

Seminar organised by the Hellenic Council of State and ACA-Europe

Rhodes, 15-16 May 2026

New elements in the organisation and functioning of the Public Administration and Administrative Justice

Questionnaire

Bulgaria

Responses from Supreme Administrative Court of the Republic of Bulgaria

I. New models of organisation and functioning in the Public Administration

The aim and scope of Part I of this questionnaire is:

- (A) To examine collaboration with private individuals (who are not public servants) in the unilateral action taken by the Administration, and more specifically to study the delegation to private individuals of tasks traditionally performed by public servants during the procedure of issuing an administrative act. Participation, in general, of citizens/interested parties in administrative proceedings (e.g. preliminary hearings, participation and all forms of consultation), collaboration with private individuals in the Administration's contractual activity (works, supply and service contracts, concession contracts, public-private partnerships, etc.), privatisation of public-sector bodies and creation of legal entities governed by private law are not covered by this questionnaire.
- (B) To study the integration of private-sector organisational models into the tools and operating methods of the Public Administration.

A. Delegation of administrative tasks to private individuals

1. General provisions

Does your legal system recognise the following forms of collaboration between private individuals and the Public Administration?

Tasks assigned to private individuals during the procedure of issuing [adopting] an administrative act

Recruitment of private individuals who are not civil servants within the Administration's structure, e.g. executive managers, senior managers



2. Regarding the involvement of private individuals in administrative proceedings

i. If the involvement of private individuals in administrative proceedings (as indicated above) is provided for in your legislation, please mention specific provisions.

- Constitutional provision
- General provision of a legislative nature
- Specific legislation

According to specific legislative articles, one of the distinguishing features of administrative proceedings for the issuance of an administrative act in accordance with the Administrative Procedure Code, is the right of private individuals (natural or legal persons) vested with specific legal powers to participate. Their factual and/or legal actions are not, in principle, subject to separate administrative control by a higher authority, nor can they be appealed separately from the final administrative act before an administrative court. Their involvement is an integral part of the complex factual circumstances relating to the issuance of the administrative act.

This conclusion is also supported by §1, item 1 of the Administrative Procedure Code, which explicitly defines an 'administrative body' as an entity belonging to the executive branch or exercising administrative powers.

The following are examples of regulations governing the participation of these individuals in administrative proceedings:

a/ Article 75, paragraph 1 of the Health Insurance Act (HIA) (amended and supplemented — State Gazette No. 98 of 2015, effective as of 01.01.2016) provides that, in cases where a medical institution challenges the findings of the relevant official in connection with an inspection of its medical activities, the manager of the National Health Insurance Fund or the director of the regional health insurance fund shall refer the dispute to an arbitration commission for resolution within seven days of receiving the medical institution's written opinion. If the findings are challenged before the manager of the National Health Insurance Fund, the dispute shall be resolved by the arbitration commission of the regional health insurance fund whose director has concluded a contract with the medical or dental care provider subject to the inspection.

According to Article 75, paragraphs 2–6 of the Health Insurance Act, the arbitration commission must include representatives from the Regional Health Insurance Fund, relevant regional colleges from professional associations of doctors and dentists, as well as relevant regional colleges from professional organisations of master pharmacists, nurses, midwives/maternity nurses/, and associated medical specialists and assistants. For each specific case, the arbitration commission shall include representatives of the relevant professional organisations in relation to the facts described and the findings made in the report on the violations committed by the medical institution. The number of Regional Health Insurance Fund representatives on each arbitration



commission must equal the total number of professional organisation representatives. An arbitration commission is established for each specific case by the director of the relevant Regional Health Insurance Fund and carries out its activities under the terms and conditions set out in the National Framework Agreement and the terms and conditions for concluding individual contracts for the payment of medicinal products. Arbitration may be mandatory or optional depending on the inspectors' findings.

The arbitration commission shall issue a decision within two weeks of receiving the case file.

The National Framework Agreement for Medical Activities in the Republic of Bulgaria for the relevant calendar year sets out specific requirements regarding the expertise of medical experts participating in the arbitration commission, depending on the nature of the medical dispute in question. The arbitration commission is an auxiliary body with expert functions whose participation in these proceedings is particularly important for both the issuance of the individual administrative act and the subsequent legal assessment.

b/ Article 53 of the Competition Protection Act provides the legal basis for the Competition Protection Commission to use experts when specialised knowledge is required to clarify the circumstances of proceedings before the commission. The Commission can act ex officio or at the request of the parties involved.

c/ In accordance with Article 44 of the Public Procurement Act, when preparing to award a public contract, the contracting authority may conduct market consultations by seeking advice from independent experts or bodies, or from market participants. These consultations may be used, provided they do not distort competition or violate the principles of non-discrimination and transparency. The contracting authority shall take steps to ensure that those who participated in the market consultations and/or the preparation of the procedure do not gain an unfair advantage over other candidates or participants.

According to Article 229(1) of the Public Procurement Act, the Executive Director of the Public Procurement Agency is obliged to compile, maintain and update a list of external experts whose professional expertise relates to public procurement. Contracting authorities may use this list when preparing and conducting public procurement procedures.

d/ According to Article 25 of the Payment Services and Payment Systems Act, the annual financial statements of payment institutions must be subject to an independent financial audit by an audit firm that is registered under the Independent Financial Audit and Assurance Act, and has experience with at least one completed audit of a public-interest entity under § 1, item 22, letters "a" to "g" of the additional provisions of the Accounting Act. In its report, the auditor must provide an opinion on whether the financial position and performance of the payment institution are presented fairly. Individuals with material interests in a payment institution other than those of payment service users, or who are employees or representatives of the payment institution, may not be selected as its auditors or participate in the audit of that institution. The payment institution shall select the auditor referred to in paragraph 1 for a term in accordance with the requirements

of the Independent Financial Audit and Assurance Act. An audit firm that has been subject to sanctions under Article 110(1) of the Independent Financial Audit and Assurance Act within the last three years may not audit a payment institution.

e/ In accordance with Article 51(1) of the Municipal Property Act (MPA), the municipality may carry out economic activities, establish municipal enterprises and participate in joint economic activities. Article 51, paragraph 2 of the MPA stipulates that the municipality may carry out economic activities in two ways: 1) through participation in commercial companies with municipal capital, civil partnerships under the Obligations and Contracts Act, or non-profit associations under the Non-Profit Legal Entities Act; and 2) by carrying out independent economic activities through municipal enterprises established under the MPA. Article 52 of the MPA defines a municipal enterprise as a specialised unit of the municipality responsible for implementing local activities and services, financed from the municipal budget or extra-budgetary accounts and funds.

ii. Does national case-law or legislation define criteria pursuant to which the delegation of administrative tasks to private individuals is authorised?

Article 21, paragraph 5 of the Administrative Procedure Code, states that declarations of intent, actions and omissions are not individual administrative acts if they form part of proceedings for the issuance or execution of individual or general administrative acts, or if they form part of proceedings for the issuance of normative acts. Declarations of intent announcing the conditions for participation in competitive administrative proceedings for the issuance of individual administrative acts do not constitute individual administrative acts, unless a special law provides otherwise.

