# National Case-Study: Public Administration in the Republic of Macedonia

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INTRODUCTION: General information and structure of Government

Republic of Macedonia was a constituent state of Socialist Federal Republic of Yugoslavia until 1991. During the disintegration of the federation the first multi-party democratic parliament was elected in November 1990 and a referendum on independence was held on 8 September 1991. On the basis of this referendum, the Parliament declared the independence and sovereignty of the Republic of Macedonia. On 17 November 1991, the Parliament adopted the Constitution¹, establishing the foundations of parliamentary democracy, civil society, rule of law and market economy. These are the institutions that were established under the new constitution in accordance with the principle of separation of powers:

- Parliament/Assembly (Sobranie) composed of 120 members elected in general and direct elections by secret ballot for a period of four years. It has the role of the legislature, that is, it adopts legislation, and approves the Government as a whole and every cabinet member individually. It also appoints a number of independent authorities, which report back to the Assembly. In addition, those are the autonomous state bodies established under the Constitution or under law:
  - the Constitutional Court, composed of nine judges with 9 year non-renewable term, appointed by the Parliament;
  - the State Judicial Council, responsible for administering the judiciary and composed of 7 members elected by the Assembly. It nominates the judges for subsequent approval by the Assembly and takes care of their disciplinary procedures;
  - the Ombudsman, elected by the Assembly for a renewable term of 8 years. (The Constitution of 1991 provided for establishment of such a body, but the law enabling its establishment was adopted only in 1998). The Ombudsman protects the constitutional and legal rights of the citizens against their violations by the state administrative bodies and other bodies and organisations holding public powers;
  - State Audit Bureau. The Chief State Auditor is appointed and dismissed by the Assembly for a term of 10 years. The State Audit Bureau reports to the Assembly.
  - the Civil Servants Agency belongs to this group of state independent bodies also, with its Director being appointed for a term of 6 years.

¹ Following a very difficult debate in the Parliament, the Constitution of 1991 was amended in November 2001, in accordance with the principles agreed in the Framework Agreement of 13 August 2001 that put an end to a serious security crisis in the country. A total of 15 Articles and the Preamble were amended, to improve minority rights. Of special relevance to the public administration are the amendments that call for measures to improve equitable representation of ethnic communities in all public services (at central and local level), respecting at the same time the principles of competence and integrity.
• President of the Republic, elected at direct universal suffrage for a renewable term of five years. The President represents the Republic and within this capacity he has some important competencies in the field of foreign policy. He is Commander-in-Chief of the Armed Forces and President of the National Security Council. He also has some competencies of nomination and appointment of a number of other bodies;

• Government representing the executive branch of power. The Government consists of the Prime Minister and the ministers, including: Deputy Prime Ministers (3), who assist the Prime Minister in performing his duties and usually coordinate the work of the ministries in specific policy areas (European Integration, Political System and Economic reforms); ministers who head line ministries, (at present there are 14 line ministries: Foreign Affairs; Internal Affairs; Defence; Justice; Finance; Economy; Transport and Communication; Local Self-Government; Labour and Social Policy; Agriculture, Forestry and Water Resource Management; Environment and Physical Planning; Culture; Education and Science; Health); and ministers without portfolio (currently 1). The Prime Minister steers the work of the Government and its members, he convenes and chairs Government sessions. Other Central Non-Ministerial State Administrative Bodies include: Agency for Information, Agency for Youth and Sports, Agency for Immigration, Committee for Relations with Religious and Confessional Groups, Agency for Development and Investments; as well as the following Administrative organisations: State Statistics Office, State Archive Office and State Geodetic Bureau.

• The judiciary, as the third branch of power. Under the Constitution, the courts are autonomous and independent. Judges (approximately 660) are appointed/dismissed by the Assembly upon proposal of the Republic Court Council without any restriction of their term of office. The judicial power in the Republic of Macedonia is exercised by the Supreme Court of the Republic of Macedonia, the Appellate Courts and the first instance courts. There are 27 courts of first instance, 3 courts of appeal and the Supreme Court of the Republic of Macedonia within the new structure of the court system established in 1996. There are no specialised courts.\2

• Public Prosecution which is formally independent of the legislature and the executive. The Public prosecutor is appointed by the Assembly for a term of six years. The Public Prosecution functions in a similar manner in terms of its organisational structures as the courts, having District public prosecutions that operate on the territory of the appellate courts and basic public prosecutions.

2 It is expected that with the forthcoming changes in the laws governing administrative procedure and administrative disputes Administrative Courts will be formed.
At present there are approximately 100,000 employees in the public administration (excluding public enterprises employees), out of which around 35,000 are civil servants; 30,000 work in education and science; 25,000 in the health system; 3,000 in the sectors of culture and sport; and 5,000 in the social welfare system. The fact that the employment in the public sector represents 4.5% of the population which is similar to the other CEE countries and 7.5% of public expenditure is for the public administration salaries is not that positive having in mind the present economic situation which does not allow this level of employment and public expenditure in the public sector.

In contrast to the development of the overall constitutional and institutional system, where important achievements have been made, the level of progress in the reform of public administration at the central government level lagged behind. The new structures were established, but the large administration could not meet the requirements of a professional and modern public administration that can cope with the challenges of the modern time. The system of public administration was generally suited to fit the pre-democracy years.

Public Administration Reform (PAR) process in Macedonia can be divided into two phases: a) until 1998 - certain measures to improve the system and operation of public administration were undertaken, but they were not part of a coherent and strategic vision; and b) after the adoption of the Strategy on Public Administration Reform in 1999.

