

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY BULGARIA**

ARTICLE 7 UNCAC

PUBLIC SECTOR

BULGARIA (THIRD MEETING)

Paragraph 1 (a) of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen **systems for the recruitment, hiring, retention, promotion and retirement of civil servants** and, where appropriate, other non-elected **public officials**:

(a) That are based on principles of **efficiency, transparency and objective criteria** such as merit, equity and aptitude;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite, summarize and attach the applicable policy(ies) or measure(s):

Please cite the text(s)

Bulgaria complies with this provision through the Law on the public officials. It prescribes the system of recruitment, hiring, retention, promotion and retirement of civil servants. They are based on efficiency, objectivity and transparency.

Have you ever assessed the effectiveness of the measures adopted to ensure that recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials are based on efficiency, transparency and objective criteria?

(Y) Yes

Please outline (or, if available, attach) the results of such an assessment including methods, tools and resources utilized:

The efficiency of the respective laws is assessed when they are amended and/or supplemented. The respective ministries or working groups, established for the amendment of a given act are responsible for analyzing the efficiency of the law and to undertake measures for its improvement.

10. Paragraph 1 (b) of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen **systems for the recruitment, hiring, retention, promotion and retirement of civil servants** and, where appropriate, other non-elected public officials:

...

(b) That include adequate **procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption** and the **rotation**, where appropriate, of such individuals to other positions;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite, summarize and attach the applicable policy(ies) or measure(s):

See the answer under point 9 with regard to article 7, letter "a" .

In addition, the Institute for public administration (IPA) is providing for specialised trainings to public officials in the anticorruption field, which is also included in the training under the Career and Professional Growth Programmes of the 2011 Catalogue. The module presents the international treaties to which Bulgaria is a party in this particular field.

The purpose of the training is:

- to familiarise participants with the progress in international co-operation in combating bribery of foreign public officials: actions taken by the UN, the World Bank, the OECD, the International Monetary Fund, the World Trade Organisation, the Organisation of American States, the Council of Europe and the European Union;
- to present the legal terms "public official", "foreign public official", "bribery", "foreign country", "act or refrain from acting in relation to the performance of official duties" within the meaning given by the OECD Antibribery Convention;
- to present the basic provisions of the Anticorruption Conventions regulating the responsibility of legal persons, sanctions, statute of limitations, money laundering, accounting, mutual legal assistance, monitoring and follow-up.

In 2011, 1 258 civil servants in the administration of the executive branch of the government, charged with control functions and with the application of the Conflict of Interest Prevention and Disclosure Act, internal auditors in the public sector and control authorities under special laws (Ministry of Interior Act, Customs Act, Spatial Development Act etc.) went through training in the module and enhanced their knowledge and skills in applying the OECD Convention.

Have you ever assessed the effectiveness of the measures adopted to establish procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation of such individuals to other positions?

(Y) Yes

Paragraph 1 (c) of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen **systems for the recruitment, hiring, retention, promotion and retirement of civil servants** and, where appropriate, other non-elected public officials:

...

(c) That promote **adequate remuneration** and **equitable pay scales**, taking into account the level of economic development of the State Party;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite, summarize and attach the applicable policy(ies) or measure(s):

The sublaws dealing with the issues of remuneration and the pay scales for civil servants in Bulgaria are currently under revision. Once the new rules are adopted we will provide them the WG on prevention.

Have you ever assessed the effectiveness of the measures adopted to promote adequate remuneration and equitable pay scales for civil servants and, where appropriate, other non-elected public officials?

(Y) Yes

Paragraph 1 (d) of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen **systems for the recruitment, hiring, retention, promotion and retirement of civil servants** and, where appropriate, other non-elected public officials:

...

(d) That promote **education** and **training programmes** to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with **specialized** and **appropriate training** to enhance their **awareness of the risks of corruption** inherent in the performance of their functions. Such programmes may make reference to **codes or standards of conduct** in applicable areas;

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite, summarize and attach the applicable programme(s)

Please cite the text(s)

Such trainings are provided by the Institut on public administration. See the answer above under point 10 (art.7 c)

Have you ever assessed the effectiveness of the measures adopted to comply with the provision under review?