Within the framework of this provision and in connection with the issuance of the relevant administrative act, the administration is free to choose third parties – private law entities – to carry out its activities. The administration may set criteria relating to education, professional qualifications and expertise, which guarantee the impartiality and independence of the third parties when performing actions that support the issuance of the final administrative act.

iii. How are administrative tasks delegated to private individuals? Please provide specific examples.

- | | |
|--------------------------------|-------------------------------------|
| Directly by law | <input checked="" type="checkbox"/> |
| By an administrative act | <input checked="" type="checkbox"/> |
| By contract | <input checked="" type="checkbox"/> |
| Other | <input type="checkbox"/> |

a/ Directly by law - The laws mentioned in point 2(i) contain rules that grant third parties (i.e. individuals or legal entities) legal authority to perform certain actions during the issuance of an administrative act.

b/ By an administrative act - Pursuant to Article 23 (as amended in the State Gazette No. 96 of 2001) of the Radio and Television Act, the Electronic Media Council shall adopt rules of procedure for its organisation and activities, which are administrative acts by their legal nature. The Council for Electronic Media, on the basis of Article 32, paragraph 1, item 14, (new – State Gazette No. 96 of 2001; amended – State Gazette No. 14 of 2009; amended – State Gazette No. 109 of 2020, effective as of 22/12/2020), shall hold a competition to determine which radio operator shall be granted a licence to use an individually assigned, limited resource – the radio frequency spectrum – for the provision of electronic communications via existing and/or new electronic communications networks for the purpose of terrestrial analogue radio broadcasting. According to Article 116 of the Radio and Television Act, a licence shall be issued following a competition for the provision of radio and television services using existing and/or new electronic communications networks for terrestrial analogue radio broadcasting. The legislator has set out the competition procedure in detail in Article 116 of the Radio and Television Act. The only difference from the procedure established in the law and regulated in the Rules is the existence of a technical commission to verify the candidates' documentation. While the law does not provide for such a commission, the CEM may establish one as an auxiliary body, as set out in the Rules of Procedure for its work (Judgement No. 992 of 24/01/2018 on Administrative Case No. 1483/2017, VII Division of SAC/.

c/ By contract – The legal concept of an administrative contract was introduced into national legislation through the provisions of Articles 19a to 19g of the Administrative Procedure Code (published in the State Gazette on 20 June 2016) and § 1, item 1 of the Additional Provisions of the Law on the Management of European Funds under Shared Management /ZUSEFSU/. Article 19a of the APC provides a legal definition of an administrative contract. The essential features that characterise an administrative contract are related to the circumstances in which it is concluded by the parties in proceedings before the administrative authorities, on matters of significant public interest, and only when provided for by law. An administrative contract must be in writing to be valid and to serve as proof.

The general provision of Article 27(1) of the ZUSEFSU allows for the administrative contract itself to be challenged in the first instance, in accordance with the procedure for challenging individual administrative acts under the Administrative Procedure Code /Ruling No. 2756 of 18.03.2025 on adm. case no. 1019/2025, VI division of SAC/.

iv. Which administrative tasks can be entrusted to private individuals [content of the tasks]?

Please provide specific examples from legislation and case-law.

Preparation of the administrative act	<input checked="" type="checkbox"/>
Issuance [adoption] of the administrative act	<input checked="" type="checkbox"/>
Implementation of the administrative act	<input checked="" type="checkbox"/>



Other

□

The administrative authority of private individuals is a legal concept that refers to the fact that bodies or organisations authorised by law, outside the system of state or municipal authorities, are empowered to issue individual administrative acts. This concept was introduced with amendments to the Administrative Procedure Code /APC/ in 2019, where the legislator proposed in Article 21(1) of the APC a legal definition of administrative authority for private bodies, in order to re-evaluate their role in administrative proceedings. This amendment to Article 21(1) of the APC makes administrative activity more accountable and understandable to private entities and organisations while ensuring its objectives are met.

According to Article 21(1) of the APC (as amended by State Gazette No. 77 of 2018, effective as of 01.01.2019), an individual administrative act is an explicit expression of will, or an expression of will through action or inaction by an administrative authority, another authorised body or organisation, persons performing public functions, or organisations providing public services. This creates rights or obligations, or directly affects the rights, freedoms or legitimate interests of individual citizens or organisations, as well as the refusal to issue such an act. Based on diverse case law concerning the application of Article 21(1) of the APC, it can be noted that private entities are entrusted with both preparing for and issuing administrative acts. This reflects the legislator's intention to extend the scope of appealable acts under the APC to include declarations of intent by individuals and organisations not belonging to the executive branch, but performing public functions or providing public services.

Section 1, Item 12 of the Supplementary Provisions of the Electronic Governance Act (EGA) (amended in the State Gazette No. 50 of 2016, effective from 01/07/2016; amended in the State Gazette No. 80 of 2023, effective from 19/09/2023) contains a definition of the term 'public services', which include educational, health, water supply, sewage, heating, electricity, gas, telecommunications and postal services, as well as banking and financial services, including insurance and certification under Regulation (EU) No. 910/2014. These services are provided to meet public needs and may be performed as part of a commercial activity.

For example, in Ruling No. 7681 of 10 July 2025 on adm. case No. 3941/2025, 5-judge panel of the Supreme Administrative Court stated that, on the basis of § 1, item 4 of the Additional Provisions of the Administration Act (which refers to § 1, item 12 of the Additional Provisions of the Energy Act), banking services are considered a type of public service. Therefore, the individuals performing these services are considered an administrative body under § 1, item 1 of the Additional Provisions of the Administrative Procedure Code. This is in accordance with Article 1, paragraph 2 of the Credit Institutions Act and Article 4, § 4, item 40 of Regulation 575/2013. It also aligns with the powers granted to the Bulgarian National Bank and the Deputy Governor in charge of Banking Supervision to request data on specific loans and monitor the fulfilment of commercial banks' obligations to their customers. The acts issued by these individuals are administrative and subject



to judicial review under the Administrative Procedure Code, which guarantees the complainant's right to a fair hearing.

The Ordinance on Municipal Medical Institutions (OMMI) was adopted on the basis of Article 51a, paragraph 4 of the Municipal Property Act and Article 3 of the Public Enterprises Act. Following the adoption of the Public Enterprises Act and its associated regulations, the applicable national regulatory framework was established to govern public relations in the field of public enterprises, including municipal healthcare. This framework covers medical institutions in which the municipality holds more than 50% of the capital. According to Article 16 of the OMMI, the manager of a medical institution is the governing body of municipal medical institutions – public enterprises – commercial companies with a sole owner of the capital and the respective municipality. This regulatory framework outlines the administrative functions available to the manager of a medical institution when leasing properties contributed by the municipality as a non-monetary capital contribution to a public organisation. In view of the powers granted to them by law, declarations of intent in connection with tender procedures for leasing properties or parts thereof, contributed by the municipality as a non-monetary contribution to the capital of the company, are individual administrative acts that adversely affect the legal sphere of participants who are not among the winners/ Ruling No. 6690 of 19 June 2025 on adm. case No. 3031/2025, VI Division of the Supreme Administrative Court/, etc.

v. What is the extent [range] of administrative tasks that can be entrusted to private individuals? Please provide specific examples from legislation and case-law.