PAR until 1998

In the years after 1991, there were some efforts to adjust the public administration system to the new conditions of pluralistic democracy and market economy, but these efforts were not bound together by a common vision of the future development, there was no framework to guide them in a consistent manner towards agreed and politically clearly defined objectives. Hence, there was not enough strong commitment to pursue thorough reform, although one could say that some of the developments especially in the years immediately before the start of the reform – 1997 and 1998, such as the introduction of the state audit, the Ombudsman, the rules for public procurement or the Organic Law on Budgets were significant improvements for the operation of the public administration and a solid platform to build upon.
Based on the inherent needs to deepen the democratisation and ensure stability of society, to enhance the development of market economy and to redefine the role of the state in society – the overly large, mostly command and control functions of the state had to be replaced with regulatory functions more consistent with a market economy, as well as to meet its strategic goal of accession to the European Union, the Government of the Republic of Macedonia has initiated a process of public administration reform in 1998, as one of the most significant reforms in the overall process of transition and development. The internal motives for implementing reform of the public administration were the most pressing ones. The immanent reasons for implementation of the public administration reform in the Republic of Macedonia were related both to the further development of the democratic society and to support for the development of a market economy. It was recognised that the stability and continuity of public administration are essential preconditions for democratic development, which may be secured only through the development of a democratic administration. Supporting the development of a market economy, fiscal effects and, in a broader context, restructuring of public expenditures, were significant incentives for implementing public administration reform. Fiscal adjustment was the key factor that was meant to support and intensify the economic structural reforms. There was a need that the public expenditure management provide a balance between public expenditures and public investments so that it can support the further development of the private sector and the economic growth of the country, given the fact that until few years ago approximately 80% of public spending was on salaries and current transfers (mainly for social welfare and social services), that is, nondiscretionary expenditures. Thus strengthening the developmental component of the budget which supports the growth of the market economy was urgently needed and public administration reform including downsizing the number of public officials was seen as one of the instruments for achieving this. On the other hand, developing the market economy and redefining the role of the state by focusing, above all, on the development of regulatory functions, does not imply a “weak” public administration; on the contrary, the administration’s development of new and indispensable skills is required so that it can support the growth of the economy. Relating to the imperative of reducing, but modernising government and looking at the required skills for discharging these tasks it is often remarked that government organisations are overstaffed and understaffed at the same time. The issue, as mentioned just before, is whether we have the right public servants and it relates to the difficulty of finding, selecting, training, keeping and motivating an able public administration. Or to quote the World Bank in "Rethinking the state" - "an effective state helps people and markets flourish".
However, it must be stressed that the external motives for implementation of the public administration reform, that is, the integration of the Republic of Macedonia into the international community were equally important. Accession to the European Union as a strategic objective for the Republic of Macedonia, and the objective of economic integration with the EU, were of great importance. A condition for the Republic of Macedonia’s future accession to the EU is its fulfillment of EU criteria concerning the presence of a modern and professional system of public administration. The Republic of Macedonia’s economic integration with Europe requires a competitive administration that is capable to support the establishment of conditions for the development of a competitive economy. Also, the integration of the Republic of Macedonia into world economic trends and its co-operation with international financial institutions, especially the World Bank and the IMF, were significant incentives for implementing public administration reform.

**Strategy on PAR 1999**

Due to all of this, there was a need to attach priority importance to the reform of public administration in the Republic of Macedonia and to implement this lengthy, complex and comprehensive process within a framework of a strategic vision for the development of the Macedonian administrative system. The Strategy on Public Administration Reform adopted by the Government of the Republic of Macedonia in May 1999 has confirmed the commitment for implementation of this long and complex process. The adoption of this key document governing the reform was the basic and the most important step in the reform process. Still, the real challenges were ahead, once the Government moved from defining the activities to their implementation.

The Strategy defined the reform objectives, the principles to govern the functioning of the public administration in future, the reform approach, the areas to be covered by the reform and the selected priorities for the initial period of the reform covering the years 1999 and 2000, as well as the key elements of the legal framework that needed to be put in place in order to implement some of the reform objectives.

The fundamental objective of public administration reform in the Republic of Macedonia was defined as to improve both its structures and processes in order to enable it to better support the development of a democratic society and successful market economy.
The Strategy defined the main principles that will govern the operation of the public administration in the Republic of Macedonia as follows: the rule of law, transparency, competency, stability, accountability, predictability, equal treatment, efficiency and ethicality.

The selected priority areas for the initial period of the reform (1999 and 2000) were the following:

- the civil service system, because this is the core of the public administration that is crucial for the stability and continuity of the state;
- the state administration system, because the reforms of the structures in which part of the civil service operates had to go hand-in-hand with the reform of the civil servants’ status, rights and duties;
- restructuring of public finances, because PAR process which did not include plans for an effective system of public financial management and control would have limited, incomplete and short-lived results with regard to the efficiency and effectiveness of the administration. The public sector must deliver services to the public as cost-effectively as possible so that taxes, which ultimately pay for those services, can be kept to a minimum. This in turn will help to achieve increased economic activity in the economy. Thus, restructuring the public finances was not viewed as a part of the reform process to be conducted in isolation but as a cornerstone of the process which had to be conducted in parallel with the other essential elements; and
- exercise and protection of citizens’ rights because the procedures that the administration applies had to be adjusted and reformed in parallel with the structural aspects of the reform.

