



## GREAT AND GENERAL COUNCIL

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SITTING OF 21 MARCH 2022 DECISION NO. 29

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**SUBJECT: Adoption of the Code of Conduct for Members of the Great and General Council**

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### THE GREAT AND GENERAL COUNCIL in its sitting of 21 March 2022

*Having regard to the recommendations by GRECO to the Republic of San Marino on the occasion of the fourth evaluation round concerning the "Corruption prevention in respect of members of parliament, judges and prosecutors";*

*Having regard to the decision of the Bureau of the Great and General Council adopted today pursuant to Article 55, paragraph 2 of Qualified Law no. 3 of 3 August 2018, and subsequent amendments;*

#### **unanimously adopts**

the Code of Conduct for Members of the Great and General Council with explanatory comments, as set out below:

### **CODE OF CONDUCT FOR MEMBERS OF THE GREAT AND GENERAL COUNCIL**

#### **Art. 1**

##### *(General principles)*

1. The members of the Great and General Council (Parliament) shall perform their functions with diligence, responsibility and a supreme sense of duty.
2. Their mandate shall be inspired by principles of honesty, integrity and transparency. Their conduct shall aim at protecting the honour, dignity and decorum of their function as Members of the Council.
3. They shall act in the general and exclusive interest of the State and refuse any undue advantage or other undue benefit.

#### **Art. 2**

##### *(Duties of the Members of the Great and General Council)*

1. The provisions of this Code of Conduct shall supplement the duties of the Members of the Council contained in Chapter IX of Book I of the Statutes, in the Rules of Procedure of the Great and General Council and in their solemn oath.



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2. This shall not affect the possible application of criminal rules in force in case of criminally relevant conducts.
3. In carrying out their mandate, the Members of the Great and General Council shall:
  - a) avoid acting or voting in their own or any third party's personal interest which may unduly influence the exercise of their functions;
  - b) not demand, accept or obtain any undue advantage or other undue benefit in exchange for the willingness to influence or vote on a legislative or administrative act of the Great and General Council or of a Parliamentary Commission, or on appointments, ratifications or elections falling within the competence of the Great and General Council or its Commissions.
4. The Members of the Council shall scrupulously try to avoid situations that may influence the independent exercise of their functions.

### **Art. 3**

#### *(Conflict of interests)*

1. A Member of the Council shall be deemed in a situation of "conflict of interest", pursuant to Article 55 of Qualifying Law no. 3 of 3 August 2018, when he/she appears to hold a direct personal interest, which could unduly influence the exercise of his/her functions as a member of the Great and General Council.
2. A conflict of interest shall not arise if a Member of the Council obtains an advantage only as a citizen or as a member of a broad category of persons.
3. When assessing the conflicts of interest of a member of the Council, it shall be considered that he or she shall always be independent from external influences and avoid representing interests which are in conflict with the legislative activity and the political guidance and control functions falling within the competence of the Great and General Council.
4. In the event that a Member of the Council notices the emergence of a conflict of interest, he/she shall take all necessary measures to remove it without delay. If he/ she cannot do so, also pursuant to Article 55 of Qualified Law no. 3/2018, he/ she shall inform the Captains Regent and abstain from all voting and discussions relating to his/ her conflict of interest.
5. In the event of a potential or doubtful conflict of interest, it shall be the duty of the Member of the Council to request the opinion of the Advisory Committee in accordance with Article 7 below.



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6. Before speaking or voting in the Parliament or in one of the Council bodies or before being appointed to any other office or mandate, the Member of the Council shall immediately notify any actual or potential conflict of interest in relation to the case in question.

7. Annex A to this Code of Conduct, which contains explanatory comments and concrete examples of conflicts of interest, may be implemented on the basis of practical cases that have emerged or occurred during the Council's activities. This Code of Conduct and any subsequent updates shall be adopted by means of a decision of the Bureau of the Great and General Council, which shall submit them to the Great and General Council for adoption.

### **Art. 4**

#### *(Declarations by the Members of the Great and General Council)*

1. In order to ensure the utmost transparency of their mandate, the Members of the Council shall consent to the annual transmission to the State Institutional Secretariat of a copy of their tax return and of the "DAPEF" declaration by the Tax Office, and, of the data recorded in the Credit Register, in relation to debt exposure to banks or credit institutions with exclusive reference to any non-performance, by the Central Bank of the Republic of San Marino.

2. Using the appropriate form, the Members of the Council shall also be required to annually declare that:

- a) they hold corporate offices in companies, non-governmental organisations, associations and foundations or other legal entities, as well as professional associations;
- b) they own shares or units in San Marino resident companies or hold the position of settlors or beneficiaries of trust assets;
- c) they receive any kind of financial support or interest, including goods or services, other than the remuneration institutionally provided for their parliamentary mandate, and which are conferred by third parties in the context of their political activities, with an indication of the identity of these third parties.

3. The information transmitted to the State Institutional Secretariat in accordance with this article shall be published on the website of the Great and General Council in order to ensure public accessibility.

