

CODE OF CONDUCT
FOR THE PREVENTION AND FIGHT
AGAINST HARASSMENT
IN THE WORKPLACE



CALOUSTE GULBENKIAN
FOUNDATION

July 2020

Preamble

The Calouste Gulbenkian Foundation (CGF), while complying with the provisions of Law No. 73/2016 of August 16, which introduced changes to the Portuguese Labour Code (LC), approved by Law No. 7/2009, of February 12, implemented the present Code of Conduct for the Prevention and Fight against Harassment in the Workplace. This Code is meant to reflect the basic guidelines for employees, fellows, interns, volunteers and other entities or persons engaged with the CGF in the context of procedures for the acquisition of goods, provision of services or the allocation of grants.

Chapter I

Introductory provisions

Article 1

Object

This Code of Conduct, complies with the duty laid down in Article 127, paragraph 1, subparagraph k) of the applicable LC and implements the provisions of Articles 6 and 7 of the CGF's Employees Code of Conduct, through a set of rules and principles to be observed in the context of the CGF's activities, being a self-regulatory instrument and the expression of an active policy meant to raise awareness, prevent, identify, eliminate and punish situations of harassment in the workplace.

Article 2

Scope

This Code of Conduct applies to the members of the Board of Directors, all of the Foundation's corporate bodies and to every person that carries out his/her professional activity in the CGF or that collaborates with the Foundation in any way, regardless of the relevant contractual bound.

Article 3

Enforcement to professional and commercial relations

1. This code should be mentioned in employment agreements, grant agreements, internship agreements, and in particular, contracts for the acquisition of goods, provision of services and allocation of subsidies and disclosed to the persons or entities with whom the CGF has a contractual relationship with.
2. The entities and/or persons with whom the Foundation executed a contract with or the beneficiaries of subsidies or grants, must act in accordance with the general principles undertaken by the CGF, in particular, the principle of zero tolerance regarding harassment.
3. All contracts for scholarships, internships, volunteering, acquisition of goods, provision of services or allocation of subsidies, must include a clause establishing the right to terminate the agreement based on the breach of the CGF's general principles regarding this subject matter.

Article 4

General principles

1. In the exercise of their activities, duties and responsibilities, the persons identified in Article 2 should govern their conduct at CGF in accordance with the following principles:
 - a) Equality and non-discrimination;
 - b) Respect for the dignity of the human person and for their physical and moral integrity;
 - c) Respect for the professional dignity of each employee;
 - d) Promotion of a safe, positive and civically responsible workplace environment;
 - e) Loyalty and cooperation in pursuing the Institution's public interest, while respecting the principles of non-discrimination and fighting harassment in the workplace.
 - f) Rejection of any discriminatory practice, either in terms of ancestry, age, sex, sexual orientation, gender identity, marital state, family situation, financial status, education, social origin or status, genetic heritage, reduced working ability, disability, chronic illness, nationality, ethnic or racial origin, territory of origin, language, religion, political or ideological beliefs and union membership;

g) Zero tolerance for harassment, regardless of the form it takes, the gender, the functional quality or the hierarchical standing of the harassed and the harasser.

Article 5

Harassment definitions

1. Harassment shall mean the practice of an unwanted and reiterated behaviour, namely one that is based on a discriminatory element, that occurs when accessing employment or in the workplace itself, during work or professional training, with the purpose or the consequence of disturbing or embarrassing the person, affect his/her dignity or create an intimidating, hostile, degrading, humiliating or destabilizing environment.
2. Psychological harassment consists of verbal attacks with an offensive or humiliating content, and physical, perceived as abusive, covering physical and/or psychological violence, with a recurring nature.
3. Sexual harassment occurs when there is unwanted sexual conduct or other behaviours based on gender or with a sexual nature, perceived as abusive, and affecting the dignity of the targeted employee, and may include any other verbal, non-verbal or physical unwanted behaviours, with a recurring nature.
4. Isolated events, even if they are not considered harassment, may still be a criminal offense, and should be dealt with in criminal and/or disciplinary procedures.

Internal procedure

Article 6

Complaint or Report

1. Anyone who is the subject of workplace harassment must submit a complaint to the Audit Committee, under the terms of the following article.
2. Any person who is aware of any malpractice related to situations of harassment or the practice of harassment should report them, in accordance with the following article, collaborating in any potential and subsequent disciplinary proceedings or criminal investigation.
3. The report or complaint can also be submitted, as provided by law, to the “*Autoridade para as Condições de Trabalho*” (Working Conditions Authority), that provides an email address for this purpose.
4. The report or complaint may also be submitted, as provided by law, to the Public Prosecutor’s Office or the competent criminal police body, in case of criminal liability and for the purpose of initiating a criminal procedure.

