

## **Public Administrative Bodies in Function of Building Democratic Societies in the Republic of Macedonia**

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**Abstract:** Building of executive functional powers in service to the citizens has been and still remains one of the main objectives of the Republic of Macedonia since its independence. The path of state-building and rule of law, transformation of the society from the monist state to a pluralistic and democratic state seemed very difficult considering the economic crisis as well as the political and ethnic problems. Despite numerous difficulties, the main objective still remains the creation administrative bodies that will be in service to the society but above all in service to the citizens. The European and international experiences have been useful and the only way in the direction of creating a state where will be applied the rule of law.

**Keywords:** bodies; administration; services; citizens

### **1. Introduction**

Republic of Macedonia in the early nineties became independent from other former states of Federal Republic of Yugoslavia, as a result of overall(vast) political, social and economic changes that took over (fell upon) Eastern European countries in the late eighties.

With the dissolution of former FSRY, it switched from the period of communist dictatorship in the period of political pluralism and democracy. This process was developed under the circumstances of dissolution of a common state as well as the fundamental changes that overtook the society. The Assembly of the Republic of Macedonia on January 25th 1990 approved the declaration of an independent and sovereign state, while on September 8th 1991 a referendum was held in which the citizens of Republic of Macedonia declared that Macedonia is constituted as an independent and sovereign state. During the period of dissolution of Yugoslavia and the transition period, important judicial and political acts were approved in

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accordance with new orientations of the republic to be built as a democratic and social state.

In the year 1990, on the basis of constitutional amendments of the Constitution of Social Republic of Macedonia of the year 1974 (amendments 57-80) significant constitutional transformations were made in economic and political fields, building a legal state, in function of installation of pluralism properties and political pluralism, free elections and direct trade market, local self administration, human and citizens rights etc.

With these amendments the municipality is transformed in a self administrative unit and the municipal system is abrogated. The function as a Head of State is installed as a Chief individual. Instead of the executive council is placed the Government of RM with all the attributes of a democratic government.

In accordance with constitutional changes of the year 1990, in the same year was approved the Law for Government of RM and the Law on the organization of administrative bodies which determined the foundation of organization of administrative bodies.

Constitutional changes enabled the creation of the normative frame for the first multi –party elections in 1991 and the installation of parliamentary democracy in the Republic of Macedonia.

The first parliamentary elections held in November 1990 finally overthrow the one-party system in the country and helped creating of the first Parliament and Government in Republic of Macedonia.

## **2. Administrative Bodies after the Independence of the State**

The normative frame for the organization and the work of state administrative bodies is determined by the Constitution of Republic of Macedonia of 17th November 1991. The Constitution speaks of state administration and organizations or bodies exercising public authority. The Constitution installs two basic principles for the organization of state and public administration: the principles of power separation and local self governing. By applying these principles in the organization of state and public administrative bodies, Republic of Macedonia departs from the principle of unity of government and municipal system.

Republican assembly structure was changed and became unicameral, is installed the function of state President as an individual chief etc.

In comparison with former constitutions of the Republic of Macedonia according to which the position of republican administrative bodies was precisely and explicitly determined, the Constitution of 1991 does not clearly define the position of administration, but these issues will be determined by law.

State administration consists of ministries and other administrative bodies and organizations determined by law. Constitutional dispositions stipulate that executive state powers and within his authority administrative powers in the Republic of Macedonia is exercised by the Government and competent ministries as well as other bodies and administrative organizations, while defined administrative functions can exercise even other subjects which have the public authority determined by law.

Constitution prevents organization and political activities in state administrative bodies. So the political activities are interrupted in state institutions, administrative bodies are depoliticized, a discontinuity in relation with former communist system where the ruling party was exercising political activities in state and public institutions.<sup>1</sup> State administrative bodies exercise their powers in independent way based on the constitution and laws and they only answer to the government.<sup>2</sup> State administration bodies as a part of executive powers are part of state apparatus of a country.