In addition, there were some more priorities identified to be included among the activities for the initial period of the reform, such as the reform of one segment of the local self-government that related to the financial relationship between the central and the local government, enhancing the efficiency of the courts and facilitating the access to justice for the citizens, the development of the IT system which should support efforts in the other areas of the reform, improving the capacities of the bodies within the institutional structure for management of the reform and establishing administrative structures for implementation of the reform.

At the time of its adoption the Strategy contained only a general plan for the implementation of the activities in the given areas of the reform and the selected priorities in the initial two years.

Government of the RM adopted an Action Plan for implementation of the Strategy on PAR in August 2000. The Action Plan covered the period until the end of 2001 and it elaborated the aims to
be achieved in the form of 19 specific projects, according to the priorities established in the Strategy on PAR. These include, inter alia: communication strategy on PAR; civil service system development; government decision-making and development of the government service; law-drafting; functional analysis; program for reduction of the number of employees; development of the State Audit Bureau; reforms of the budget; strategic revision of the Ministry of Finance operation; special revenues analysis; restructuring of the treasury system; development of the policy related to local self-government; local self-government capacity building; judicial reforms.
1. CIVIL SERVICE: legal basis, recruitment and career

The newly established system of civil service in the Republic of Macedonia, defined under the Law on Civil Servants of July 2000, is predominantly a position-based (job) system. Contrary to most of the Central and east European transition countries which have opted-out for a career system when defining the aims of civil service reform, the Republic of Macedonia has chosen the position-based system for its civil service. The following elaborates on the basic determinates and characteristics of the new system of civil service.

The Law on Civil Servants has after a long period introduced for the first time the notion and status of a civil servant in the Republic of Macedonia. Under the previous socialist regime, the Law on Public Servants of 1957 was the last law that regulated the special status of officials in the "non-productive" areas of society. After the adoption of the federal Constitution of 1963 such special status for the officials in the state bodies was abandoned (equalisation of the socio-economic position of all employees was introduced) and public servants were subjected to the regime of general labour law. At the dawn of the new political, economic and societal order, a Law on Administrative Bodies was adopted in 1990 that regulated, inter alia, the status of the employees in the bodies of state administration. It did not represent, however, a significant step forward in establishing and regulating the special status of civil servants compared to the former practice and experience. Nor it provided for adjustment to the new role and position of the administration in a pluralistic democracy and market-type economy. Moreover, the provisions of the General Labour Code also applied to a great extent to the civil servants. In addition to the other negative legacy of the 45-year long experience of building and implementing the socialist regime, the critical problem for the civil service with far reaching consequences is the four-decade long attempt to de-professionalize the civil service and take away its characteristics of something special and specific compared to the employees in the private sector.

The Law on Civil Servants is the key legislative act in the area of civil service reform. Its goal is creation of conditions for development of a professional, politically neutral, competent, accountable and stable civil service, representing efficient service for the citizens and business entities. The Law has enabled the differentiation of the civil servants status from the status of employees to which the general Labour Code applies. Thus, it demonstrates the specifics of the relationship between the civil servants and the state as their employer, it specifies civil servants rights, duties and
responsibilities and merit-based rules on selection, promotion and reward, and it opens a possibility for overcoming the outdated and rigid human resource management techniques in the civil service.

1.1. Civil Servant - definition

The Law gives a complex definition of the term civil servant that incorporates a functional and organisational criterion: the type and nature of the works and tasks performed by the civil servants and the bodies in which they work.

Thus, according to the functional criterion, a civil servant is the person that performs expert, normative-legal, executive, administrative-supervisory activities and decides upon administrative matters in accordance with the Constitution and law. However, according to the organisational criterion that complements the functional one and represent further narrowing and specification of the term civil servant, a civil servants is the person who performs the said activities and is employed in one of the following bodies: the bodies of state administration and the expert services of the Assembly, President, Government, Constitutional Court, Supreme Court, courts, Republic Judicial Council, Ombudsman, Public Prosecution, Civil Servants Agency and State Audit Office. Upon the adoption of the new Law on Local Self-government, the municipal employees also gained the status of civil servants. Presently, the Law on Civil Servants applies to servants that perform activities related to the functions of the state in the three branches of power: the legislative, executive and judicial. Defining the term civil servant in such a way, the Law accepts the restrictive concept of civil service.

Who is not a civil servant? Persons employed in the said bodies who perform administrative-technical and support activities do not have status of civil servants and general labour regulations apply to them. In addition to employees performing administrative-technical and support activities in the bodies covered by the Law, it does not apply to police personnel in the Ministry of Internal Affairs, to military and civil personnel serving in the Army of the Republic of Macedonia, in the penal-correctional and education-correctional institutions and in the Customs Administration, nor to the persons with special duties and authorities employed in the Ministry of Defence, the Ministry of Internal Affairs, the Intelligence Agency and the Customs Administration.

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3 Bodies of state administration in the Republic of Macedonia are the ministries, other bodies of administration and administrative organisations. Currently, according to the Law on Organisation and Operation of the Bodies of State Administration, there are 14 ministries with 45 bodies within, 5 independent bodies of state administration and 3 administrative organisations, as referred to in the introduction section. In addition, bodies of state administration may be established by special laws.
1.2. Classification of Civil Servants

According to the Law, civil servants are divided in 3 groups: managerial, expert and expert-administrative civil servants. The managerial and expert civil servants must have university degree, and the expert-administrative civil servants have to have at least high-school education or college degree. 13 positions are foreseen for the civil servants of these three groups. Thus, a harmonised and uniform structure of the positions within the three branches of power is introduced. It is the basis for ensuring transparency of the promotion system and the system of pay and it also facilitates mobility of civil servants.

