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THE STATE OF HUMAN RESOURCES IN THE PUBLIC SECTOR IN REPUBLIC OF MACEDONIA

Abstract

In the Former Yugoslav Republic of Macedonia, in the last seventeen years, efforts have been made to build a professional, expert and primarily depoliticised public administration in accordance with European standards. Unfortunately, we have failed to reduce political influence on the ‘meritocracy’ system, especially in terms of new employments, as well as on the progress and assessment of civil servants. Also, the professional development of civil servants was hampered by formal and systemic training problems, and they are implemented ad hoc generally without any order. Because of this paradox, the position of the Human Resources Departments in the official system is very similar to traditional ‘personnel departments’. The dilemma is whether the new legal solutions of 2015 (the Law on Public Sector Employees and the Law on Administrative Officers) will be an appropriate solution to the human resource management shortcomings of the past years and the citizens will finally receive a professional, expert and depoliticised public service working for the interest of the citizens.

Key words: public administration, human resources, depoliticization, meritocracy, civil servants, public servants, trainings

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Introduction

Until the adoption of the Law on Civil Servants in 2000, the status of “civil servant” was not regulated at all; on the contrary, this person was defined as a “worker in an administrative body”, while their rights and obligations were regulated individually with a series of by-laws. Thus, the standards of the human resources management standards in the public administration until 2015 were regulated on the basis of the Law on Civil Servants and the Law on Public Servants, and after 2015, the new Public Sector Laws, namely the Law on Administrative Officers and the Law on Public Sector Employees. Although there were a number of shortcomings of the Law on Civil Servants, its main goal was better organization of the state administration towards meeting the needs of the citizens, and creation of personnel of administrative organizations characterized by high professionalism, expertise, depoliticization and autonomy in decision making, it helped enhancing the situation in the state administration a few steps ahead of the existing conditions before its adoption, if not otherwise, at least on the formal side. This law served as a *Lex Specialis* regulation that regulates the status, rights and obligations of officials employed in state and local government bodies and other state bodies, or a small percentage of public sector employees (civil servants from the central and local government whose total number is about 10,000), and for other public servants, who also belong to the domain of public law, a sea of special material regulations were applied, together with the provisions of the Law on Labor Relations at the same time. In 2010, for the regulation of all employees in the public sector, the Law on Public Officials was adopted, which we can freely say that he was and remained a mere word on paper. The legislator’s idea was to unify all the important questions about the status of employees in the public sector, creating bases for equalizing the procedures for admission, promotion, rewarding, determining titles and salaries for all persons employed in the public sector that can be defined as providers of public services. This goal was not realized primarily because the same provisions of the existing substantive regulations regulating the status and the official (i.e. according to the legal terminology of the working) relations of the employees in the public services remained in force. Thus, no attempt has been made to harmonize the Law on Health Protection, the Law on Science, the Law on Primary Education, the Law on Secondary Education, the Law on Higher Education, the Law on Culture, the Law on Pension and Disability Insurance,

the Law on Health Insurance, the Law on Fully Funded Pension Insurance, and numerous other laws with the new Law on Public Servants, i.e. state bodies and organizations whose employees do not have the status of civil servants, and provide public services. Just as an illustration: for a university professor, the provisions of the Law on Higher Education, such as *lex specialis*, were relevant, but at the same time this category of persons was covered by some of the provisions of the Law on Public Servants, and finally certain issues that were not regulated with none of the two listed laws are to be regulated by the Law on Labor Relations!?. Thus, till 2015, the legal framework that was the basis of the official system was fragmented, and especially the concern that in the Republic of Macedonia until the preparation of the Register for Public Sector Employees in 2016 by Ministry of information society and administration (MISA), there was no data on the total number of employees in the public administration.

The two new laws should constitute a complete legal framework for the status, rights, obligations, manners of selection, promotion, remuneration, professional development, accountability and termination of employment of all employees in the public sector. These include the general conditions for public sector employees, general rights, duties and responsibilities and termination of employment of public sector employees, rules for mobility of public sector employees, as well as categorization of work places by group, subgroup and category and levels that are regulated by *lex specialis*.