(Y) Yes

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate **legislative and administrative measures**, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe **criteria concerning candidature for and election to public office**.

Has your country adopted and implemented the measures described above? (Check one answer)

(Y) Yes

Please cite, summarize and attach the applicable policy(ies), law(s) or other measure(s):

The Law on civil servants is applicable to the candidates for public office. See the text of the law, attached under point 9 (art.7a).

The Law on Prevention and Ascertainment of Conflict of Interest (LPACI) (Title amended, SG No. 97/2010, effective from 10.12.2010), adopted by the 40th National Assembly in year 2008 also contains some incompatibilities for taking public office.

This Act determinates the rules for the prevention and ascertainment of conflict of interest of public office holders, the category "public office holder", the legal definition of "conflict of interest", "private interest" and "benefit" and stipulates the sanctions for violations of the prohibitions of the act.

The act provides the incompatibilities for taking public office (**art. 7, point 3 of the Convention**), system for prevention of conflict of interest (**art.7, point 4 of the Convention**), system of declarations for conflict of interest (**art. 8, point 5 of the Convention**).

In 2010 CIPAA was amended and supplemented with a new Chapter 5 "a". By that amendment of the act **the Commission for Prevention and Ascertainment of Conflict of Interest (CPACI)** was established. The new chapter of the act determines the activities of the Commission for Prevention and Ascertainment of Conflict of Interest /the Commission/as an independent standing body. The Commission consists of five members, of whom three members elected by the National Assembly shall elect, one appointed by the President and one elected by a decision of the Council of Ministers and appointed by an order of the Prime Minister. The term of office of the Chairperson and the members of the Commission is five years, and they are limited to two full successive terms of office. The organization and operation of the Commission is determined by rules, adopted by the Commission and promulgated in the State Gazette. Annually, the Commission shall file a report on the activity performed before the National Assembly not later than the 31st day of March of the next succeeding year.

The act defines in a clear manner the range of public office holders. Within the meaning given by article 3, paragraph 1 - 25 LPACI "public office holders" are:

1. the President and the Vice President;

2. the Constitutional Court judges;
3. the National Representatives;
4. the Prime Minister, the Deputy Prime Ministers, the Ministers and the Deputy Ministers;
5. the Presidents of the Supreme Court of Cassation and of the Supreme Administrative Court and the Prosecutor General;
6. the National Ombudsman and the Deputy Ombudsman;
7. the Regional Governors and the Regional Vice Governors;
8. the mayors, the deputy mayors of municipalities and of boroughs;
9. the municipal councillors;
10. the members of the Supreme Judicial Council;
11. the Chief Inspector and the inspectors of the Inspectorate to the Supreme Judicial Council;
12. the President and the members of the National Audit Office;
13. the Governor, the Deputy Governors and the members of the Managing Board of the Bulgarian National Bank;
14. the Governor and the Vice Governor of the National Social Security Institute;
15. the heads of the overseas missions of the Republic of Bulgaria;
16. the administrative heads of the judicial authorities;
17. the single-person authorities, the deputies thereof and the members of the collegial authorities covered under Article 19 (4) of the Administration Act [<apis://ANGL|4699|8|19|>](#), as well as the members of other collegial authorities established by a law;
18. the heads of public-financed organisations established by a law, by a resolution of the National Assembly or by an act of the Council of Ministers;
19. the members of the Supervisory Board, the Manager of the National Health Insurance Fund and the directors of the regional health insurance funds;
20. the judges, the prosecutors and the investigating magistrates;
21. the recording magistrates and the public enforcement agents;
22. the representatives of the State or the municipalities on the management or supervisory bodies of commercial corporations wherein the State or a municipality holds an interest in the capital or of not-for-profit legal entities;
23. the managers and the members of the management or supervisory bodies of municipal-owned or state-owned enterprises, as well as of other legal persons established by a law, by an act of a state body or of a body of local self-government;
24. the members of the political cabinets and the advisors and experts to the political cabinets;
25. the staff in the Administration of the President, of the legislative, executive and judicial authorities, the staff in the local administration, the staff in the bodies established by a law, with the exception of the staff occupying technical positions.