1.3. Recruitment and Selection of Civil Servants

The rules on recruitment and selection of civil servants are based on two principles: equal access to jobs in the state sector and merit-based selection.

Selection responsibilities are divided between the Civil Servants Agency and the state bodies as individual employers of civil servants. The Civil Servants Agency organises the examinations for civil service candidates and carries out the pre-employment selection. The state bodies decide individually, through their internal employment commissions, on the final selection of civil servants. Upon the announced public competition by the Civil Servants Agency for staffing of a vacant job, the general/state secretary of the body concerned forms an internal Commission on implementation of the procedure for employment of a civil servant. The candidates that applied to the public competition and fulfill the general and specific requirements (if any for the specific job), take a professional examination before the Agency. Based on the results from the examination, the Agency does the pre-selection and prepares a list of 5 most successful candidates that it submits to the internal employment commission. According to the submitted list of 5 candidates from the Agency, the internal employment commission defines a short list of 3 candidates. Based on this list the general/state secretary makes the final selection of the person to be employed as civil servant. Upon the completion of the selection procedure the general/state secretary adopts a decision on employment of the civil servant. Exemption from this rule and procedure of recruitment based on public competition are the highest managerial positions of state i.e. general secretaries.
1.4. Promotion/Career of Civil Servants

The position-based system of civil service in Macedonia is open for entry at all levels (except the highest managerial level of state/general secretaries) of persons outside the administration. The promotion within this system does not follow rules of automatism or seniority, as in the career systems, but rather means new employment procedure and open competition with applicants coming from within and outside the administration.

1.5. Pay System

The introduction of the pay system based on the principles of equality, transparency, predictability and fairness should contribute to keeping and motivating qualified and skilled personnel in the civil service and to avoiding the risks of corruption and conflict of interest. The application of the pay system, however, was postponed since the adoption of the Law in 2000 to 2004 due to budgetary restrains. Recently the Government took a decision and the Parliament adopted amendments to the Law on Civil Servants to partially introduce the pay system and decompress the salaries of the civil servants from April 2004 in the next two years for the general salary component.

Otherwise, the salary of a civil servant under the LCS consists of a general and exceptional component.

The general component consists of:

- basic salary, providing for rewarding of the appropriate educational level of the civil servant, and rewarding of the working experience (seniority);

- position supplement that rewards each position relative to the nature and scope of the work, complexity and responsibility for carrying out the work. The ratio between the lowest and highest position in the civil service by 31-st of March 2006 will be approximately 1 : 4.3, thus reaching certain level of decompression of the salaries and enabling motivation of civil servants for promotion in the hierarchical scale;

- career supplement provides for rewarding of professionalism of each civil servant and thus ensures an incentive for successful and professional performance of works, professional development at the position and continuity in the civil service. This institute is not a promotion in a real sense – the
civil servant keeps the same position and even the same job. What changes in this horizontal “promotion” is the amount of civil servant’s salary. This concept represents introduction of modified career system elements into a position-based system, to ensure motivation for quality performance and improve the balance between the civil servants’ rights and duties. However, the career supplement will be implemented from 31-st of March 2006.

The (second) exceptional component of the civil servant’s salary consists of:
- demanding job supplement and
- non-regular supplement (overtime work).

1.6. Civil Servants Agency

One of the crucial problems in the former practice of human resource management in the administration was that there was a lack of co-ordination and shared standards. This problem was further exacerbated by the fact that not the state, but each state body individually is an employer of civil servants. The introduction of a special body in the Law with horizontal competence for co-ordination of human resource management processes is thus of special importance for the establishment of the new civil service system. The Agency is a novelty in the existing system both from the point of view of its competencies and as a newly formed independent state body.

The Civil Servants Agency has an important role of:

- Initiator of policies related to human resource management
- "Watch-dog” of the system, by taking care of its uniform application in the different agencies
- Promoter of the civil service system development
2. Human resources in the public sector and leadership

Training of human resources is a fundamental element in the continuous growth and development of all organizations. The Macedonian Civil Service is no exemption to this. The drive for development and growth is important for many reasons and for many different constituencies of the Macedonian Civil Service in the Government of Republic of Macedonia's thrust towards modernisation.

2.1. Current Situation

The following factors are crucial for the current state of development of training as an HR policy in the civil service of the Republic of Macedonia:

1) lack of defined policy towards civil service training on national level;
2) not enough coordinated processes of human resource management; and
3) budgetary restraints.

In the period especially up to 2000 training was rather supply than demand driven, especially since it was (and still is) mainly funded by foreign donor funds. Training activities were rarely based on training needs assessments and were not well coordinated throughout the administration. Also there is no record collecting mechanism, systematic or otherwise, that inhibits the assessment of what type of training is being given, on what topics, to whom, by whom, to how many civil servants. Such situation prevailed in the wider sphere of the public sector i.e. administration.

The Strategy on PAR in Macedonia from 1999 defined the training as an important tool for the reform of public administration. It went to say that, “The design of a training system for civil servants based on the analysis of the actual needs for professional upgrading and career development, aimed at improvement of quality of performance of civil servants, should be also included among the priority tasks.” Although it recognised that the establishment of an institution for education and training of public administration personnel in the initial period of the reform was premature mainly due to lack of qualified personnel that could be recruited to deliver training and lack of financial means, it defined that it is necessary to build a pool of trainers in the civil service to provide training on issues related to the reform goals and the implementation of the new laws pertaining to public administration in the initial period.
However, it was not before the end of 2000 and the beginning of 2001 that the issue of training started to feature more prominently on the civil service reform agenda, since there were at least few important steps that had to be taken that form the basis to tackle this issue in a serious and systematic manner: the adoption of the legal framework for the civil service and the establishment of the Civil Servants Agency. It was only in the last year – after many priority tasks of shifting the previous system into the new civil service system were completed, that the authorities started developing a vision for the civil service training.

