

RAZVOJ JAVNE UPRAVE

11. MEĐUNARODNA KONFERENCIJA // VUKOVAR, 16.-17. lipnja 2021.

DEVELOPMENT OF PUBLIC ADMINISTRATION

11.th INTERNATIONAL CONFERENCE // VUKOVAR, June 16-17, 2021

ZBORNİK RADOVA // CONFERENCE PROCEEDINGS



PRAVOS

**ZBORNIK RADOVA
CONFERENCE PROCEEDINGS**

**11. MEĐUNARODNA KONFERENCIJA
RAZVOJ JAVNE UPRAVE**

**11th INTERNATIONAL CONFERENCE
DEVELOPMENT OF PUBLIC ADMINISTRATION**

**VELEUČILIŠTE „LAVOSLAV RUŽIČKA“ U VUKOVARU
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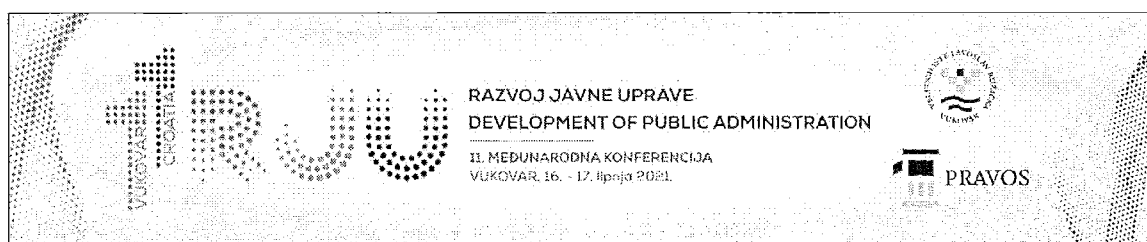
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Poštovane/i,

11. međunarodna znanstveno-stručna konferencija „Razvoj javne uprave“ održana je 16. i 17. lipnja 2021. godine u Vukovaru pod pokroviteljstvom Ministarstva pravosuđa i uprave Republike Hrvatske. Organizatori su Veleučilište „Lavoslav Ružička“ u Vukovaru i Pravni fakultet Sveučilišta Josipa Jurja Strossmayera u Osijeku, a medijski pokrovitelj je Novi informator d.o.o.

Proteklo razdoblje, od održavanja posljednje Konferencije, obilježila je pandemija virusa SARS-CoV-2 te potresi na području Zagreba i Banovine, koji su imali dalekosežne posljedice, između ostalih, i na funkcioniranje javne uprave pa se središnja tema Konferencije „Javna uprava u izvanrednim okolnostima“ činila kao najlogičniji izbor ovogodišnje Konferencije.

Prvoga dana Konferencije sudionici su imati prilike poslušati uvodno izlaganje ministra uprave i pravosuđa dr. sc. Ivana Malenice na temu „Javna uprava u izvanrednim okolnostima“, potom panel raspravu sa središnjom temom „Problemi i sredstva pravne zaštite u izvršavanju upravnih i upravnosudskih odluka“ u kojoj su sudjelovali: dr. sc. Ivan MALENICA, ministar pravosuđa i uprave: „Perspektiva razvoja izvršenja upravnosudskih odluka u hrvatskom pravu“; Dario ĐERĐA, redoviti profesor Pravnog fakulteta u Rijeci: „Izvršenje upravnih odluka u hrvatskom upravnom pravu“; Marko ŠIKIĆ, redoviti profesor Pravnog fakulteta u Zagrebu: „Izvršenje upravnih i upravnosudskih odluka donesenih povodom „šutnje uprave“; Božidar HORVAT, sudac Županijskog suda u Osijeku privremeno raspoređen na rad u Ministarstvo pravosuđa i uprave radi obavljanja poslova savjetnika ministra za područje organizacije pravosuđa: „Problemi u izvršavanju upravnosudskih odluka“; Boris LJUBANOVIĆ, redoviti profesor Pravnog fakulteta u Osijeku: „Pravo na suca i djelotvorni pravni lijek prema Europskoj konvenciji za zaštitu ljudskih prava i temeljnih sloboda (čl. 13.)“ te Bosiljka BRITVIĆ VETMA, izvanredna profesorica Pravnog fakulteta u Splitu: „Suradnja između nacionalnih sudova i europskih sudova u izvršavanju upravnosudskih odluka“.

Nastojeći održati tradiciju interdisciplinarnog razmatranja aktualnosti, izazova i perspektiva u razvoju javne uprave, tematska područja ovogodišnje Konferencije bila su: načela javne uprave, reforme pružanja javnih usluga, reforma teritorijalnog ustroja Republike Hrvatske, digitalizacija javne uprave, funkcioniranje u europskom upravnom prostoru, upravljanje javnim politikama, fiskalna decentralizacija i proračunsko pravo, financiranje javne uprave te upravljanje ljudskim potencijalima u javnoj upravi.