The constitution determines the fundamental principles for the organization and function of administrative bodies: the principle of independence, principle of constitutionality and the principle of accountability. State administrations bodies in the sphere of defense and police conduct civil persons who directly before elected in those functions have been civil for at least three years.<sup>3</sup>

After the approval of the Constitution, appropriate laws from the administrative sphere were not approved; it was noticed stagnation in normative building of administrative bodies. The Government of Macedonia in May 1999 approved the strategy for reforming public administration to set goals to be achieved.

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<sup>1</sup> Constitution of Republic of Macedonia, 1991, art. 95.

<sup>2</sup> Ibid, Art. 96.

<sup>3</sup> Ibid, Art. 97.

In the course of legislative activity in July 2000<sup>1</sup> was approved the Law on organization and work of state administration bodies. According to this law, state administrative bodies can be founded in forms of ministries, other administrative organs and administrative organizations, in areas which are relevant in exercising state functions and realization of rights and obligations of the citizens. Beside principles determined by the constitution, as the principle of independence, legitimacy and accountability, the law also promotes the principle of efficiency, transparency, economy, equality etc.

Administrative bodies in function of exercising defined legal competences: implement the policies of implementation of the laws and other acts, implement the position and orientation of the government, decide on administrative issues, observe the legitimacy of acts and the work of administrative bodies, exercise inspectional works etc.

For the exercise of its powers, administrative bodies approve administrative acts (general, concrete and substantive administrative acts).

In the year 2000 was adopted the law on the Government of the Republic of Macedonia and the Law on Civil Servants by which the employees in state administration bodies gained a special status as employees of the state administration. In the course of the reform of public administration were approved many laws that regulate various aspects of the organization and functioning of the administration and its setting in the function and service of the citizens.

### **3. Ohrid Framework Agreement in Function of Reforming Public Administration**

The dissolution of the former system (RSFJ), in the Republic of Macedonia induced more the process of centralization than decentralization. General feature of transforming the society and state is high centralization of economic, political and other fields. This was the reason of ethnic and political division that disables normal functioning of institutions and reason for the armed conflict in 2001.

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<sup>1</sup> The Law for Organization and Work of State Administration (“Official Gazette of RM” nr 58/2000).

The signing of the Ohrid Framework Agreement in the year 2001<sup>1</sup> was impetus for further reforms of institutions of the system, especially in direction of decentralization of powers as a significant segment of public administration.

All these constitutional and legal changes that transformed the society and the state in Republic of Macedonia were necessary and in function of overall changes that overtook the region and southeast Europe, therefore Republic of Macedonia could not be excluded. From today's point of view can be lodged the issue of reforms that were undertaken in this period, the pace of reforms, privatizations, inter-ethnic relations, issues for which there are opinions and facts that could be performed more efficiently and successfully.

Public administration reform is a heavy process developed within a state, considering the time required for its implementation. Key component for realization of reforms is the creation of stable legal framework that will provide realization of reforms. Administration as a social phenomenon is a part of a social engagement in the overall development and important and active factor that influences the development of other social activities.

Administration's role in the new conditions of development of society is one of most popular topics in the field of public administration. Administration has a significant role in social relations policy of each country which manifests administration as an instrument of state power, but this concept has been developed in terms of transformation of the role of administration as an instrument for the provisions of administrative services to the citizens.

#### **4. Public Administration in Service of Citizens**

In relation with the citizens administrative bodies should provide higher standards. Toward citizens should be created correct reports, fair and impartial. To create the right relationship with citizens means to develop procedures within deadlines and undue delay in accordance with legal provisions and good ethics of public servants.

Special attention should be given to the provision of legal assistance, providing clear and exact information, deadlines in administrative procedures, party feelings and respecting their privacy.

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<sup>1</sup> Ohrid Framework Agreement, 2001.

Administration bodies in the process of providing services to citizens and parties should act fairly while respecting the principle of equality, applying sanctions in accordance with legal dispositions and proportionality of legal violations.

That the system of efficient of services to citizens to function and administration bodies to realize their competences determined by law must be established harmonious relationship in horizontal and vertical lines and in this context should be created legal mechanisms of administrative control. These mechanisms of control will enable more efficient functioning of administration bodies and citizens were provided with legal mechanisms when they are not satisfied with administrative decisions.