The current normative framework of civil service training in the Republic of Macedonia is the following:

- the Government of RM decides on the funds for training in the state budget and on the manner of using such funds;
- the Civil Servants Agency gives advice to Ministries, state bodies, and municipalities on training and professional development and coordinates these activities;
- Ministries, other state bodies and employers of civil servants adopt an annual program for training;
- Individual Civil Servants have the right and duty to professional development and training in accordance with the needs of the body where employed and are disciplinary liable for refusing appropriate training.

Although at present there is still no developed training system for the public administration that will satisfy the immense need for training, many training activities started to be undertaken in a more coherent and systematic way in the period after 2000. For example, the Government has developed a "Strategy for training of civil servants of the Republic of Macedonia in the process of integration to the EU" (May 2000) and operational plans for implementation of the Strategy for training of civil servants on issues related to the European Union for the periods up to 2004. The Civil Servants Agency has been involved in planning and implementing “horizontal” i.e. corporate training activities on issues related to the civil service reform and development for the civil servants at central and local level and has developed comprehensive and structured annual programs of training targeting professional and managerial ranks of civil servants. It has also developed coordination mechanisms for training with the Government on issues of EU integration and with the Ministry of Local Self-government and Association of Municipalities (ZELS) on municipal civil servants.
training related to the reforms of local government and decentralisation. Moreover, it also made the initial steps and developed several programs towards promotion of local training capacities, which is very significant having in mind the predominance of foreign experts in the delivery of training.

2.2. Future Actions

Although some steps were undertaken to tackle the issue of training in a coherent and systematic fashion, the current situation is still dominated by lack of comprehensive training policy at national level, not enough coordination among the state bodies and between the state bodies and the donor community, and lack of well defined HRM policies at agency level that would be linked to development of training plans.

The Civil Servants Agency is in a process of developing a document on the National Training System. This document needs to be agreed among the different stakeholders (central level government agencies, the courts, Parliament and municipalities) and it should serve as a basis to develop Civil Service Training strategy. The vision that it proposes involves creation of a demand driven training and development system which responds quickly and effectively to real training needs, which are established through rigorous analysis of organisational and environmental demands and individual abilities to respond.

Implementation of such system would have to tackle the issues on the demand and supply side of training and also the development of capacities in the individual bodies and agencies and in the Civil Servants Agency to fulfil the specified roles in planning and coordinating training.

Although a thorough training needs assessment has not been made, the general view is that the training needs of the Macedonian civil servants are especially high in the fields of human resource management, policy analysis, development and coordination and financial management, among other horizontal issues of training. Also there is a huge need to improve management skills in the administration, especially among the middle management positions. The experience so far is that the in-service training, which is also in line with the position-based system of civil service, and forms of professional development such as on-the-job training and coaching (by foreign and local consultants) and field visits are the most suitable to satisfy the capacity building requirements of the civil service.
3. Public Service delivery

The efforts until now in the reform of the public administration have not contributed much to the improvement of delivery of public services in Republic of Macedonia. At present the situation in Macedonia with regard to public service delivery i.e. in the area of quality of services provided to citizens and actions aimed at facilitating citizen's participation as well services provided to businesses can be assessed as unsatisfactory. Improvement can be expected having in mind the short-term priorities of the Government to overcome this situation. These actions will be very important for the overall public administration reform and will contribute to strengthening accountability, efficiency and quality of public service delivery and decrease of corruption.

Among this actions are the new laws on general administrative procedure, on administrative disputes and administrative inspection that are currently under preparation. These laws will help set up the basis for improved protection of citizens’ rights and eliminate some of the bottlenecks that obstruct the efficient exercise of their rights. Moreover, these laws will replace the old ex-Yugoslav federal laws that still apply in the Republic of Macedonia and were suited for a different political and constitutional order and values. Regarding the Law on Administrative Disputes, special attention should be given to shortening the terms, reducing administrative handling of cases, and modernising the methods of operation of state bodies, all with the view to improving the efficiency of protection of citizens' rights. Of particular importance for this Law is finding the right formula for establishing a competent body that will decide on administrative disputes. According to current practices, the Supreme Court – the highest body within the judicial branch, has jurisdiction over administrative disputes. Hence this solution should be reconsidered or models and standards applied in other European countries should be used.

Also, a Law on Free Access to Public Information is drafted and its adoption is expected in the following months. It will regulate the procedure of exercising the right of free access to public information, managed by administrative bodies, local self-government units and the City of Skopje, public institution and services as well as by legal and natural persons rendering public services. This law is expected to contribute greatly to the increase of transparency in the work of the public administration and protection of the citizen's rights.

Strategy on cooperation/partnership between the Government and the civil society is being developed and it is expected to raise the level of cooperation between them, which is very important
for the overall development of the country having in mind the important role that the civil society plays in all the developed democratic countries.

Another very important step to increase the protection of citizen's rights was the adoption of the new Law on Ombudsman in 2003 (which replaced the previous from 1998) that enhanced the legal framework in order to allow the Ombudsman to fulfil its crucial role in supporting the fight against bad administration and mismanagement. This Law gave the Ombudsman the possibility to strengthen its authority so as to guarantee efficient cooperation and appropriate follow-up of the state administration institutions. Still strengthening of the Ombudsman's office with human resources and their capacity building is needed in the very near future so that he performs his duties in protecting the citizen's more effectively.

