates without an objective cause.

13. They shall exercise their responsibilities in accordance with the principles of good faith and dedication to public service and shall refrain not only from conduct not in keeping with said principles but also from any others which could compromise the concept of neutrality in the performance of the public services entrusted to them.

14. Without detriment to the provisions laid down in law concerning the dissemination of information of public interest, the principles of confidentiality, reserve and discretion shall be maintained in relation to data and reports with which senior officials become acquainted as a result of their responsibilities.

Third. Principles of good conduct.

1. Total dedication is required when carrying out the activities of senior officials.

2. The holding of positions in executive bodies of political parties shall under no circumstances detract from or compromise the carrying out of one's responsibilities.

3. They shall guarantee the practical entitlement of citizens to be informed on the functioning of the public services entrusted to them, subject to the limitations laid down by specific rules.

4. They shall take great care in performing their services to ensure that the carrying out of their responsibilities is an effective example for the actions of public employees. This exemplary quality will also be to the fore in the compliance with obligations laid down by law and to which they are subject as ordinary citizens.

5. They shall administer public resources in an austere fashion and shall refrain from actions which may compromise the dignity with which public responsibilities must be performed.

6. Any gift, favour or services in advantageous conditions beyond normal or social customs or forms of courtesy, or loans and other economic benefits which might determine the performing of responsibilities shall be rejected, without detriment to the stipulations of the Penal Code.

If the gifts are of greater significance and of an institutional nature, they shall be incorporated to assets of the State, pursuant to Act 33/2003, of 3 November, on the Assets of Public Administrations, in accordance with what is determined by regulations.

7. In the performing of their activities they shall be accessible to all citizens and shall take great care to respond to all letters, requests and claims the latter make.

8. The official protocol for addressing members of Government and other senior officers will be Sir/Madam, followed by the name of the pertinent post, position or rank.

In official missions abroad they shall be afforded the treatment established by the regulations of the country of pertinent international organisation.

9. They shall refrain from making improper use of the goods and services which the General State Administration puts at their disposal to perform their activities.

10. The actions of senior officials shall be underpinned by respect for the protection of the cultural backdrop, linguistic diversity, and the protection and improvement of the environment.

11. They shall ensure documents are preserved to be transferred and delivered to subsequent senior officers which follow them in their posts.

Fourth. *Compliance with the Code of Good Governance.*

1. On an annual basis, the Cabinet will read a report submitted by the Ministry of Public Administrations concerning the possible non-compliance with principles of ethics and good conduct in order to analyse the procedures and actions which may apply in that event, and propose measures they deem are appropriate to assure the objectivity of decisions in the Administration and public institutions.

2. In the event that there have indeed been breaches of the principles of the code, the Cabinet shall adopt the pertinent measures.