Open and transparent work of administrative bodies is a necessary precondition of legal and democratic functioning of administrative bodies and in this direction providing free access of citizens for receiving information with public character to fulfill legal and constitutional obligations for the functioning of a democratic state but above all legal safety and democratic society for all the citizens.

To be recognized as a democratic society and that all citizens are treated equally before the law and administrative bodies, we must avoid racial or color prejudices, ethnic barriers, linguistic, religious, gender or any other kind of differences that exist between people.

Governments are facing challenges of transforming and redesigning governmental systems in order to provide more efficient services with low costs, efficiency and quick information by applying information and communication technologies.

According to the Organization for Economic Cooperation and Development (OECD),” open government” is that government that is transparent, accessible to anyone and anywhere and responsive to new ideas and demands.

Governments are faced with increasing demand for better quality of public services despite lower financial resources. That is why the government of Republic of Macedonia should work together with citizens and interested parties for finding a better solution and becoming more efficient in facing complex challenges. The greatest challenge is providing better services to the citizens using scarce resources compared to requests.

These days we can notice a new wave of increasing focus toward citizens and their appearance in the public sector, creating new methods and opportunities, engagement and cooperation mechanisms. New challenges of society and

democracy seek new energies in order to transfer and modernize the public sector. Open government, institution transparency require closer cooperation of public institutions and citizens that will create a new culture debate and active participation of citizens in public policy. Social networks or other social media that increase communication and collaboration have the potential to significantly affect the ability of the government to coordinate and provide more effective public services with citizens.

Democratic standards and the principles of work should not remain only on paper but they must be carriers of establishing the administrative system that will act as functional body for the good of citizens. In any European Union act is not defined a unique system of public administration, it is a matter that remains as the right of a national state independently to determine the manner and the operation of public administration.

Authorities' power issues, the relationship between their horizontal and vertical lines, the size of administrative bodies etc, are national issues but in accordance with best practices and European administrative principles that ensure the rule of law (the principle of responsibility, trust, effectiveness, economy etc.)

These principles and standards of rule of law deal with the protection of human rights, administration that will be in function of market economy, administration as public service, implementation and harmonization of EU laws.

In Republic of Macedonia for example, in the Law on General Administrative Procedure involved European administrative principles and its harmonization with legislation and European standards. There were certain observations when dealing with the issue of "silence of administration" and the way how to overcome the certain situation.

Measures should be undertaken for boosting the efficiency when implementing administrative procedures by: establishing the right to lodge an appeal against an administrative decision to a higher instance as a rule and determining the same by law; implementing the "Silence of the Administration" principle wherever applicable to the benefit of the citizens and companies; establishing precise and short deadlines for deciding upon administrative procedure; and strict penalties for management officials who fail to act within the legal deadlines. Thus, the procedure for lodging an appeal to a second instance will be precisely regulated, a clear solution for the silence of the administration is determined, and deadlines for deciding upon administrative procedures will be shortened and strictly determined.

The Parliament introduced the principle of tacit approval in administrative proceedings (“silence is consent”) by amending over 130 laws in line with recent amendments to the Law on General Administrative Procedures. A complex appeals procedure seriously undermines the application of this principle. To address this and other issues, preparations for a contemporary Law on General Administrative Procedures have commenced. The Parliament appointed members of the Second Instance State Commission for appeals administrative procedures. The State Commission is not yet fully operational and lacks administrative capacity.

What it lacks our judicial system is the practical implementation of legislation and that the citizens enjoy in their everyday lives.

Public administration is based on values of professionalism, effectiveness and impartiality in order to provide better services to citizens and their businesses. Public administration has a responsibility to work in aspect of reforming public administration in different segments of functioning. The quality of public administration is a key factor for the level of providing services to citizens and companies that contribute in development of the society and democratic processes as well as integration of the country in the EU.