1. THE LATEST LEGAL SOLUTIONS IN THE FUNCTION OF IMPROVING THE HUMAN RESOURCES MANAGEMENT

The new legal solutions established the classification of jobs in the public sector in four groups:

- Jobs of administrative officials (state and public officials)
- Work positions of officials with special powers (10 subgroups of security, defense and intelligence)
- Work positions for public service providers (5 subgroups, works related to activities of public interest that do not have administrative/institutional nature)
- Work positions of auxiliary-technical personnel (5 subgroups, maintenance, security, transport, as well as other auxiliary and technical works that ensure the smooth functioning of the institutions)

The new legal solutions envisage an obligation for MISA to keep a Job Catalog and a Register of Public Sector Employees, which is a serious positive step towards determining the exact number of employees in the public sector with a precise description of their jobs. Unfortunately, the preparation of the Catalog and the Register did not proceed simultaneously with the preparation of the legal texts of the two new laws, which created the situation of the existence of laws, but not the basic tool for their realization. These two significant documents, if duly prepared by MISA as responsible for their preparation and further management, will contribute to the existence of a full systematic list of public sector jobs, organized in groups, subgroups, categories and levels. Unlike our country, in the Republic of Slovenia, the adoption of the legal framework for public servants took place simultaneously with the adoption of a separate law on their salaries, as well as a pre-prepared Job Catalog (all this accompanied by a long but strong social dialogue between the government and the union), so the implementation of the new legal solutions was carried out flawlessly and efficiently.

According to the new classification of job titles, there are four categories of administrative officials: A-secretaries; B-managerial administrative officers; C-professional administrative officers and G-auxiliary-administrative officers. Since category A, or the state and general secretaries, have been persons appointed with a given mandate, it can be concluded that category B or managerial administrative officers are the highest echelon of employees to whom the rules of official status apply. For all of them, new employment conditions are foreseen, although legally referred to as specific competences, they are general conditions that every officer in this category must fulfill: active knowledge of computer programs for office work, passed an administrative management test and knowledge of one of the three most commonly used languages of the European Union (English, French, German)

2. THE CURRENT STATE OF HRM IN THE PUBLIC SECTOR IN RM

2.1 Authorities responsible for human resources

From 2015, the status and the position of these segments is regulated pursuant to the Law on Administrative Officers, but despite all formal efforts, MISA still has insufficient power to coordinate and monitor human resources management, which is understandable because their own establishment was

problematic. Immediately after the adoption of the Law on Civil Servants in 2000, as well as the establishment of the Civil Servants Agency, although the form of organizational forms for human resource management was not precisely regulated, the legal basis for their formation was established. But such provisions were not with visible practical implementation. Thus, in 2005, only 9 organs of the central government had established human resources departments within the general affairs sectors¹. Until then, the state administration bodies still lacked understanding of the need for forming such organizational units, so that they only formally established HRM. On the other hand, the organs that predicted the formation of HRM in the systematization faced problems in their staffing from the existing staff². This was due, above all, to the inaccurate determination of the organizational forms for managing human resources. Therefore, in the Decree on principles for internal organization of the state administration bodies from 2007, the obligation to establish organizational forms for human resources management is independently determined outside the structure of the sectors that correspond directly to the secretaries of the civil service bodies³. These organizational forms should be standardized in all civil service bodies and develop good practices. But the European Commission's report pointed out that there are inadequate structures and inadequate administrative capacity for human resource management, policy making, strategic planning and internal coordination and planning⁴. Especially within ministries, there is no fully functional network of human resource management departments. The departments that have already been formed are exclusively dealing with personnel issues and are not sufficiently staffed to deal with training and assessment topics⁵. In 2009, a network of sectors/departments for human resource management was established in the civil service bodies. Its goal was to develop standards for development and management of human resources in the civil service, increasing the effectiveness, efficiency and quality of the working life of civil servants in the Republic of Macedonia. However, even

¹ Анализа на организациските облици за управување со човечките ресурси во органите на државната служба во Република Македонија, Агенција за државни службеници, 2009, стр.2

² Ibid

³ Чл.9 од Уредбата за начелата за внатрешна организација на органите на државната управа (Службен весник на РМ“ бр 105/07)

⁴ The Republic of Macedonia 2008 progress report, European commission staff working document, p 8-10