- | | |
|--|-------------------------------------|
| Advisory tasks | <input checked="" type="checkbox"/> |
| Decision-making tasks | <input checked="" type="checkbox"/> |
| Control and verification tasks: | |
| Establishment of the facts | <input checked="" type="checkbox"/> |
| Legal qualification of the facts | <input checked="" type="checkbox"/> |
| Other | <input type="checkbox"/> |

Private individuals may participate in all stages of administrative proceedings for the issuance of an administrative act, provided their powers are established by law and their activities are executive in nature. For example, they may express opinions or positions and may provide relevant information for the issuance of an act, as defined in the Administrative Procedure Code. They may also make an authoritative statement with legal effect for the addressee of an act, e.g. for concluding an administrative contract under Article 19a of the Administrative Procedure Code. The nature of the act should be judged by its content, not the form in which the declaration of intent is materialised, in view of the legal consequences it causes.

For example, Ruling No. 5931 of 18 May 2021 on adm. case No. 3518/2021, the Supreme Administrative Court ruled that a notification issued by the Executive Director of the Human Resources Development Centre (a legal entity) constitutes an administrative act insofar as it relates to a procedure for performing a concluded administrative contract.

vi. Are there any cases where the involvement of private individuals in administrative proceedings is prohibited?

No

Yes (please specify)

If yes, which legal instrument provides for the corresponding prohibitions?

Constitution

Legislation

Other

Please indicate any relevant case-law.

According to Article 1, Paragraph 2, Sentence 1 of the Constitution, all state power derives from the people. By defining the form of the state (and specifically the form of government) in the very first constitutional provision, the constitutional legislator establishes people's sovereignty as a fundamental principle and the basic foundation of the constitutional state order. This provision recognises only the people and their will as the basis for the democratic legitimisation of state power. The people hold state power and are its legitimate source in their unity as a state-forming people, regardless of how it is exercised – directly or through the bodies established in the Constitution. Paragraph 3 of Article 1 of the Constitution expressly prohibits any part of the people, political party, state institution or individual from appropriating people's sovereignty.

In Judgement o. 5 of 10 May 2005 on constitutional case No. 10 of 2004, the Constitutional Court of the Republic of Bulgaria ruled that the transfer of state functions to non-state legal entities is not, in principle, contrary to the Constitution of the Republic of Bulgaria. The Constitutional Court has previously ruled in two judgements (Judgement No. 10 of 1994 on case No. 4 of 1994 and Judgement No. 3 of 2000 on case No. 3 of 2000) that this is constitutionally permissible when done by law. The delegation of state functions to non-state entities is a contemporary trend through which the modern nation state can avoid excessive statism and the overregulation of social life. Transferring powers in the domestic political sphere contributes to the development of civil society by affirming the principles of autonomy and self-government upholding democratic values. As the Constitutional Court explicitly states, in this way, the state 'unloads' certain functions so that it can focus on other tasks. It is precisely for these reasons that the Constitutional Court has ruled that the transfer of functions to non-governmental organisations is constitutional.

Indeed, Article 18, paragraph 4 of the Constitution allows for the establishment by law of a state monopoly on certain activities, which are to be entrusted to state-owned enterprises and other legal entities. This creates different economic and legal conditions for the activities of economic entities. As this is an exception, Article 18(4) of the Constitution provides an exhaustive list of the economic activities in which the state may establish a monopoly by law. In practice, the Constitutional Court has consistently upheld the view that this list is exhaustive and that the legislative power cannot expand the scope of the provided activities (Judgements Nos. 2/96 on case No. 26 of 1995, 33/98 on case No. 30 of 1998 and 6/2000 on case No. 8 of 2000). According to Article 18(4), in spheres of activity expressly provided for in the Constitution, the National Assembly may establish a monopoly by law as a guarantee necessary for protecting the general interest. However, the Constitutional Court has also consistently ruled that the establishment of a monopoly and the violation of equal legal conditions for economic activity are unconstitutional / Judgement N. 5 of 10 may 2005 on constitutional case N10 of 2004/.

3. Qualifications and selection procedure for private individuals

i. What is the procedure provided for in the legislation for the certification of private individuals?

Please mention specific examples.

- | | |
|-------------------------------------|-------------------------------------|
| Participation in examinations | <input checked="" type="checkbox"/> |
| Selection based on criteria | <input checked="" type="checkbox"/> |
| Other | <input type="checkbox"/> |

The Independent Financial Audit and Assurance of Sustainability Act (amended title – State Gazette No. 79 of 2024) regulates the acquisition of certified public accountant qualifications, legal capacity, and the practice of the auditing profession by registered auditors, as well as their rights and obligations. According to Article 7 of the same Act, registered auditors carry out financial audits and sustainability assurance engagements, must be entered in the register under Article 20 of the Act. Articles 9, paragraphs 1 and 2 of the same Act state that registered auditors carry out their professional activities within the country by applying the principles and requirements of the relevant auditing standards at the time of undertaking the audit. These standards include the International Auditing Standards, the International Standard on Quality Control and other international standards issued by the International Federation of Accountants through the International Auditing and Assurance Standards Board.

The requirements for taking exams to obtain additional qualifications as a registered sustainability auditor are set out in Article 19a of Independent Financial Audit and Assurance of Sustainability Act. According to the provision, a person acquires the qualification of a registered sustainability auditor after successfully passing written examinations in the following areas:



1. Regulatory requirements and standards relating to the preparation of annual individual and consolidated sustainability reports;
2. Sustainability analysis;
3. Processes for monitoring, analysing and controlling sustainability issues, as defined in Article 8(3)(c) of Directive 2006/43/EC;
4. Regulatory requirements and standards for expressing assurance on sustainability, as adopted by the European Commission.

The examinations shall be conducted in accordance with the rules under Article 71(3)(4) of Independent Financial Audit and Assurance of Sustainability Act. Examinations may be recognised as having been successfully passed if the candidate has passed such examinations before an organisation authorised to conduct examinations for the qualification of a registered sustainability auditor, in accordance with the relevant legal provisions in a Member State of the European Union or a third country. In Judgement No. 2680 of 01/03/2018 on adm. case. No. 4174/2017, VII Division, the Supreme Administrative Court analysed the legality of the external evaluator's actions as part of the procedure for issuing the final administrative act, which was being challenged in an administrative court.

ii. How are selected the private individuals who will be entrusted with a specific administrative task? Please give examples.