Privatisation in areas that absorb the major part of the public administration, such as education and health, need also to be considered as important for the general evaluation of the quality of delivery of public services. A Law on Institutions is already in parliamentary procedure. It will regulate the status, establishment and operation of institutions (public and private) in the health, education, culture, science and social welfare sectors. It deserves a special attention, since it will provide for the functioning of the largest segments of the public administration comprising most of the employees, such as 25,000 in the health or 30,000 in the education and science sector. The legal status of the institutions in the mentioned areas that deliver public services was not regulated in the period after 1991, but an old Law on Associated Labour still applied to this entities. Such entities are for example, the schools, universities, hospitals, pharmacies, social welfare institutions, kindergartens, scientific institutions, theatres, etc. which are all in state ownership. Under the new concept elaborated in the Law, there is a possibility for establishment of public institutions by the state or the municipalities, of private institutions under a regime of a licence and mixed institutions, where the state or the municipality and a private natural or legal person may be the co-founders. There are also clearly and well designed rules on supervision of their financial and legal operation, and the law also sets the ground and rules for privatization of these institutions.

The government started the process of privatization and review of activities of special public interest and activities that can be performed on free market principles but are currently being performed by public enterprises, in 2000. Moreover, it recognised that the privatisation process could be speeded up, particularly in public enterprises dealing in telecommunications, power production and management, utilities and public transport. And that in indeed happened with some of them, just to mention some of the most important like the Macedonian Telecommunication Company who's dominant owner is the Hungarian Matav Consortium (who's main shareholder on
the other side is the Deutche Telecom); and a tender is opened for the Electric Power Company of Macedonia.

However the reform of public enterprises should undergo serious review and correction. The so-called “economic activities of public interest” are undertaken by Public Enterprises (PE) established or re-registered as such under the Law on Public Enterprises of 1996. The Law distinguishes two types of public enterprises: national, established by the Government on behalf of the State and municipal, established by the units of local self-government. It also lists the economic activities which are considered to be of public interest and allows for a possibility for inclusion of additional such activities with other special laws. (The legal basis for establishment of a PE has to be explicitly mentioned in a law and there has to be a decision of the Government on their establishment.) National public enterprises, for example, operate in the sectors of electricity, distribution of gas, water resources management, forestry, pasture management, roads, railways, housing and business premises management, sports facilities management, preparation of urban and spatial plans, telecommunication, postal services, airport services or publication of parliamentary and governmental acts, such as PE “Official Journal of Republic of Macedonia”. Some of them are already transformed into share holding companies according to the provisions of the Law (the Telecom, for example)\(^4\). Under the existing legislation, public enterprises are the only available type of legal entity that the state can establish for undertaking these activities. Moreover, PE’s are directly accountable to the Government as it appoints and dismisses their directors, managing boards and control boards and decides on the use and allocation of their profits. Line ministries, on the other hand, have only very limited legal powers in terms of supervision and control of their operation. Such a solution restricts the flexibility with regard to their establishment, merging or dissolution and quick response to the changing environment and demands. In addition, the existing legislation does not allow for beneficiary representation and participation in management of these enterprises, where such representation can be beneficial to their more efficient operation. Therefore, there is a need to examine the possibilities for strengthening the supervisory role of the state and to introduce different forms of entities as public service providers (other than public enterprises) in cases where there is genuine public interest nature of the activities. Generally, there is also a need to re-examine the institutional aspects of the functioning of the public enterprises, in terms of their internal organisation, possibilities for restructuring, staffing, core and non-core activities they

\(^4\) The Law allows for transformation of the public enterprise into a limited liability or a share holding company if the founder so decides, in which case they are still in state ownership, or if other legal and natural persons invest capital in the public enterprises.
undertake, since it appears that there are weak reporting and supervisory mechanisms under the current legislation, including lack of direct supervision over their hiring policy.
4. Decentralization of central governance and decision-making

4.1. Situation after the 1996 Reform

The constitutional and legal framework for the local self-government in the Republic of Macedonia comprises the constitutional guarantees of the right to local self-government and the laws on local self-government, on territorial division of the Republic of Macedonia and the municipal boundaries, on the City of Skopje and on Local elections. Within such a framework, the system of local self-governments functions as a one-tier system with 123 municipalities and the City of Skopje. Despite the fact that they all have the same status and competencies, significant differences with regard to the size of the territory, the level of economic and social development, population and other characteristics of significance for the exercise of the legally defined functions exist among the municipalities. The smallest municipality has only 456 inhabitants (Staravina), while the City of Skopje has 444,760 inhabitants. The least densely populated municipality has less than 1 inhabitant per square kilometer, while the most densely populated municipality has over 800 inhabitants per square kilometer. Around 60% of the municipalities have less than 10,000 inhabitants, while 46 municipalities have less than 5,000 inhabitants.