⁵ Ibid

after its establishment, the implementation of human resources standards went slowly; in a number of bodies in the HR department there is neither an adequate number of employees nor coherent planning for the needs of the HR within the entire state administration⁶. Strengthening their position separately is significant because of the fact that in the Republic of Macedonia for more than 15 years we have had serious problems with the construction of a small, professional, expert and depoliticized service system, and especially in the parts that refer to the taxpayer funded clusters of jobs, salaries of civil servants, training of civil servants, employment and evaluations of civil servants. For example, prior to the entry into force of the new Laws, there was another “boom” of politicization in the public administration by establishing new jobs on a political or social basis, in particular in the Public Organizations that are sporadic to the principle of merit, as well as job calls advertised by measure of an appropriate single candidate and unregulated employment of personnel, employment as social measures, instead of responding to the needs of the institution⁷. Public service politicization culminated in 2016, when public sector employees were forced to counter-demonstrations to fight against pressures, intimidations and lawsuits at their workplaces⁸.

2.2 Training as a condition for building a professional and professional administration

Till the adoption of the latest laws that regulate the status of employees in the public sector, training, as a basic right of employees, has not been mentioned at all, but their right to vocational training is emphasized, without obligation to attend training, as the basis for their further promotion, remuneration and, in general, improving their status within the public sector. In practice, although several strategic documents have been adopted, training of civil servants was ad hoc (unorganized activities)⁹, the institutions did not

⁶ The Republic of Macedonia 2010 progress report, European commission staff working document,p. 7-9

⁷ The Republic of Macedonia 2015 progress report, European commission staff working document,p. 9-11

⁸ The Republic of Macedonia 2016 progress report, European commission staff working document,p. 9-11

⁹ The Republic of Macedonia 2007 progress report, European commission staff working document,p. 9-11

finance training in general and professional development of civil servants was covered from their own budgets¹⁰. The systems for documenting the trainings were not centralized and revised, and, as a result, some of the administrative staff attended the same trainings several times.

This situation has been formally and legally surpassed by the adoption of the two key laws that apply to public sector employees. The Law on Public Sector Employees stipulates that employees in the public sector have the right to continuous professional development, for which the institutions are to create appropriate programs. If necessary, vocational training can also be conducted in the languages of the minority communities in the Republic of Macedonia. In the Law on Administrative Officers, however, a whole chapter refers to the professional development of administrative officers, which includes the training. Thus, the administrative officers have the right and obligation to professionalise themselves in the course of the year on the basis of the individual plan for professional development, as well as the obligation to transfer the acquired knowledge to other administrative officers. The plan is part of the system for managing the efficiency of the administrative officers. In the plan for professional development of the administrative officers, training and mentoring may be provided. The law provides for several types of training: generic and specialized, and can be organized in a classroom or through internet access from the workplace of the administrative officers to the electronic training management system:

- Generic trainings are conducted for the professional development of administrative officers in accordance with the framework of general competencies.
- Specialized trainings are conducted for the professional development of administrative officers in relation to the special competences and they can be organized in the Academy.
- Mentoring.

So far, 71 generic training courses have been prepared in a traditional way, in the classroom, as well as online, through both electronic systems, LMS and Micro Learning¹¹. Also, electronic training can be visited by each administrative officer through the MISA systems¹². So far over 10,000

¹⁰ Национален систем за координација на стручното оспособување и обука на државните службеници во Република Македонија, 2011, МИОА, стр.10

¹¹ Повеќе за можностите за стручно усовршување можат да се најдат на следниот линк: <http://administracija.mk/strucno-usovrsuvanje/obuki/>

¹² <http://e-obuki.mioa.gov.mk/>

administrative officers have attended training through electronic systems. The new HR software that was established in 2016 provides cumulative training data that has been implemented but we still do not have a central database of training provided by different institutions.¹³

2.3. Real novelties in the assessment

According to the Civil Servants Agency (CSA), the assessment of civil servants was performed by the immediate superior managerial civil servant or, in the bodies in which there are no managerial civil servants, the assessment is carried out directly by the superior senior official or the head of the body. The amendments and additions related to the evaluation of civil servants shortened the assessment period from 1 year to 6 months, thus facilitating the “cleaning” in the civil service. In the theoretical division of the systems for advancement (open, automatic and mixed), the Republic of Macedonia is in the group of mixed system, which has emphasized elements of an open system for advancement. This is mainly due to the manner of employment in the state administration. Therefore, in order to be promoted to a higher position, the official must respond to a public call when announced – the official enters in the competition as a candidate with equal rights, as well as all other candidates that meet the general and special conditions of the announcement, whether coming from inside the institution or from the outside¹⁴.