- | | |
|--|-------------------------------------|
| Random selection from a list/register | <input type="checkbox"/> |
| Selection from a list/register based on criteria | <input checked="" type="checkbox"/> |
| Absolute discretionary power of the Administration | <input checked="" type="checkbox"/> |
| Selection by the citizen [upon a declaration] | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |

Private individuals who are entrusted with public functions at various stages of the administrative procedure for issuing the administrative act, are most often appointed by a special order by an authorised administrative body that is competent to issue the final administrative act, or they are appointed from a specially created list. For instance, in proceedings for the provision of non-repayable financial assistance under Article 38 of the Law on the Management of Funds from European Funds for Shared Management (title amended – State Gazette No. 51 of 2022, effective as of 01/07/2022), the head of the relevant programme's Managing Authority shall, within 14 days of the commission's report being approved, has the right to issue a reasoned decision to refuse to grant non-repayable financial assistance (NFA) for any project proposal included in the list of rejected project proposals at the technical and financial evaluation stage. Project proposals are evaluated by two main evaluators and one additional evaluator, who are appointed by the chair of the evaluation committee. In these cases, the evaluation committee carries out its activities in accordance with Decree No. 23 of the Council of Ministers of the Republic of Bulgaria of 13 February 2023, which lays down detailed rules for the provision of grant aid under programmes

financed by European funds under shared management for the 2021–2027 programming period and the approved Internal Rules of Procedure of the committee. The evaluators of the project proposals of the respective candidates must be included on, and selected from, the list under Article 15(6) of Decree No. 23/2023. This provides independent recognition of qualifications and experience, given that they have been pre-checked for compliance with the requirements for external evaluators under the programme, and that their biographies and the order appointing the evaluation commission have been submitted to the case file. In its Judgement N 12467 of 4 December 2025 on adm. case No. 10500/2025, the Supreme Administrative Court determined that the rules of procedure are binding on the administrative body and must be strictly observed to ensure the impartial and lawful evaluation of project proposals submitted by individual candidates.

iii. Is there a legal provision and/or other instrument governing the actions of private individuals when performing administrative tasks? Please indicate specific provisions.

- No
- If yes,
- General normative act (e.g. Code of Administrative Procedure)
- Specific normative acts
- Codes of Conduct, good practices (soft law)
- Other

National legislation contains general rules governing the conduct of private individuals. For example, Article 21(1) of the Administrative Procedure Code states that, in certain cases, their actions constitute individual administrative acts, as they represent authoritative expressions of will with legal consequences for the recipient of the action, or form part of the procedure for its issuance in specific normative acts. For instance, in proceedings under Article 38(6) of the Insurance Code relating to the issuance of an additional licence for new types of insurance to an insurance company, external evaluators are employed to conduct an evaluation of the company's assets and liabilities. This assessment is part of the overall evaluation of the legality of the contested administrative act.

iv. How are the impartiality and integrity of private individuals guaranteed under the law? Please indicate specific provisions.

- Incompatibilities
- Impediments
- Criminal or disciplinary liability
- Other

The independence and integrity of private individuals participating in administrative proceedings is beyond question in terms of the tasks and functions assigned to them by law. This is the case, when the auxiliary commission is used in the project proposal evaluation process, in accordance with Article 33 of the Law on the Management of Funds from European Funds for Shared Management (amended title – State Gazette No. 51 of 2022, effective as of 01/07/2022). In its judicial acts, the Supreme Administrative Court consistently maintains that, within the framework of the 'Technical and Financial Evaluation' stage of a project proposal submitted for funding, the auxiliary commission carries out expert evaluation activities rather than administrative activities. Therefore, the acts reflecting its decisions are not the result of such activities and do not meet the definition of an administrative act. Rather, they are an expression of a strictly specific assessment of facts and circumstances that are different in nature. For this reason, the legislator has entrusted this task to a special auxiliary body with the necessary professional qualifications and experience for the specific procedure. The nature of this activity precludes the administrative body, and also the court, from taking a position on its correct conduct in substance. In this sense, circumstances such as the manner of interpreting the criteria and evaluation methodology, and the calculations that lead to the respective scoring undoubtedly remain outside the scope of the judicial review of the managing authority's final act.

Nevertheless, given the significant role of the evaluation process in the overall grant of non-repayable financial assistance, certain aspects can and must be verified by the administrative authority and the court. According to established Supreme Administrative Court practice, the three aspects of the auxiliary body's activity that the court may verify are as follows: 1) the manner in which the commission is formed – whether the requirements of Article 33, paragraphs 1 and 3 of the ZUSESIF have been complied with; 2) how the assessment activity is carried out; 3) the rules for documenting and reporting on the commission's activities / Judgement No. 6160 of 22/06/2022 on adm. Case No. 2204/2022, of the Supreme Administrative Court/.

The assessment of the legality of the use of an external expert in state aid proceedings by the administrative authority is set out in point 53 of the opinion of the Advocate General in CJEU case C-632/2023, brought by the European Commission against Bulgaria concerning an aid scheme implemented by Bulgaria in relation to forest land exchanges.

v. What are the legal consequences in the event of an error, offence or failure on the part of the private individual?

- | | |
|---|-------------------------------------|
| Withdrawal of the certification | <input checked="" type="checkbox"/> |
| Disbarment from the professional association | <input type="checkbox"/> |
| Imposition of a fine or other penalty | <input type="checkbox"/> |
| Personal liability of the private individual (civil, criminal, disciplinary) | <input checked="" type="checkbox"/> |
| Revocation of the administrative act in the issuance of which the private individual collaborated | <input checked="" type="checkbox"/> |
| Civil liability of the State | <input type="checkbox"/> |



Other

4. Administrative checks [controls]

i. Does the Administration carry out checks on private individuals when they perform administrative tasks?

Yes

No

ii. If yes, at what stage are the checks carried out?

A priori

A posteriori

At any time

iii. How are checks activated?

Following a complaint/administrative appeal

Ex officio

iv. How extensive are the checks?

Checks based on sampling

Mandatory checks for all actions

v. What is the nature of the checks?

Of legality

Of the substance, of appropriateness

vi. What is the type of checks?

On persons

On actions

vii. Are the conclusions of private individuals binding on the Administration?

Yes

No

5. Judicial review

i. Can the actions of private individuals be subject to judicial review? Please indicate specific provisions or the relevant case-law.



No

Yes

If yes, what is the scope of the judicial review?

The review directly targets the action of the private individual (per se)

The review indirectly targets the action of the private individual (appeal lodged against the final act of the Administration, whether explicit or implicit, e.g. appeal lodged against the tacit acceptance of the actions of private individuals by the Administration)

ii. What types of disputes arise when challenging the actions of private individuals?

administrative disputes

private disputes

iii. Please mention typical cases from national case-law concerning the delegation of administrative tasks to private individuals.

See the answer in 2 i.

B. Integration of private-sector methods and organisational models into the functioning of the Administration

1. Recruitment of senior managers outside the hierarchy of the civil service

i. What are the objectives of recruiting private individuals as senior managers within the Administration?