Article 7

Form, content and means of processing the complaint or report

1. The report or complaint must be addressed to the Chairman of the Audit Committee of the CGF and can be made as follows:
 - a) Upon completion of the report form available on the CGF’s Intranet.
 - b) Bywritten communication, using the following email address, meant exclusively to report issues related to fighting and preventing harassment at the CGF: denuncia@gulbenkian.pt.
 - c) In person, at a date and time to be agreed.
2. A report or complaint shall be as detailed as possible, containing a precise description of the facts constituting or likely to constitute harassment, particularly with regard to the circumstances, time and place thereof, name(s) of the victim(s) and of the harasser(s), as well as any existing testimonial, documentary or expert evidence.
3. If the report, claim or complaint is made verbally, it shall be put in writing.

Penalties

Article 8

Prohibition of harassment and liability of the harasser

1. Harassment is intolerable and expressly prohibited by law.
2. Whoever harasses another person commits an illegal act with:
 - a) Civil consequences, being required to indemnify the harassed for both damages to property and for damages for pain and suffering, as provided by law;
 - b) Disciplinary consequences, if carried out by employees, in a professional context, under the terms of articles 328 *et seq.* of the Portuguese Labour Code, which may constitute fair grounds for dismissal;
 - c) Administrative offense consequences, harassment constitutes a very serious administrative offense, pursuant to Article 29, paragraph 5 of the Portuguese Labour Code;
 - d) Criminal consequences, if the requirements of criminal law are met, namely for crimes of stalking and sexual harassment.

Article 9

Disciplinary proceedings, civil liability, criminal liability and administrative offense liability

1. After ascertaining the reported facts, and whenever the alleged harasser identified in the report/complaint is an employee subjected to the CGF's disciplinary power, the President of the Audit Committee shall send a report to the Board of Directors of the CGF, proposing the filing or the initiation of a disciplinary procedure, depending on whether or not there is evidence likely to indicate a situation of harassment, as provided by law.
2. The CGF's Board of Directors shall nominate a rapporteur for the disciplinary proceedings.
3. The filing of disciplinary proceedings does not prejudice any civil, administrative or criminal liability that may be incurred, in relation to any addressees of this Code who commit infractions likely to incur liability.

Protection framework for the harassed person, complainant, whistleblower and witnesses

Article 10

Rights of the harassed person

1. The person harassed has the right to be indemnified for both damages to property and for damages for pain and suffering, arising from the harassment he/she incurred, as provided by law.
2. The practice of harassment by the employer or by a representative thereof, reported to the service with inspection powers regarding to labour matters, constitutes fair grounds for the termination of the employment agreement by the harassed person working on behalf of others.

Article 11

Whistleblower and witness protection regime

1. A specific protection regime shall be assured for the whistleblower and witnesses in harassment related proceedings, namely in terms of confidentiality, impartiality, efficiency and expeditiousness of the proceedings.
2. Except when they act with intent, special protection is guaranteed to whistleblowers and witnesses in judicial or administrative offenses triggered by harassment, and these people cannot incur any disciplinary action until a final ruling is passed.
3. Under the terms of the Portuguese Labour Code, dismissals or other sanctions applied to punish an infraction are presumed to be abusive, if it takes place up to one year after the report or after another form of claim or exercise of rights relating to equality, non-discrimination and harassment.

Article 12

Guarantees

1. The whistleblower and the witnesses he/she names shall not incur any disciplinary action, unless they act with malicious intent, based on facts or statements contained in the statements of the disciplinary, judicial or administrative proceeding triggered

by harassment until a final ruling is passed, without prejudice to the exercise of the right to be heard.

2. The CGF shall be responsible for repairing the damages arising from occupational diseases of its workers resulting from the practice of harassment.
3. The addressees to this Code of Conduct who report breaches to which they have become aware in the exercise of their duties or because of them, cannot be harmed, in any way, being guaranteed anonymity until charges are brought.

Harassment Prevention

Article 13

Preventive measures

It is incumbent upon the CGF Board of Directors, or to whoever the Board of Directors delegates this power, to implement tangible actions to prevent workplace harassment, namely:

- a) Regular assessment with employees and Directors of all the working units;
- b) Confirmation of the existence of internal mechanisms to communicate irregularities, ensuring that these mechanisms comply with the legal regulations, in particular, on the confidentiality of the information processing process and the existence of reprisals against the whistleblowers/complainants;
- c) Conception and implementation of a specific and regular training programme focused on the prevention of harassment and promoting gender equality;
- d) Development of an information strategy and specific disclosure on the prevention of harassment;
- e) Proceed with the disclosure of this Code to its recipients;
- f) Employees' admission process must include the statement of knowledge and acceptance of the rules in force in the present Code of Conduct.

Chapter VI

Final Provisions

Article 14

Publicity and entry into force

This Code of Conduct shall be disclosed to all employees on the CGF's website and becomes effective on the day following its approval by the Board of Directors.

Article 15

Review

This Code must be revised whenever there are supervening facts that justify its review.

References:

- Law No. 73/2017, of August 16
- Law No. 7/2009, of February 12 – Portuguese Labour Code