According to the European Commission, the large number of dismissals of officials in 2006 contributed to the slowdown in the law-making process, and the government was deprived of precious professionals who could provide better drafting of legislation and timely implementation. Thus, for example, in the Secretariat for European Affairs, 40 employees were actually degraded, which is actually 2/3 of the permanent staff, based on their illegal appointment, a decision that was later confirmed by the Civil Servants Agency¹⁵. The method used, as well as the period in which the degradation was carried out, has negatively affected the functioning of the Secretariat to

¹³ The Republic of Macedonia 2016 progress report, European commission staff working document, p. 18

¹⁴ Гризо, Н. Давитковски, Б. Павловска – Данева, А., 2011, Јавна Администрација, Скопје: Правен факултет “Јустинијан Први”УКИМ, Скопје

¹⁵ The Republic of Macedonia 2007 progress report, European commission staff working document, p. 9-11

some extent. However, the Civil Servants Agency reported that in September 2008 there were 77 illegal promotions, 38 of which were in the Ministry of Economy¹⁶. The EC's 2010 Progress Report highlighted: The politicization of the state administration is still worrying. There have been cases of replacing trained professionals with persons with limited experience within several institutions¹⁷.

Evaluation of administrative officers has been altered in relation to previous evaluation methods. Thus, the administrative officers, except for the secretary and the office employees, are obligatorily assessed once a year, by December 1 for the current year at the latest. In more detail, the types of grades look like this: "particularly prominent", if the officer has a grade from 4.51 to 5.00, "stands out" if the officer has a grade from 3.51 to 4.50, "satisfies" if the officer has a grade from 2.51 to 3.50, "partially satisfies" if the officer has a grade from 1.51 to 2.50 and "does not satisfy" if the officer has grade from 1.00 to 1.50.

The consequences of poor assessment are a complete novelty for the Macedonian official system, but also wider, because such experiences are no known comparatively as well. Namely, the new legal solutions envisage that the last 5% of administrative officers in the ranking list:

- Have their employment terminated if they are rated "not satisfied",
- Have the salary reduced by 20% over a period of six months if they are rated "partially satisfied", and
- Have a salary reduction of 10% over a period of six months if they fall in the last 5% of the ranking, and are not rated "not satisfying" or "partially satisfied".

We focus our critical attention on the first and third bullet in this listing of the negative consequences of the assessment. Termination of an employment by automatic nature for an unsatisfactory assessment which, in most cases, may depend on the subjectivity of the superiors, is, in our view, a dangerous tool in the hands of the evaluators, especially in the absence of a full system of meritocracy in the administrative service. It is also difficult to find arguments to justify a decision according to which the five percent of the officials with positive grades, who are at the bottom of the ranking, without any explanation, will have 10% of the salary deducted for six months consecutively. These are

¹⁶ The Republic of Macedonia 2009 progress report, European commission staff working document, p 8-10

¹⁷ The Republic of Macedonia 2010 progress report, European commission staff working document, p. 7-9

people whose work, labor and efficiency were assessed with the three best grades - “especially outstanding”, “outstanding” and “satisfying”. Thus, in a hypothetical situation in which, in one institution, all employees would be assessed with grades “particularly prominent” and “outstanding”; however, by the force of the law, the last five percent of the officials who received the grade “stand out” (is extremely high in the hierarchy of grades) will have to be punished with a six-month reduction in their salaries!?

Administrative officers who are rated “partially satisfied” in two consecutive assessments shall have their employment terminated.