According to art. 5 of the law, Public office holder may not hold any other office or perform any activity which, according to the Constitution or a special law, is incompatible with the status thereof. This regulation of the law is according to the Constitution or a special law, is incompatible with the status thereof. This regulation of

the law is a general provision which refers to different legal acts - Labour Code, Civil Servants Act, Act for Local Government and Local Administration, Ordinances and others. In that way the legislator managed to compile all requirements for incompatibilities into the provisions of art. 5 of LPACI.

Following the legal definition of incompatibilities, The CPACI treats them as a formal violation of the law which is not a conflict of interest in the meaning of art. 6-11 of Chapter II. However, incompatibilities are an indicator for possible situations of conflict of interest.

Please attach the text(s)

Please attach summary(ies) in English - obligatory, if the text(s) previously provided are not in one of the following languages: Arabic, Chinese, English, French, Russian or Spanish. Highly desirable if the text(s) previously provided are in Arabic, Chinese or Russian.

If applicable, please provide copies of draft bills or other measures related to the provision under review which are about to be adopted (e.g. legislation in final formal stages of enactment or legislation pending official publication):

Please provide criteria or rules about eligibility or non-eligibility for public office like no prior convictions, no significant debt, nationality, etc.

...

Conditions of Appointment

Article 7. (1) To be eligible for appointment as a civil servant, a person must:

1. (Supplemented, SG No. 43/2008) be a Bulgarian citizen, a citizen of another Member State of the European Union, of another State which is a Contracting Party to the Agreement on the European Economic Area, or of the Swiss Confederation;
2. have attained majority;
3. be interdicted;
4. have not been sentenced to deprivation of liberty for a premeditated indictable offence;
5. be not disqualified from occupying a specified position according to the established procedure;
6. possess the specific qualifications for occupation of the respective position as provided for in the statutory instruments.

(2) The following persons shall be ineligible for appointment as civil servants:

1. (Amended, SG No. 95/2003, supplemented, SG No. 94/2008, effective 1.01.2009) any person who would come in a hierarchical relationship of direction and control with a spouse, with a de facto cohabitee therewith, a lineal relative up to any degree of consanguinity, a collateral relative up to the fourth degree of consanguinity inclusive, or an affine up to the fourth degree of affinity inclusive;
2. (Supplemented, SG No. 95/2003, amended, SG No. 94/2008, effective 1.01.2009) any person who is a sole trader, an unlimited partner in a commercial corporation, a managing director, a business attorney, a commercial agent, a managerial agent, , a broker, a liquidator or a trustee in bankruptcy, a member of a management or supervisory body of a commercial corporation or cooperative;
3. any person who is a National Representative;

4. (Amended, SG No. 95/2003) any person who is councillor in a Municipal Council - applicable solely to the relevant municipal administration;

5. any person who occupies a senior or supervisory position in a political party;

6. any person who is employed under an employment contract, excluding faculty at higher educational establishments;

(3) (New, SG No. 94/2008, effective 1.01.2009) A civil servant may represent the State or a municipality on the management or supervisory bodies of any commercial corporations wherein the State or a municipality holds an interest in the capital or of any legal persons established by a law, for which the said civil servant shall not receive any compensation.

(4) (New, SG No.43/2008, renumbered from Paragraph (3), SG No. 94/2008, effective 1.01.2009) Only Bulgarian citizens shall be eligible for appointment as senior civil servants, as well as to any positions related to performance of functions in the field of defence, public order, foreign policy, national security and safeguarding state secrets.

(5) (Renumbered from Paragraph (3), SG No. 43/2008, renumbered from Paragraph (4), SG No. 94/2008,

effective 1.01.2009) Appointment to managerial positions shall be limited to persons holding a degree of higher education.

(6) (Renumbered from Paragraph (4), SG No. 43/2008, renumbered from Paragraph (5), SG No. 94/2008, effective 1.01.2009, supplemented, SG No. 108/2008) Any discrimination, privileges or restrictions based on race, nationality, ethnicity, sex, origin, religion, persuasions, membership of political, trade union or other public organizations or movements, personal, social and property status, or the existence of a disability, shall be inadmissible upon entry of civil service.

...

Please provide examples of the successful implementation of domestic measures adopted to comply with the provision under review:

Have you ever assessed the effectiveness of the measures prescribing criteria concerning candidature for and election to public office?

(Y) Yes