4. Any information provided by the Members of the Council, pursuant to this Article, shall be promptly removed from the website of the Great and General Council by the State



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Institutional Secretariat as soon as such Members of the Council are removed from office for any reason whatsoever.

5. The forms relating to the declarations referred to in this Article shall be adopted and amended by means of a decision of the Advisory Committee referred to in Article 7.

### **Art. 5**

*(Gifts or similar benefits)*

1. In the exercise of their functions, the Members of the Council shall refrain from accepting gifts or similar benefits, except those of an approximate value of less than €100.00 offered in accordance with the usual standards of courtesy or for the sake of hospitality as representatives of the Great and General Council in their official capacity.

2. This limit shall also apply to the sum of the value of multiple gifts, presents or benefits of the same kind or otherwise attributable to the same donor during the same calendar year.

3. Gifts received by the Members of the Council of a value exceeding € 100.00 which, for reasons of institutional courtesy, cannot be refused, even if received as representatives of the Great and General Council, shall be acquired by the State and, in the case of perishable materials, they shall be sent to the Organizational Unit where they can be used or, eventually, donated to non-profit organisations.

4. In case of doubt as to whether to accept such gifts, the Members of the Council shall request the opinion of the Advisory Committee referred to in Article 7 below.

5. The provisions of paragraphs 1 and 3 above shall not apply to the reimbursement of travel, board, lodging and accommodation expenses of the Members of the Council or to the direct payment of such expenses by third parties when the Members of the Council take part in events organised by institutional third parties after receiving an invitation and in the exercise of their functions.

### **Art. 6**

*(Misuse of public information and resources)*

1. The Members of the Council shall be required to make appropriate and responsible use of the information of which they become aware by reason of their office.

2. In particular, they shall not disclose information that could compromise the national security, public order or international relations of the State.



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3. The Members of the Council shall appropriately use the resources allocated to them by reason of their office by inspiring to principles of respect, cost-effectiveness and decorum.

### **Art. 7** *(Advisory Committee)*

1. An Advisory Committee on the Conduct of the Members of the Council shall be established, with equal representation and for the duration of the Legislature. It shall be composed of the full members of the Secretariat of the Great and General Council referred to in Article 8 of Qualified Law no. 3/2018 and the alternate member of the opposition of the Secretariat of the Great and General Council . In exercising its functions, the Advisory Committee shall be assisted by the Director of the State Institutional Secretariat or his/ her delegate and, if requested, by the State General Lawyer or his/ her delegate. The presidency of the Advisory Committee shall be held alternately by each of its members for a period of six months.

2. If a member of the Advisory Committee is absent or if the matter under consideration involves a member of the Advisory Committee, he or she shall be replaced, respectively, for the majority, by the majority alternate member of the Secretariat of the Great and General Council referred to in article 8 of Qualified Law no. 3/2018, and, for the opposition, by a Member of the Council appointed by the Great and General Council at the beginning of the Legislature. During the meetings of the Great and General Council, if such replacement is not possible He/ she shall be replaced by another Member of the Council, similarly to the provisions of article 10, paragraph 2 of Qualified Law no. 3/2018, , upon proposal of the Captains Regent and with the approval of a simple majority of those voting expressed by sitting and standing.

3. The Advisory Committee shall decide by majority. It may be requested that dissenting opinions be recorded in the minutes. In the event of a tie the President shall have the casting vote.

4. At the request of a Member of the Council, the Advisory Committee shall provide him/ her, also on a confidential basis within ten days of the request, with opinions on potential conflicts of interest and guidelines on the interpretation and implementation of the provisions of this Code of Conduct. The Member of the Council shall be required to comply with these guidelines in any subsequent behaviour he/ she intends to adopt.

5. If the conflict of interest arises during the meeting, the Advisory Committee shall express its opinion before the discussion or vote. If the formulation of the opinion requires further investigations that do not allow the Advisory Committee to deliver its opinion in



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time, the discussion or vote shall take place and the opinion, delivered subsequently, shall be indicative and published among the guidelines.

6. During the meetings of the Permanent Parliamentary Commissions, the Members of the Council shall refer to the guidelines already issued by the Advisory Committee. In the absence of guidelines on the matter under consideration, the latter shall be transmitted to the Advisory Committee at a later time.

7. The Advisory Committee, also on the basis of its own experience, shall issue a publication containing guidelines, also published in a special section of the dedicated website, indicative criteria and ethical general principles for the Members of the Council, and distribute it to each member of the Great and General Council.

8. The publication may be periodically enriched with further explanations of good practices and practical examples that may arise from the experience of the Advisory Committee in dealing with individual cases.

9. The Advisory Committee shall decide on gifts received by the Members of the Council and accepted in accordance with Article 5, paragraph 3 of this Code and, in case of doubt, on the appropriateness of accepting them in accordance with Article 5, paragraph 4.

### **Art. 8**

*(Non-compliance with the opinions of the Advisory Committee)*

1. If a Member of the Council does not comply with the opinion or guidelines of the Advisory Committee, he/she may submit his/her reasons for disagreement.

2. In order to ensure transparency, the opinion given by the Advisory Committee shall be published on the website of Great and General Council after the personal data of any third parties involved have been blanked out at the request of the person concerned.