Bearing in mind the fact that public administration services are of essential importance for the citizens of our multi ethnic society, we need to create modern, professional and effective public administration that will advance relationships with citizens, while placing itself in his full service. The government will focus in implementation of reforms for increasing efficiency, effectiveness and accountability of public administration, increasing transparency and openness of the system, improving the quality of services and increased satisfaction of citizens and private legal services.<sup>1</sup>

It is a duty of public administration bodies to make an effort in direction of strengthening the responsibility and accountability in public administration based on the civil service law and normative acts deriving from this law, promoting the legal instruments for fighting corruption in public administration, de-politicization of public servants and avoiding conflict of interests. Drafting of the normative acts and the periodic survey opinion regarding the ethics and transparency of public administration. Regulation of relation in the field of civil service is that by affirming the principles of professionalism, de-politicization, efficiency and

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<sup>1</sup> The Program of Government of Macedonia for the period 2011-2012.



responsibility of state administration to provide services to citizens in quality and time.

State civil law regulates the status, the rights, the duties and obligations of the state employees as well as payroll and compensations of state employee salaries. The law gives a more complex definition of the term state official (employee), in which are incorporated functional and organizational criteria like –type and job criteria performed by the state officer and authority affairs where he works.

The main role of a modern state in a democratic market economy is to provide right conditions and equal standards for citizens and economic activities for different subjects. The modern concept of public administration creates a notion of hierarchical delegation of state powers to individuals that operate within the public system. These individuals, civil servants, are therefore not only state employees but also to large extent holders of state powers. As such, they must also ensure that principles of public and constitutional administration are actually applied in daily works of public administration. Civil service should be established as an institution that requires its members a certain degree of professionalism and integrity as well as good knowledge of administrative and constitutional law. Civil servants must be subject to a set of legal condition that enable them to perform their functions and powers, effectively in a lawful and appropriate way in all spheres of public administration.

The area of civil and public service therefore remains fragmented. Eligibility criteria for recruiting staff remain inconsistent. While some progress has been observed in eliminating tailor-made vacancies, concerns remain that the principle of merit based recruitment is not always respected. The regulations on hiring temporary staff remain unaligned with general recruitment procedures for civil and public servants. The Government has not made available official figures on existing or transferred temporary positions.

The trend of recruiting employees on a quantitative basis without sufficient regard to the real needs of the institutions continued. Most of the recruits have not reached their designated institutions while already receiving remuneration. The recruitment procedure for non-majority members is not harmonized with the general recruitment procedures and remains vulnerable to undue political influence.

The salary framework remains fragmented. The practice continued of paying ad hoc allowances to public servants for certain duty-related tasks without giving a transparent justification. In the resent years the government has dedicated a special

attention to E-Government. The Government in the following four-year period will implement programs for increasing the efficiency of the educational process in the Republic of Macedonia by utilizing the possibilities that IT technologies offer: improving the IT equipment and working conditions in primary and secondary schools; providing key prerequisites for using the IT in the everyday teaching processes; support and scholarships for talented IT students; developing distance learning systems and other forms of learning. Also, realization of the following projects is envisaged:

Government continued efforts to improve the services offered to citizens. E-government is promoted as a tool to increase transparency and prevent petty corruption. The 'scoreboard' grading system for use by citizens has been expanded to additional institutions. Responsibility for management of regulatory impact assessment (RIA) and the Single Electronic Register of Legislation (ENER) shifted from the Secretariat General to MISA. Steps have been taken to improve the legislative drafting process through RIA. It has not, however, been applied systematically. Public awareness of the citizens' charter offering satisfaction surveys needs to be increased.

## **5. Conclusion and Recommendation**

The quality of the public administration is the key to rendering appropriate level of services to the citizens and companies, which contributes to development of the society and democratic processes, as well as to the EU integration of the country.

Bearing in mind that the services of the public administration are of essential significance for the citizens of our multiethnic society, we need to create a modern, professional and efficient public administration which will improve the relations with the citizens by placing itself at their complete service.

The Government will focus on conducting reforms for increasing the efficiency, effectiveness and accountability, boosting the transparency and openness of the system, improving the quality of the services and raising the level of satisfaction of the citizens and private legal entities that are users of public services.

Services to citizens were improved and e-government has been gradually introduced. Steps on fundamental reforms of the administrative framework and public and civil service have been launched. Additional efforts are needed to guarantee the transparency, professionalism and independence of the public

administration. In particular, respect for the principle of merit-based recruitment together with the principle of equitable representation needs to be ensured.

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