In Bulgaria, recruiting senior managers from outside the state administration hierarchy is part of the state's modernisation strategy. This activity should be prioritised because it concerns the professional development of the Bulgarian administration. This selection process should be implemented in key areas of public life at the very least.

The Civil Servants Act regulates various methods of filling positions in the state administration, including the creation of a new employment relationship and the modification of an existing one. The latter is one of the approaches to ensuring career development for employees. The main



method for entering the relevant administration's civil service under the Civil Servants Act is the competitive procedure.

ii. In which sectors of the Public Administration is it permissible to recruit senior managers who do not belong to the hierarchy of the civil service, and in which sectors is it prohibited?

Neither the Constitution of the Republic of Bulgaria nor substantive administrative law prohibit the appointment of private individuals to senior administrative positions, unless expressly stated otherwise by law.

iii. What criteria does the Administration use to select external senior managers?

The selection is made on the basis of objective criteria in order to place all participants in the procedure on an equal footing.

iv. What is the nature of the duties of external senior managers?

- | | |
|-----------------|-------------------------------------|
| Decision-making | <input checked="" type="checkbox"/> |
| Advisory | <input checked="" type="checkbox"/> |
| Other | <input type="checkbox"/> |

v. Does error on the part of a senior manager give rise to:

- | | |
|---|-------------------------------------|
| Civil liability of the State | <input checked="" type="checkbox"/> |
| Personal liability of the manager (civil, criminal, disciplinary) | <input checked="" type="checkbox"/> |

2. Organisational models

i. Does your country use New Public Management, Public Value Management, Digital Era Governance, or New Public Governance policies in the organisation of its Public Administration, for example, to digitise procedures, achieve objectives, ensure accountability, evaluate efficiency, promote the rational use and distribution of resources, control expenditure and ensure compliance with budget restrictions, codify legislation, promote career progression, train staff, etc.? Please provide specific examples.

Electronic Governance Act, Law on guaranteeing bank deposits etc.



ii. Is there a specific provision for the organisation of the Administration based on the above-mentioned models (Constitution, legal provision, etc.)?

According to the provisions of Article 33a of the Administration Act, in pursuit of strategic objectives, the executive authorities set annual targets for the activities of the administration, also they manage and monitor their implementation. In 2024, issues related to innovation in public administration were included for the first time. Projects related to the following main activities have been implemented to date: creation of a multifunctional art space, introduction of systems for the use of artificial intelligence, electronic registration of reports of irregularities, introduction of specialized software and information systems.

In order to assess effectiveness and promote the rational use and distribution of resources, advisory councils are being set up within the country's government. These are permanent government bodies that ensure coordination within the executive branch and cooperation with other state bodies, local government bodies, and non-governmental organizations in determining and implementing state policy in a given area or on particularly important issues of public significance. Although there is no general regulatory definition of mobility, the Civil Service Act provides three mechanisms for filling a position through this method, including external recruitment (from another administration) and internal recruitment (from within the same administration). These mechanisms aim to preserve the skills developed within the administration and provide employees with more career development opportunities. In 2024, a total of 1,337 positions (11.45%) were filled through external or internal mobility, comprising 650 managerial roles and 687 expert positions.

The Civil Service Act permits civil servants to accept positions in other administrations through permanent or temporary mobility, provided there is a written agreement between the civil servant and the relevant authorities in both administrations. Transfer of civil servants to another administration through permanent mobility (Article 81a of the Civil Service Act) is permitted provided the employee has completed their probationary period and meets the requirements for the position. All positions filled in this manner are announced publicly.

The Spatial Data Access Act (SDAA) regulates the establishment, maintenance and use of spatial information infrastructure, ensuring access to spatial data and providing data services in the field of the environment or activities that may impact the environment. The Act ensures compatibility and security in data exchange.

The Electronic Governance Act (EGA) requires administrative bodies to collect data once and reuse it multiple times when providing electronic administrative services. This means that they cannot require documents and information from citizens that are available to the administrative body. To this end, the Ministry of Economy and Energy develops, maintains and supports the necessary administrative framework for the use of shared resources by administrative bodies.

The e-Government Portal (EGP) has been implemented as a single point of access to electronic administrative services.

Quality management is paramount for improving organisation within administrations, enhancing the performance of individual units, and setting strategic goals for their effective and efficient implementation, particularly within administrative services.

The digital transformation of public administration will primarily focus on converting processed and stored data into a valuable societal asset. Developing and implementing interoperable interfaces and models for processing, storing and providing access to data will create opportunities for transitioning from data to linked data.

iii. In which public services and agencies is this type of organisation used?

- | | |
|----------------------------------|-------------------------------------|
| The Administration stricto sensu | <input checked="" type="checkbox"/> |
| Public enterprises | <input checked="" type="checkbox"/> |
| Other public entities | <input type="checkbox"/> |

iv. Are the policies for achieving the objectives designed:

- | | |
|---|-------------------------------------|
| At national level | <input checked="" type="checkbox"/> |
| At regional level | <input type="checkbox"/> |
| By subject-matter | <input checked="" type="checkbox"/> |
| By taking into account specific public entities | <input checked="" type="checkbox"/> |
| Other | <input type="checkbox"/> |

v. Have specific objectives been set out for the action of the Administration? Please provide examples.

No .

If yes, is their accomplishment:

- | | |
|-----------|-------------------------------------|
| Optional | <input type="checkbox"/> |
| Mandatory | <input checked="" type="checkbox"/> |

Does failure to meet these objectives lead to:

- | | |
|--|--------------------------|
| Personal consequences for the senior managers | <input type="checkbox"/> |
| Legal consequences for the assessed organisation | <input type="checkbox"/> |
| Financial consequences for the assessed organisation | <input type="checkbox"/> |

Are incentives of any kind provided for civil servants (e.g. remuneration) or public entities to ensure that these objectives are achieved?

vi. Are there any indicators for evaluating the action of the Administration in relation to the following factors:

- | | |
|--|-------------------------------------|
| Compliance with the regulatory framework | <input checked="" type="checkbox"/> |
| Effectiveness | <input checked="" type="checkbox"/> |
| Efficiency | <input checked="" type="checkbox"/> |
| Economy | <input checked="" type="checkbox"/> |
| Achievement of strategic objectives | <input checked="" type="checkbox"/> |
| Other | <input type="checkbox"/> |

II. Alternative methods for resolving administrative disputes

1. General provisions

i. Does your legislation provide for alternative dispute resolution (ADR) in cases involving public law/administrative law?

Arbitration

Mediation

Other - settlement agreement

ii. Are there categories of administrative disputes that are excluded from ADR by law or according to case-law?

* Please elaborate on your answer, citing any relevant legislation and/or case-law

The Constitution of the Republic of Bulgaria does not contain any specific text prohibiting the resolution of administrative disputes through arbitration.

In accordance with the interpretation provided by the Constitutional Court in point 3 of Constitutional Case No. 15/2002, the defence in arbitration proceedings is conducted in two stages. The first stage involves proceedings before the arbitral tribunal, while the second stage, which is optional, consists of defence under Article 47 of the International Commercial Arbitration Act, now referred to as the Arbitration Act.