3. The Members of the Council shall be entitled to have their reasons published together with the opinion of the Advisory Committee.

### **Art. 9**

*(Application of the code of conduct)*

1. The State Institutional Secretariat shall be responsible for the publication and dissemination of this code of conduct.

2. The Members of the Council shall be required to behave in accordance with this code and shall accordingly be aware of its provisions and any amendments thereto.



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3. The Advisory Committee referred to in Article 7 of this Code shall provide concrete support on ethical issues and possible conflicts of interest and promote appropriate information and awareness-raising activities.

4. For the current legislature, the alternate member of the Advisory Committee for the opposition shall be appointed by the Great and General Council at its earliest possible sitting.

5. If the members of the Advisory Committee meet outside of council meetings, they shall be paid a fee, the amount and terms of payment of which shall be established in accordance with the provisions of Articles 69 and 101 of Qualified Law no. 3/2018.

This Code of Conduct shall apply from 1 July 2022 and in any case simultaneously with the Code of Conduct for Members of the Congress of State.



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### **ANNEX A TO CODE OF CONDUCT FOR MEMBERS OF THE GREAT AND GENERAL COUNCIL**

Explanatory comments and concrete examples on conflicts of interest pursuant to Recommendation no. 2 of the GRECO Evaluation Report on the Republic of San Marino relating to the Fourth Evaluation Round

The conflict of interest shall be deemed to exist when there is, in concrete terms, with reference to a given act, decision or discussion, a conflict between the personal interest of the Member of the Council and the public interest, so that, as a result of the vote, the Member of the Council obtains an advantage that he/ she would not otherwise have been able to obtain.

The advantage shall be considered undue when Members of the Council, by exercising their functions, sacrifice or could sacrifice the public interest to pursue their personal interest, in order to obtain an advantage that they would not otherwise be entitled to or would not obtain. When the two interests are not in contrast, any advantage is not undue, since there is no misuse of the function that characterises a conflict of interest.

The existence of a conflict shall be excluded a priori when the advantage is obtained by the Members of the Council not by abusing their position, but as citizens or members of a wider category of persons.

The personal interest that may interfere with the pursuit of the public interest shall include any personal interest, of an economic-financial, professional or relational nature (e.g. relating to the emotional sphere: children, spouse, de facto cohabiting partner outside of marriage, registered partner pursuant to Law no. 147 of 20 November 2018).

For the purposes of interpretation, worth specifying is that the conflict situation shall not only concern the adoption of acts, but also the participation in such adoption process, e.g. through the formulation of the proposal.

The mere fact that a Member of the Council belongs to an association, body, foundation, professional association or trade association and the like shall not automatically imply the existence of a personal interest in conflict with the general, public and social interest. For a conflict of interest to exist, it is necessary that the Member of the Council - by virtue of financial, economic or other relations - obtains an advantage, as a result of his/her vote, that he/ she would not otherwise have been able to obtain.





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1. Cases of real conflict of interest.

When voting on measures affecting the personal interest of Members of the Council, the conflict shall be concrete and current and impose an obligation to abstention.

The following examples constitute a conflict of interest:

- a) a Member of the Council who is a public employee and takes part in the voting or decision on an act whose preparatory work has been carried out by him/ her is;
- b) voting on a legislative measure entailing the allocation by the State of an exclusive funding to a publicly owned company, of which the Member of the Council may be a direct beneficiary;
- c) a self-employed Member of the Council who speaks during a debate involving the interests of clients which he/ she represents in court by virtue of a specific mandate or a contractual relationship within the framework of which such Member of the Council may obtain an advantage;
- d) a Member of the Council who is the Director of a company and votes on measures concerning his/ her own company (approval of an administrative act, such as, for example, the authorisation to sell a public asset to a client, the voting of a decision or the recognition of incentives or benefits) from which direct or indirect damage or advantages for the company or the Member of the Council may arise;
- e) voting on a legislative measure concerning a change of town-planning use only for the area owned by the Member of the Council.

2. Cases where there is no conflict of interest

There is no conflict of interest in the case of voting on measures from which the Member of the Council obtains advantages only by virtue of being a citizen subject to general and abstract rules concerning a broad category of persons.

The following examples do not constitute a conflict of interest:

- a) participation in the examination and vote for the ratification of the decree containing amendments to the Articles of association of the professional association to which they belong, since these provisions are addressed to a wide category of persons;
- b) participation in the examination and vote on the Law, which implements the agreement between the Public Administration and the Trade Unions on the economic effects of the renewal of the public employment contract, as the economic advantage affects all levels of remuneration and not ad personam;
- c) participation in the appointment of the Board of Directors of a Public Company if the Member of the Council, although he/ she is an employee of a company that participates in public tenders issued by such Public Company, does not exercise management functions within the company for which he/ she works;



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- d) the Member of the Council, father or mother of a child with a disability, who proposes and votes on a law for the protection of disability which covers all persons with disabilities;
- e) the Member of the Council who is an entrepreneur and votes on the reform of companies or licenses or who is a lawyer and votes on the reform of the justice system.