

Reply to ECPRD Request 6116

The offering of a financial advantage in exchange for the resignation of a seat in parliament

1) Is there any legislation or other form of regulation, such as a code of conduct, that prohibits

i. a Member of Parliament from accepting a financial advantage on the condition that they resign their seat;

The Constitution of the Republic of Bulgaria and the Rules of Procedure for the Organization and Activities of the National Assembly do not provide for a Member of Parliament to resign and leave the National Assembly by receiving financial incentives. According to Art. 72, para. 1, item 1 of the Constitution, a Member of Parliament may resign before the National Assembly, which terminates his or her powers. The resignation is considered a personal act and is not related to receiving financial benefits.

ii. the act of offering such a proposal, including by individuals from the member's own party.

There is no legal norm in the positive legal framework that prohibits the offering of financial benefits to a member of parliament in order to resign.

It is possible in some cases to prove that this is a crime. The request and receipt of financial benefits in order to do or not do something in the course of office is called passive bribery and is a crime under Art. 301 of the Criminal Code:

Article 301

(1) (Amended, SG No. 51/2000, SG No. 92/2002) An official who demands or accepts a gift or any other undue benefit, or accepts a proposal or a promise for a gift or benefit, in order to perform or to fail to perform an act connected with his service, or because he has performed or failed to perform such an act, shall be punished for bribery by imprisonment for up to six years and a fine of up to BGN 5,000.

(2) (Amended, SG No. 51/2000, SG No. 92/2002) If the official has committed any of the acts under Paragraph 1 in order to violate, or for having violated his service, where this violation does not constitute a crime, the punishment shall be imprisonment of up to 8 to eight years and a fine of up to BGN 10,000.

(3) (Amended, SG No. 95/1975, SG No. 51/2000, SG No. 92/2002) If the official has committed any of the acts under paragraph 1 in order to perform or because of having performed another crime in connection with his service, the punishment shall be imprisonment of up to ten years and a fine of up to BGN 15,000.

(4) (Amended, SG No. 89/1986) In the cases of the preceding paragraphs, the court shall rule deprivation of the rights under Article 37 (1), sub-paragraphs 6 and 7.

(5) (New, SG No. 92/2002) Punishment under Paragraph 1 shall also be imposed to a foreign official who requests or accepts bribery or accepts a proposal for or a promise of bribery.

Offering and giving such financial benefits is called active bribery and is also a crime under the Criminal Code:

Article 304 *(Amended and supplemented, SG No. 7/1999, amended, SG No. 51/2000, SG No. 92/2002)*

(1) A person who offers, promises, or gives a gift or any other material benefit to an official in order to perform or not to perform an act within the framework of his service, or because he has performed or has not performed such an act, shall be punished by imprisonment for a term of up to six years and a fine from up to BGN five thousand.

(2) If in connection with such bribe the official has violated his official duties, the punishment shall be imprisonment for a term of up to eight years and a fine from up to BGN seven thousand, where this violation does not constitute a graver punishable crime.

(3) The punishment as per paragraph (1) above shall be also inflicted on any person who gives a bribe to a foreign official.

2) If so, what does the regulation entail, and how is it enforced?

There is no such legal regulation.