Pursuant to Article 47, paragraph 1 of the Arbitration Act (as amended by State Gazette No. 46 of 2002 and previously by State Gazette No. 8 of 2017), an arbitral award may only be set aside by the Supreme Court of Cassation if the party seeking to set it aside proves the grounds specified in that provision.

The provision of Article 19. (1) (Amendment – State Gazette No. 8 of 2017) of the Civil Procedure Code stipulates that parties to a property dispute may agree to resolve it through an arbitral

tribunal, unless the dispute relates to property rights or possession of real estate, maintenance, or rights under an employment relationship. It also excludes disputes in which one of the parties is a consumer as defined in § 13, item 1 of the supplementary provisions of the Consumer Protection Act. According to Article 19, paragraph 2 of the Civil Procedure Code, arbitration may be held abroad if one of the parties has their habitual residence, registered office according to their articles of association, or place of actual management abroad.

As Article 19, paragraph 1 of the Civil Procedure Code concerns civil law property disputes, an arbitration agreement cannot be concluded on an administrative law dispute on the basis of this text.

An interesting example in national legislation is that which is regulated by Art. 72 et seq. of the Health Insurance Act (HIA), which provides for out-of-court dispute resolution through arbitration in cases of violations established by the National Health Insurance Fund. This ensures the right to defence for inspected healthcare providers. The expert opinion of the arbitration commission members, who are appointed according to their area of expertise for each specific case, guarantees a fair decision on the dispute. Arbitration is a mandatory part of the sanctioning procedure when there are objections to established violations, provided that the arbitration commission has been duly formed. Otherwise, this auxiliary body can be excluded from the sanctioning procedure. According to established Supreme Administrative Court case law, if a mandatory arbitration procedure has not been conducted, the administrative act imposing financial sanctions on the medical institution is unlawful due to a material procedural rule violation and will be revoked by the administrative court if challenged.

2. Settlement and Mediation

** Please elaborate on your answers, citing any relevant legislation and/or case-law.*

i. In administrative disputes, is it permissible for the Administration and private individuals/legal entities to sign a settlement agreement or other similar document (without prior mediation)?

Yes

No

ia. If yes,

Is this option expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

The agreement on administrative cases is not regulated in the Constitution. Instead, it is set out in the Administrative Procedure Code.

Pursuant to Article 178(1) of the Administrative Procedure Code, an agreement may be concluded at any stage of the proceedings, provided that the conditions for concluding an agreement in

proceedings before the administrative authority are met. In view of Article 20(1) of the Administrative Procedure Code, this means that the agreement must replace the administrative act and achieve the intended legal consequences.

By way of a contrary argument from the provision of Article 184 of the Administrative Procedure Code, it can be said that there is no legal prohibition on concluding an agreement when challenging a general administrative act. This is in contrast to the explicit prohibition in Article 196 of the APC regarding normative administrative acts. Therefore, in principle, the nature of the act allows the conclusion of an agreement if it is an individual or general administrative act. If the administrative court – whether at first instance or on appeal – does not approve the agreement, it will schedule the case for an open court hearing to resolve the legal dispute in administrative proceedings /Ruling No. 4435 of 14 April 2016 on adm. case No. 6276/2015, VII Division of the Supreme Administrative Court/.

Does this option only apply to the settlement of administrative disputes that are already under way, or can it also be used to prevent administrative disputes from arising in the first place?

An agreement may also be reached with the administrative authority. This procedure can be used to prevent administrative disputes arising in the first place.

This legal option is set out in Article 20 of the Administrative Procedure Code (Amendment – State Gazette No. 77 of 2018, effective as of 01.01.2019). Parties may conclude an agreement during proceedings before administrative authorities, unless it conflicts with the law. This agreement replaces the administrative act and must be in writing. It may be concluded either between the administrative authority and the parties to the proceedings, or only between the parties to the proceedings. In the latter case, the administrative authority must approve the agreement in writing. The agreement may be concluded either before the administrative act enters into force or before it is challenged in court. Once the agreement has been concluded or approved, the administrative act shall be invalidated.

The agreement must be in writing and must include the following: the name of the authority before which it is concluded; the date of conclusion; the parties; the subject matter and content of the agreement; a note confirming that it has been read and accepted; and the signatures of the parties, as well as the name and signature of the official. If the agreement affects the rights or legitimate interests of a person who did not participate in its conclusion, it shall not take effect until approved in writing by that person. This written approval shall become an integral part of the agreement.

The provisions on the illegality of administrative acts set out in the Administrative Procedure Code, and on the invalidity of contracts under the Law on Obligations and Contracts, shall apply *mutatis mutandis* to the invalidity of the agreement.

Do the law or case-law distinguish between application for annulment (judicial review limited to the legality) and appeal on the merits (full judicial review of both legality and substance)?

The law does not provide such a distinction.

Is there a special procedure for initiating and conducting this alternative dispute resolution method, or are all matters left to the discretion of the parties involved?

See answers -II,2, ia.

After signing a settlement agreement (or other similar document), is ratification by a court required?

Yes



No



If yes, by which court?

According to Article 178, paragraph 3 of the Administrative Procedure Code (as amended by State Gazette No. 63 of 2025 and effective as of 01/07/2026), an agreement presented in an open court hearing may only be confirmed by the court if it has been signed by all parties in advance and confirmed by each of them, including through participation by videoconference. The agreement may be approved at any stage of the court proceedings, also by the Supreme Administrative Court. Once the agreement has been confirmed by the court, it shall invalidate the administrative act and terminate the case. This ruling may only be appealed by a party that did not participate in the agreement. If the ruling is overturned, the case continues to be heard.

An agreement concluded during administrative proceedings between an authority and a party takes effect immediately upon signing, without the need for approval. However, if the agreement is concluded at a later stage of pending court proceedings (Article 20, paragraph 3 of the Administrative Procedure Code), it must be approved by the court /Ruling No. 436 of 16 January 2026 on adm. case No. 11428/2025, VI Division of the Supreme Administrative Court/.

If no, can the legality of the settlement agreement (or other similar document) be examined by the judge on an incidental basis? Under what circumstances could the settlement be considered null and void and without legal effect?

The judge is responsible for ratifying the settlement agreement, when the case is settled before the court.

The agreement must comply with the legal requirements concerning both its legality, as defined in Article 146 of the Administrative Procedure Code (it must be issued by a competent authority in the prescribed form, comply with the procedural requirements for its issuance and with the relevant substantive law, and be issued for a valid purpose), and its validity (nullity and voidability), as defined in the Obligations and Contracts Act. According to Article 26 of the Obligations and Contracts Act, contracts that violate the law or good morals are null and void, including those relating to undiscovered inheritances. Contracts with an impossible subject matter, contracts lacking consent, the prescribed form or grounds, and sham contracts are also null and void. These grounds are presumed until proven otherwise. Pursuant to Article 27 of the Obligations and Contracts Act, this also applies to contracts concluded by legally incompetent persons, or by their representative without complying with the established requirements, as well as to contracts concluded in error, through fraud or intimidation, or in extreme necessity.