The analyses of the functioning of the established system of local self-government before the 2002 Law on Local Self-Government point out to numerous weaknesses, irregularities and insufficiently well defined provisions in the legal framework, as well as to problems in the practical implementation of the local self-government. Such conditions affect the fulfillment of the everyday needs and interests of the citizens at local level. The Constitution and law prescribed a number of competencies to the local self-government units, such as in the area of urban planning, local utilities, pre-school education, primary education, primary health care, social welfare, culture and sports. In practice, however, the competencies were limited to only a few. This is due to the fact that the enabling legislation for implementation of these competencies was not put in place. A serious problem represents the delineation of the municipal territories in a way that does not respect the demographic, economic-development, cultural, spatial and other criteria. There were 123 municipalities and the City of Skopje created out of the former 34 municipalities under the Law on Territorial Division in 1996. Such delineation of municipal territories was rather a result of a political compromise, than of a well-thought approach to establish sustainable and real local communities, able to develop and exist independently. Furthermore, the municipalities and the City of Skopje are financially weak and dependent on the central government, as they do not have
(sufficient) property and funds that would enable their independent existence. The share of local government spending in the overall public expenditure is only 1%. The tax system is highly centralised both from the aspect of defining the types of taxes and their rates and from the aspect of tax administration. The taxes for the local self-government units that represent their legally defined sources of financing are collected and administered on their behalf by the central government tax administration.

A special problem (in practical and legal terms) is the functioning of the City of Skopje, as a special unit of local self-government, and a capital city where almost a quarter of the population of the Republic of Macedonia lives. A specific and non standards model of organization applies to the City of Skopje, as there are seven other municipalities within its area with equal legal and constitutional status, parallel and overlapping competencies and territories delimited in a way that obstructs the normal functioning and the development of the City. Finally, the administration in the municipalities which represent less than 2% in the overall number of public administration in the Republic of Macedonia, is faced with the same problems of politicisation, lack of coordinated human resource management, lack of competence and skills for discharging of the local self-government functions.

4.2. New Local Self-Government Reform - Decentralization process

Republic of Macedonia was regarded as one of the most centralized countries in Europe. The reforms of the system of local self-government that started in 1999 were a necessity for the further development of democracy in the country and an integral part of the overall process of public administration reform. These reforms were significantly intensified with the signing of the Ohrid Framework Agreement in 2001.

A Strategy on Reform of the System of Local Self-government anticipating decrease of the number of local self-governments units, further decentralization of the central government competencies to the local self-governments units and increased financial independence of the local self-governments units was adopted in November 1999. The amendments to the Constitution adopted within the framework of implementation of the Ohrid Agreement offer firmer guarantees for the achievement of the objectives defined by the Strategy. They enable the process of further decentralization of

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5 In 2001 the Republic of Macedonia faced the most serious political and security crisis in its history. The armed conflict resulted in the signing of the so-called Ohrid Framework Agreement on 13 August 2001 by the President of the Republic and the leaders of the four biggest political parties.
competencies, provide enlarged scope for the use of languages in the local government and define new procedures for adoption of laws that relate to the system of local self-government. An Action Plan for implementation of the local self-government reform was adopted and a Coordinative Body for planning, monitoring, management and coordination of the reform was established in order to implement this complex and lengthy reform.

The adoption of a new Law on Local Self-government in January 2002 resulting from these developments represented very important step for the reform, but still it is implementation of only a part of the envisaged legislative reforms in this field. According to this Law municipalities possess general competency in all local matters. They shall have the right to perform activities of local importance that are not explicitly excluded from their competency or do not fall under the competency of state authorities. The municipal competencies, prescribed in article 22 of the law include: social welfare services, child protection, education, health care, urban and rural planning, communal activities (comprising e.g. water supply, sewerage, public hygiene, waste administration, public transportation, construction and maintenance of local roads), sport and recreation, local economic development. But, in order to overcome the existing problems mentioned earlier, integral part of the reform of the local self-government system in Macedonia, beside the LLSG, are three other crucial laws: The Law on Financing of Municipalities, Law on Territorial Boundaries and Law on the City of Skopje. These three laws went through the first reading in the Parliament in February 2004 and its adoption is expected at latest in June 2004 which will represent a huge move forward in enhancing the quality of local governance by enabling further development of the system i.e. the functional and fiscal decentralization.

Still, in order to carry out the transfer of competencies, funds, facilities and personnel from central to local level amendments to over 70 other laws will be required. An Operational Programme for Decentralization of Powers 2003-2004 has been developed with which the time-schedule for passing the identified laws is laid out. The decentralization process is coordinated with other reforms in the social and administrative sphere through an inter-ministerial Decentralization Working Group and a Coordinating Body of State Secretaries. It is envisaged that the implementation of the legislative package for the local self-government will take place gradually in the period up to the end of 2004. The transfer of competencies should take place so that the new decentralized set-up begins to function on 1 January 2005.
5. E-government

The development of E-government in the Republic of Macedonia until now has been treated in a highly decentralized way (although the Ministry of Education and Science is the responsible body for the development of the IT in the country including the use of it in the public administration). This brought to the situation that some parts of the public administration are using more advanced information and communication techniques than others. Nevertheless, the difficult times the country was going through in this 14 years of transition, the political instability, internal but even more regional, and the weak economic performance and on the other side the huge initial funding required for E-government operations to be set-up has brought us to the situation that compared with the EU countries (including the 10 new member states) we can say that RM is still at the initial phase.

This is especially true for the advanced e-government operations introduced in other IT advanced countries (US, Sweden, Australia, Denmark, UK, among others) like one-stop shops, front room - back room, supporting "life events". Until now, with the scarce funds available for IT, improvement has been made in intra-organisational use of IT, like Local Area Networks and creation of databases, and to a much smaller degree in horizontal (across-governmental agencies). Improvements in the sphere of information available on-line can be noticed in the sense that they are increased in quantity and are more participative. Although again all this efforts has done very little in making e-government in Macedonia really participative.

Another problem that requires great attention is the development of proper IT skills of the Macedonian public administration through continuous in-service training as well as recruitment of new staff that is already acquainted with the basic IT skills. There are many other open questions, which should be answered by a thorough assessment of the use of IT in the work of the public sector, which is underway.