The evaluation of the administrative officer is carried out by the immediate superior administrative officer or the managerial administrative officer, the secretary or the manager of the institution. Grades 1 to 5 are provided, but with the highest grade 5 can be rated up to 5% of the employees in the institution. The officer’s annual assessment is consists of: 65% of the assessor, 35% average grade of 4 other officers, 2 of which from the same rank and 2 with a lower rank. Taking into account the previously mentioned, it can be concluded that the previous decision remains in force, according to which the influence of the superior in the assessment is of primary importance and the overall annual assessment of the employee depends primarily on the relationship and the decision of their supervisor. Of course, with the fact that only 5% of all employed officials in one institution can get the highest rating, there is no other explanation, even less justification for such a legal solution, except for the need of the legislator and the proposer, on one hand to stimulate employees for good and efficient work, and on the other hand to save budget funds for rewarding those same good and efficient officials, which in itself is contradictory. Or in other words: in order for only 5% of the officials to be rewarded, each institution will have 5% of the penalties so that the rewards can be compensated from the penalties.

Conclusion

Some of the significant new changes regarding the status of public sector employees were not implemented in 2010 with the establishment of the new Ministry of Information Society and Administration, nor did a dramatic reversal occur with the entry into force of the Law on Administrative Officers and Law on Public Sector Employees from February 2015.

Even after the entry into force of the Law on Public Sector Employees, the status of employees in public institutions, funds, public enterprises, regulatory bodies, etc. is regulated with specific material regulations in which they should be implemented only with the groups and subgroups listed in the said Law. Such formal adjustments, in fact, took place immediately after the adoption of the Law, when at one session the Assembly of the Republic of Macedonia made amendments to the Law on Secondary Education, the Law on Primary Education, the Law on Science, the Law on Culture, the Law on Health Protection, etc.), in which attempts to equalize the categories of employees in the public sector, which until now (for example, in the Law on Higher Education was clearly and precisely defined - groups of academic titles from junior assistant to a full professor) was regulated.

When it comes to civil servants, they are now covered by the new Law on Administrative Officers according to which the employees in the so-called standard administration employed in public enterprises, institutions, funds, etc. is equalized in its status with the existing civil servants, which, within the scope of the Law on Administrative Officers, will significantly increase by adding the number of these employed persons.

The general conclusion from the analysis of the latest legal texts is that the entry and promotion criteria in the administration are tightened in comparison with the Law on Civil Servants. Part of the previous special conditions (knowledge of foreign language and computer skills) for certain positions became general conditions without which the status of an official can not be acquired.

Regarding the extensiveness of the official legislation, we believe that, if the aim is to provide a special legal regime that regulates the legal status of employees in the public and state administration, it is more appropriate to classify the categories of titles, that is, the clerical hierarchy to be regulated by law because it provides a higher degree of uniformity and reduces the danger of excessive fragmentation of the voluminous and heterogeneous public sector.

Therefore, we support the decision in the Law on Administrative Officers and the Law on Public Sector Employees to regulate the categories, groups and titles of the employees in the public sector by law. Without this approach, the cataloging of more than three thousand jobs would be even more difficult and impossible. However, it remains illogical to adopt an extensive legal framework for the employees in the (entire) public sector in the Republic of Macedonia, which exempts the employees in the bodies that, according to their functional tasks (must) belong to the system of state administration and other special bodies of the state: administration, tax administration, professional services in the judiciary, professional services in the public prosecutor's office, the National Bank, the state audit, the inspection services, and the classical administration employed in the regulatory bodies.

The laws provide a grading scale, a basis for assessment, and the consequences of the grades received by officials as a mathematical quota for the number of top-ranked officials. Legislation seems inclined to sanction "incompetent" officials and again proposes mathematical quotas in which some of the employees will be in the group of poorly assessed and will be subject to a sanction by force of law, offering only a mitigating circumstance for officials who will be found in 5% of the worst evaluated and who still do not have low grades, but simply have lower grades than others.

Professionalism in the public service can only be provided through good managerial standards and human resource management practices that can only be provided through a permanent institution that will take care of the promotion and development of staff in the public sector. Therefore, the training process should be set aside from the competence of MISA and at the state level to form, by law, a special academy for professional training for public sector employees and the administration. It is no coincidence that in the draft document of the Public Administration Reform Strategy for the period 2017 - 2022 the professional development of the public sector employees is taking special place, which is also implemented in the Action Plan, which through actions, deadlines, cost estimates, sources of financing and indicators implement the aforementioned strategic determinations in the public sector.

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