After being signed and/or validated, as applicable, does the settlement agreement have the force of res judicata? Can the enforcement of this document be pursued?

The confirmed agreement has the force of a final court decision and it constitutes enforceable title.

Which court has jurisdiction over disputes concerning such enforcement?

The administrative court who confirmed the settlement agreement.

ib. If the signing of a settlement agreement or other similar document between the Administration and private individuals/legal entities is not permitted in your country, this prohibition results from:

a legislative provision



a general principle of law



ii. Does your country provide for a mediation procedure between the Administration and private individuals/legal entities for administrative disputes?

** The term 'mediation' is used here to refer to a procedure conducted by an independent and impartial third party, and not to administrative appeal procedures addressed to the Administration or to a body that is hierarchically dependent on the Administration.*

Yes

No

ii.a. If yes,

Is it expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

According to Article 3, paragraph 1(1) (Amendment – State Gazette No. 27 of 2011) of the Mediation Act, civil, commercial, labour, family and administrative disputes, disputes relating to consumer rights, as well as other disputes between individuals and/or legal entities, including cross-border disputes, may be subject to mediation. However, Article 3, paragraph 2 of the same Act states that mediation shall not be conducted if a law or other normative act provides for a different procedure for reaching an agreement.

Is it mandatory or optional?

Optional.

According to the generally accepted understanding, mediation is a voluntary process for resolving disputes out of court with the help of a third party, known as a mediator. This definition is set out in Article 2 of the Mediation Act and Article 3 of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the 'Mediation Directive') (2016/2066(INI), OJ L 136/3, 24 May 2008). According to the Directive, 'mediation' is defined as a structured process in which two or more disputing parties attempt, on a voluntary basis, to reach an agreement to resolve their dispute with the assistance of a mediator.

If it is optional, does it require:

The mutual agreement of the parties



- Only the intention of the Administration
- Only the intention of the private individual/legal entity

Specifically with regard to the State as a party to the dispute, is mediation initiated:

- After approval by a special committee
- By the administrative authority involved in the dispute
- Other

At what stage can a case be referred for mediation?

- Necessarily before the introduction of legal proceedings
- At any stage of the litigation proceedings

Is there a specific piece of legislation governing the mediation process?

- Yes
- No

If yes, please specify:

Articles from 11 to 16 of the Mediation Act

Which principles of trial apply to the mediation process (hearing of the parties, adversarial principle, equality of arms, publicity, representation by a lawyer?)

The following principles form the basis of mediation proceedings under the Mediation Act: Firstly, those of voluntariness and equality. According to Article 5 of the Mediation Act, this means that the parties have equal opportunities to participate in the mediation procedure. They participate of their own free will and may withdraw at any time. The principle that mediation is based on the consent of the parties is also set out in Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes, amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (the 'Directive on ADR for consumers', Official Journal L 165/63 of 18 June 2013). Article 39 of the preamble to this directive explicitly emphasises that 'in order to ensure the transparency of alternative dispute resolution (ADR) structures and procedures, parties must receive clear and accessible information that they need to make an informed decision before entering into ADR.

Mediators must also be neutral and impartial in the dispute. These two principles are set out in Article 6 of the Mediation Act. According to this provision, the mediator must not show bias or

impose a decision on the dispute. In the mediation procedure, all issues shall be settled by mutual agreement between the parties.

Furthermore, discussions relating to the dispute shall be confidential. Article 7 of the Mediation Act states that participants in the mediation procedure must keep all circumstances, facts and documents that have become known to them during the procedure confidential, including those disclosed during the information meeting on the mediation procedure.

How is the impartiality of the mediator ensured?

The mediator's independence is guaranteed by the selection procedure and the Rules of Conduct for Mediators set out in Article 9 of the Mediation Act. According to this provision, the mediator shall carry out her/his duties in good faith and in accordance with the law, good morals and the procedural and ethical rules of conduct for mediators. These rules are set forth in the ordinance under Article 8(4) of the same Act. Furthermore, the mediator must agree to conduct the proceedings only if they can guarantee their independence, impartiality and neutrality.

Furthermore, under Article 10(3) of the Mediation Act, the mediator must withdraw from the proceedings if circumstances arise that could call their independence, impartiality and neutrality into question.

Is there any interim relief (stay of execution, etc.) during the mediation process? If yes, who is competent to hear the case?

In accordance with Article 15, paragraph 3 of the Mediation Act, when the mediation procedure ends, the relevant court must resume any pending proceedings that have been suspended, in line with the legal provisions.

At the end of the mediation process,

If an agreement is concluded:

A document is drawn up

Other possibility (please specify)

The Mediation Act gives those involved in a dispute the legal right to decide on the terms and format of the agreement. This agreement may be made verbally or in writing. A written agreement

must include the place and date it was reached, the names and addresses of the parties, what they have agreed, the name of the mediator, the date and the parties' signatures. The agreement may include provisions for liability in the event of failure to fulfil the obligations set out therein. Furthermore, the agreement is only binding on the parties to the dispute and cannot be enforced against persons who did not participate in the proceedings. The agreement binds the parties only to what they have agreed upon. This agreement is null and void if it contradicts or circumvents the law, or if it violates public morality.

If an agreement is not concluded:

Is a time limit set for bringing the matter before the competent court?

Are the litigation proceedings already under way (if applicable) continued?

In the event that a document is drawn up following mediation, do the rules concerning the settlement procedure (see above) apply, or are there differences? If yes, please specify.

When an agreement is reached during a mediation procedure on legal or non-legal disputes (Article 1, paragraph 1 of the Mediation Act), it has the force of a court settlement and is subject to approval by the relevant district court.
If the dispute is the subject of pending court proceedings, the agreement must be approved by the court hearing the case, even if the parties have agreed on matters outside the scope of the case. If the parties reach an agreement relating to the subject matter of several pending cases, it shall be approved by the court hearing the first case brought. The parties must submit the approved court settlement to the other pending cases, which will then be terminated in whole or in part according to the settlement's terms. The court shall approve the agreement after it has been confirmed by the parties, provided that it does not contravene the law or public policy. If the prosecutor is a party to the case, the court shall hear their opinion.

iiB. If no mediation process is provided for, is this exclusion provided for in:

a legislative provision



a general principle of law



3. Arbitration



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* Please elaborate on your answers, citing any relevant legislation and/or case-law.

i. In administrative disputes, is arbitration between the Administration and private individuals/legal entities permitted in your country?

Yes

No

ia. If yes,

Is this option expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

See the answer under point II.1.ii.

Does it concern both application for annulment (judicial review limited to the legality) and appeal on the merits (full judicial review of both legality and substance)? Are there any exceptions provided for by law or established by case-law?

Such a distinction is not provided by the law.

Is it mandatory or optional?