In December 2002 the Government formed a Commission on Information Technology in order to tackle the issue of the IT use in a systematic way.

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6 E-government understood as the use of information and communication technologies to transform government by making it more accessible, effective and accountable and/or all information and communication technology used to support government operations, engage citizens and provide government services.
Some of the priorities of the Government Commission on Information Technology in their Program for 2003-2007 are:

- Elaborating a Strategy on Development of IT within the Public Administration;
- Developing a general concept on presentation of the process of political decision-making through Internet, including the possibility for citizen e-government participation;
- Creation of new Unit responsible for the development of the IT system within the Government under the General Secretariat of the Government;
- Creation of a system for continued IT training.

Some of the projects foreseen in the Program for 2003-2007 of the Government Commission on Information Technology are:

- Macedonia on Internet (improving the conditions for better and cheaper Internet access according to the eEurope and eEurope+)
- E-tender (on-line tendering, improving the transparency of public procurements)
- Macedonia.mk (detailed information on the work of the Government and other state administrative bodies)
6. Enabling environment for the private sector and investment

At independence Macedonia's economy was extremely weak, with high unemployment and a large number of inefficient state-owned enterprises. In addition to the internal, many external factors during the transition period (breakdown of economic and infrastructure links of the former economic system of SFRY; UN embargo on FRY; Greek trade embargo on Macedonia; Kosovo refugee crisis; Macedonian conflict in 2001) influenced the state of Macedonian economy being weak. Thus the wider regional instability has affected the image of the country and that leaded to not very favourable environment for the private sector and investments. To this we have to add the incapability of the Macedonian governments and public administration to create better business environment and to contrary it allowed to have the image of corrupted, very slow and not efficient the same as the judicial system.

We can identify the following general level barriers for "enabling environment" for the private sector and investments in Macedonia:

- The corruption. In 2002 an Anti-Corruption Commission as an independent body was formed in order to intensify the fight against the corruption. The commission plays positive role in the fight against corruption although her powers and position i.e. the legal framework doesn't fully satisfy the need to solve this problem of the Macedonian society. Also Anti-Corruption Strategy was developed with recommendations for further steps required in this fight, but the implementation of the proposed actions are still to come.

- The judicial system. It is widespread judgement that Macedonian judicial system is inefficient even to some degree corrupted. In this respect huge efforts are done in overcoming this situation and the judiciary is under the biggest reform with help of the EU funded projects for improvements as of the legal framework also of IT strengthening and the training component. The problems of corruption and reform of the judicial system can be themselves a matter of separate studies and they overcome the objective of this paper.

- Non-consistent legal framework and processes which are internally non-consistent, non-transparent, and don't provide for accountability and redress.

A study on the Administrative Procedures for doing business in Macedonia in June 2003 was prepared by FIAS for the GoM in which general and specific barriers have been identified and these are some of the future steps that have been recommended:
• Compared with many other countries where the Administrative and Regulatory Costs Survey has been undertaken, it is somewhat unusual to see that the majority of obstacles in Macedonia are quite general in nature. The Government needs to develop a comprehensive strategy to reduce corruption and favouritism.

• There is a need for the Government to articulate and share with its business community its vision of economic development. This could then serve as the baseline consensus for subsequent reform efforts.

• The Government needs to remove undue discretion from Government officials by requiring them to employ objective criteria in their decision-making and clarifying laws and regulations. They should also enforce the requirement that such decisions be officially recorded in writing.

• There should be a concerted effort to ensure that all decisions issued by a government official are in writing, providing an objective reason if it is a refusal.

• It is important for the GoM to institutionalise a structured dialogue with the business community not only on the existing legislation and administrative procedures, but also to seek the input of businesses as draft laws are being considered, giving the business community enough time to respond.

With the aim to enable environment for private sector and investments the Ministry of Economy already undertook activities, among others:

• It implemented the strategy for the finalisation of the privatisation process (public auction) through the Macedonian Stock Exchange;

• It improved the transparency in the process of issuing licences for import and re-export through the introduction of the "first come, first served" principle, an important development in the attempt to reduce corruption;

• It initiated a programme for the development of small and medium-sized enterprises, including a new implementation agency, Agency on Entrepreneurship, designed to stimulate start-ups and early growth companies.

Now that the privatization process is nearing completion, there are no easy options for stimulating investment. At the same time there is an urgent need to improve the fundamentals of doing business in this country, in order to increase the attractiveness, productivity and competitiveness vis-à-vis the competitors in the SEE region and beyond. In this regard the GoM Programme for Stimulating Investments in the RM is outlining the following reform priorities:
• Creation of a detailed Action Plan to reduce barriers to investment;
• Creation of the Foreign Investment Agency. FIARM will focus on:
  - Image building and promotion of Macedonia as an attractive site for investment;
  - Investment generation;
  - Proposing measures for improvement the investment policy and amendments to the respective legislative;
  - Servicing investors.
• Intensification of the fight against corruption, bribery and favouritism;
• Reform of the tax system and associated investment incentives.
LIST OF ABBREVIATIONS AND ACRONYMS

PAR - Public Administration Reform
CEE - Central and Eastern European
LCS - Law on Civil Servants
CSA - Civil Servants Agency of the Republic of Macedonia
HRM - Human Resources Management
EU – European Union
LLSG - Law on Local Self-Government
IT - Information Technology
SEE - South East Europe
GoM - Government of Republic of Macedonia
FIARM - Foreign Investment Agency of Republic of Macedonia
FIAS – Foreign Investment Advisory Service (IFC & WB joint service)
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