

# THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY GREECE

## ARTICLE 7, PARAGRAPH 4 UNCAC

### CONFLICT OF INTEREST

#### GREECE (NINTH MEETING)

#### Article 7, paragraph 4

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

1. Is your country in compliance with this provision?

Yes

2. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Chapter B of the Civil Servants' Code includes restrictions and incompatible works for civil servants:

- Civil servants may perform private work or employment for pay, upon permission, provided it is consistent with the duties associated with their posts and does not obstruct the smooth performance of their duties. Said permission is granted for a specific work or hiring, upon the consenting reasoned opinion of the service board, and is revocable in the same manner. Civil servants of the public sector are granted permission by the competent minister and civil servants working for legal persons of public law are granted permission by the supreme one-member administration body, or in the absence of such a body, by the chairman of the collective administration body.
- Civil servants may not exercise commercial business professionally.
- Civil servants are required to declare to their service any participation in legal persons of private law of any form whatsoever, with the exception of associations and charitable foundations.
- Civil servants are prohibited from participating in any personal commercial company, limited liability company or joint venture and from serving as managing director or special managing director in a corporation or administrator in any commercial company. Upon permission, civil servants may participate in the administration of a corporation or farming co-operative, subject to the reservation of the preceding section. Said permission is granted with the pre-requisites and procedure of Article 31, paragraphs 1 and 2.
- Civil servants, their spouses and minor children are not allowed to acquire stock in corporations subject to their service's special official control. Any civil servants or their spouses or minor children holding stock in corporations which fall under the ban of the previous section at the time of the appointment thereof, or acquiring such stock during the period of their service as a result of inheritance, are required to submit a statement to that effect to their service and, within one year, either transfer said stock or request their own transfer to another authority in the same civil service or reassignment to another civil service or legal person of public law. The transfer or reassignment is compulsory for his service. During the period lapsing until the transfer or the shares or the conclusion of the civil servants' reassignment, the latter come under the conflicting interests impediment of Article 36 of the Code.
- Civil servants may participate under their official capacity in co-operatives, the administration of corporations or limited liability companies controlled by the State, legal persons of public law, local

authorities and public enterprises, when special provisions provide for that participation.

- Civil servants are not permitted to perform work incompatible, under the provisions in effect, with the office of an MP, subject to the provisions of Article 32 (5) of the Code.
- The capacity of a civil servant is incompatible with the capacity of a lawyer, unless provided otherwise by special provisions.
- Independently of the contractual relation, a civil servant may not be appointed to a second post: a) in civil service, b) in legal persons of public law, c) in local authorities including the associations thereof, d) in public enterprises and organizations, e) in legal persons under private law; belonging to the State or receiving regular subsidies, according to the provisions in effect, by state funds, up to no less than 50% of their annual budget, or controlled by the State, which holds no less than 51% of their share capital, and f) in legal persons under private law, belonging to, or receiving regular subsidies from the legal persons of points (b), (c), (d) and (e), up to no less than 50% of their annual budget, according to the provisions in effect or their articles of association, or controlled by said legal persons, which hold no less than 51% of their share capital. The Civil Servants' Code also includes impediments due to conflicting interests:

A civil servant may not undertake the settlement of an issue or participate in the issuing of acts, either in person or as member of a collective body, when either himself or his spouse or a relative by blood or affinity up to the third degree of kinship, or a person with whom the civil servant are close friends or enemies, has a manifest interest in the outcome of the case. The violation of the provision of the preceding paragraph constitutes grounds for the annulment of the relevant administrative act. Civil servants who are married between them or relatives by blood or affinity up to the third degree of kinship may not participate in the same collective body. The civil servant is obliged to request his exception from any action described above if he has an impediment.

Similar provisions regarding impartiality and conflicting interests are included in Article 7 of the Administrative Procedure Code:

The administrative bodies, one-member or collective ones should provide guarantees of impartial judgement in the performance of their duties. The one-member bodies, as well as the members of the collective bodies, should refrain from any action or procedure constituting participation in decision-making

or expression of opinion or proposal if: a) the satisfaction of their personal interest is related to the course of the case or b) they are spouses or relatives by blood or affinity, unlimitedly in straight line and up to the fourth degree in oblique line, with one of the interested parties or c) they have a special bond or peculiar relation or animosity with the interested parties. If the body or member of collective body finds that there are grounds for their abstention, they should immediately state them to their superior authority or the chairman of the collective body respectively, and refrain from any action. In such cases, the superior authority or the collective body decides on the matter as soon as possible. An application for the exclusion of a one-member body or a member of a collective body may be submitted by the interested parties at any state of the procedure. The application is submitted to the superior authority or the chairman of the collective body or to the deciding body, as the case may be. For all other matters, the provisions of the last sentence of the previous paragraph are also applicable in this case. The exclusion may also be order ex officio by the superior authority or the collective body.

The aforementioned restrictions and impediments are examined by the HR Units in every public service, where public officials regardless of their rank submit applications for permissions.

Violation of the aforementioned provisions may constitute a disciplinary offence such as breach of civil servants' duties, performance of work or of a project for pay without the service's prior permission and violation of the principle of impartiality and may lead to disciplinary proceedings.

Complaints regarding violations of the aforementioned breaches may be filed to the General Secretariat against Corruption, the General Inspector for Public Administration, the Ombudsman and the other Inspection Bodies.

The Department of Disciplinary Action and Ethics of the General Directorate for Human Resources Management in the Public Sector (Ministry of Administrative Reconstruction) is responsible to draft and control implementation of the legislation for disciplinary procedures, for the rights and obligations of civil servants and the Guide for good administrative conduct and furthermore provide guidelines to all human resources' units across the public sector regarding the aforementioned matters.

**3. Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Here are some cases that sanctions were imposed for failure to comply with obligation to disclose, for disclosing incomplete or inaccurate information or for actual conflict of interest situations.

**Decision No 3880/2015 of the Council of State**

The case concerns a professor who was accused of breach of duty because he took part as a secret partner in a commercial company. The Deputy Minister of Education and Religious Affairs decided the disqualification of the employee. The professor submitted request for cancellation. The suer came under an error in the facts. He did not know that participating in a company as a secret partner is a disciplinary offence and the penalty should be reduced to 6 months deprivation of salary. The appeal was partially accepted and the request for cancellation was accepted.

**Decision No 2529/2013 of the Administrative Court of Appeal**

The suer founded with another person a public limited company taking himself the 2/3 of the share capital while hiding his capacity as a public servant and referring to himself as an entrepreneur. For that reason he violated his obligation to abstain from any commercial activity. The Court confirmed the already imposed sanction of three months' salary.

**Decision No 301/2009 of the Administrative Court of Appeal**

A doctor asks for a stay of execution of the denial of his appeal to exercise private medical work with a fee in the afternoon. His request was rejected because the diagnostic Center belongs to the Department of Public Health where he works as a servant. The Court denied the approval of the stay of execution because it cannot subordinate Administration and grant a license.