Such a distinction is not provided by the law.

ib. If arbitration is not permitted, is this prohibition due to

A legislative provision

A general principle of law

ic. If arbitration is optional, does it require:

The mutual agreement of the parties

The sole intention of the Administration

The sole intention of the private individual/legal entity



On the part of the State, is arbitration initiated:

- After approval by a special committee
- By the administrative authority involved in the dispute
- Other

ii. For disputes arising from contracts between private individuals/legal entities and the State, do the common provisions relating to commercial arbitration (domestic or international) apply, or is there a special regime?

If there is a special regime, please briefly mention the elements that differentiate it from the commercial arbitration regime.

According to Art. 1. (1) (As amended by SG No. 93/1993 and SG No. 63/2025, effective 01/08/2025) of the Arbitration Act, this law shall apply to arbitration based on an arbitration agreement where the place of arbitration is within the territory of the Republic of Bulgaria.

Article 1 (2) (Amended, SG No. 93/1993 and SG No. 63/2025, effective 01/08/2025) of the same Act states that arbitration may be used to resolve property disputes, as well as disputes concerning the filling of gaps in a contract or its adaptation to newly arising circumstances. Disputes referred to in Article 19, paragraph 1 of the Civil Procedure Code may not be resolved by arbitration.

Article 3 of the Arbitration Act (as amended by SG No. 63 of 2025, effective as of 01/08/2025) expressly provides that a party to arbitration proceedings may be a State or State institution.

iii. Is arbitration provided for in contracts falling within the scope of Directives 2014/24/EU and 2014/25/EU?

If yes, have any issues been raised regarding the application of the rules governing the performance of these contracts? How have the courts addressed such issues in the relevant case-law?

The primary source of public procurement law in Bulgaria is the Public Procurement Act (PPA), which has been in force since 2016 and is subject to frequent amendments, most recently in mid-2025. As Bulgaria is an EU Member State, its domestic regulatory regime is significantly influenced by the EU legislative framework and its core principles, which govern all public procurement procedures irrespective of sector. Examples of such principles are set out in Directives 2014/24/EU and 2014/23/EU, both of which have been implemented. At the same time, the EU further refines the framework through sector-specific legislation targeting fields that are most frequently subject to public contracting. Notable examples include Directives 2014/25/EU

and 92/13/EEC, which concern procurement in the water, energy, transport and postal services sectors.

Yes, arbitration is generally possible in contracts falling within the scope of these Directives, according to Article 7 of the Arbitration Act.

According to the Supreme Court of Cassation's practice (Judgement No. 2049/2014 of the First Commercial Division; Judgement No. 58 of 19 July 2022 on Case No. 2001/2021 of the Second Commercial Division), the validity of the agreement is not derived from that of the substantive contract. Furthermore, the arbitration clause is not subject to public procurement regulations under Article 3 of the Public Procurement Act, nor does it fall under the general exceptions outlined in Article 13 of the Act, which includes arbitration and conciliation services under Article 13(1)(6).

iv. How are the independence and impartiality of the arbitrator ensured?

The Arbitration Act establishes the legal basis for setting up arbitration courts in the Republic of Bulgaria, which are responsible for resolving disputes expressly defined in this Act. The Act also sets out special mandatory rules for conducting arbitration. All arbitrations in Bulgaria are subject to a registration regime. According to Article 13 of the Arbitration Act, when a person is proposed as an arbitrator, they must disclose any circumstances that could reasonably be perceived as affecting their impartiality or independence. This obligation remains in place even after the arbitrator's appointment.

v. Is there any interim relief when an administrative dispute has been submitted to arbitration? If yes, which body is competent to hear the case?

vi. In arbitration concerning administrative disputes:

yes / no

Is there an obligation to make publicly available the basic information and documents relating to the proceedings?

Is the participation of third parties permitted?

Is legal representation mandatory?

If yes, is legal aid available?

Is the hearing public?

Is the arbitral tribunal obliged to give reasons for its award?



Is the arbitral award made publicly available?

vii. During the proceedings, the applicable system is:

the adversarial system

the inquisitorial system

viii. What powers does the arbitral tribunal have?

Reviews the legality of administrative acts of a non-pecuniary nature

Reviews the legality of an administrative act of a pecuniary nature (fine, etc.)

Annuls/amends an administrative act of a non-pecuniary nature

Annuls/amends an administrative act of a pecuniary nature

Addresses only recommendations to the Administration

Restricts itself to awarding compensation for damages

Does the arbitral award have effect:

Erga omnes (with regard to all)

Inter partes (between the parties)

Is it considered 'case-law' for other cases?

If the answer to the last question is yes, please explain.

Can the validity of the arbitral award be challenged in court?

Yes

No

If yes, is the validity of the arbitral award reviewed directly or incidentally?

Under the Civil Procedure Code and based on Article 47. (1) (as amended by SG No. 46 of 2002; previous text of Article 47 as amended by SG No. 8 of 2017) of the Arbitration Act, the Supreme Court of Cassation may set aside an arbitral award if the party seeking to set it aside proves any of the following grounds for example: they were incapable of entering into the arbitration agreement, the arbitration agreement was not concluded, or is invalid, under this law or under another law chosen by the parties in international arbitration; the arbitral award is contrary to public policy in the Republic of Bulgaria; it was not duly notified of the appointment of an arbitrator or of the arbitration proceedings, etc.

Is it possible to waive the right to judicial review?

No, this will not be valid.

Which courts have jurisdiction?

Civil courts.

What is the scope of the judge's review according to case-law?

The court draws conclusions about both the relevant facts and the applicable law.

In arbitration, is the concept of public policy different, according to case-law, in cases where the State (or a legal person governed by public law) is a party to the arbitration? If yes, what are the differences compared with the concept of public policy in arbitral proceedings between private individuals?

No.

In arbitration, in addition to the rules of European competition and consumer protection law (see C-126/97, *Eco Swiss China Time Ltd v Benetton International NV* and C-168/05 *Mostaza Claro v Centro Móvil Milenium SL*, respectively), has case-law recognised other rules of EU law as rules of international public policy? If yes, please mention the relevant cases.

Pursuant to Article 48 of the Arbitration Act, the Supreme Court of Cassation may set aside or declare null and void an arbitral award.

In deciding Case No. 493/2022 (Commercial Division) on 28 June 2022, the Supreme Court of Cassation considered a request to annul the arbitral award from case No. 134/2019 of the Arbitration Court at the Bulgarian Chamber of Commerce and Industry.

The Court found that there were grounds to set aside the award under Article 47(1)(2)(2) of the International Commercial Arbitration Act due to invalidity of the arbitration agreement.

The Court referred to points 35 and 37 of the judgments in Cases C-126/97 and C-168/05, respectively.

Which body has jurisdiction to hear disputes arising during the enforcement of an arbitral award?
Has case-law dealt with special cases where enforcement has been contested on the grounds of the administrative nature of the dispute?

The arbitral award is enforceable under Article 404(1) and (3) of the Civil Procedure Code; therefore, its enforcement is carried out by the civil court.