Interes autora za ponuđene teme Konferencije ogleda se u činjenici kako je za izlaganje prijavljeno 64 rada domaćih i inozemnih autora koji, zajedno s ostalim sudionicima Konferencije, nastoje ukazati na probleme koji se vezuju uz javnu upravu te ponuditi rješenja koja vode k učinkovitijem sustavu javne uprave.

Zbornik radova, koji se nalazi pred čitateljima, sadrži ukupno 50 radova, koji su prošli postupak recenzije te je indeksiran u bazi podataka HeinOnline.

Naposljetku, zahvaljujemo svim sudionicima, panelistima, pokroviteljima i suorganizatorima, autorima radova i svima ostalima čiji su trud i vrijeme ugrađeni u održavanje ovogodišnje Konferencije i izdavanje ovoga Zbornika

*Organizacijski odbor Konferencije
Razvoj javne uprave 2021.*

REGRUTIRANJE ADMINISTRATIVNIH SLUŽBENIKA U JAVNOM SEKTORU U REPUBLICI SJEVERNOJ MAKEDONIJI

RECRUITMENT OF ADMINISTRATIVE SERVANTS IN THE PUBLIC SECTOR IN THE REPUBLIC OF NORTH MACEDONIA

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Sažetak

Osoblje, tj. zaposlenici u organizaciji jedna su od bitnih sastavnica svake institucije. Kao i bitan resurs potreban za ostvarenje organizacijskih ciljeva. Stoga je planiranje, zapošljavanje, odabir i upravljanje ljudskim resursima u instituciji pitanje koje zaslužuje poseban interes za istraživanje. Ispunjavanje osnovnih principa rada u javnom sektoru, poput učinkovitosti, djelotvornosti, odgovornosti, profesionalnosti, ovisi o odabiru osoblja u organizaciji, a naravno da utječe na jačanje integriteta institucija. U ovom će radu predmet istraživanja biti način zapošljavanja i odabira administrativnih službenika u javnom sektoru u Republici Sjevernoj Makedoniji. Cilj je odgovoriti na pitanja koja se odnose na način popunjavanja slobodnih radnih mjesta u javnom sektoru, a to je prije svega putem javnog oglasa - kada je riječ o novom zapošljavanju, putem internog oglasa - kada je riječ o napredovanju zaposlenicima i kroz mobilnost - odnosno raspoređivanjem ili preuzimanjem administrativnih službenika. Rad će također obuhvatiti pitanja vezana za planiranje novih zapošljavanja, odnosno kako se utvrđuje potreba za novim zaposlenjem, odabir kandidata za zapošljavanje, koja su tijela uključena u postupak izbora kandidata i kako se u postupku pruža pravna zaštita za odabir kandidata. Svrha istraživanja je predstaviti najnovija zakonska rješenja u vezi s regulacijom postupka popunjavanja upražnjenih radnih mjesta u javnom sektoru u Republici Sjevernoj Makedoniji, kao i buduće perspektive u vezi s afirmacijom ovog pitanja, uzimajući u obzir prethodna iskustva, ali i usporedna rješenja. Slijedom toga, tijekom istraživanja koristit ćemo pozitivno-pravnu metodu, povijesnu metodu, empirijsku i usporednu metodu.

Ključne riječi: *javni sektor, državna uprava, administrativni službenici, zapošljavanje osoblja.*

Abstract

The staff, i.e. the employees in an organization are one of the essential components of every institution as well as an essential resource necessary for the realization of organizational goals. Hence, planning, recruitment, selection and human resource management in an institution is an issue that deserves special interest for research. Fulfillment of the basic principles of working in the public sector, such as efficiency, effectiveness, responsibility, and professionalism, depends on the selection of staff in an organization, and without a doubt has an impact on strengthening the integrity of institutions. In this paper, the subject of research will be the manner of recruitment and selection of administrative servants in the public sector in the Republic of North Macedonia. The aim is to answer the questions related to the way of filling the vacancies in the public sector, and that is primarily through a public announcement - when it comes to new employment, through an internal announcement - when it comes to promotion

to employees and through mobility - that is, through the deployment or takeover of administrative servants. The paper will also cover issues related to the planning of new employments, ie how the need for new employment is determined, the selection of candidates for employment, which bodies are involved and how legal protection is provided in the procedure for selection of candidates. The purpose of the research is to present the latest legal solutions regarding the regulation of the procedure for filling vacancies in the public sector in the Republic of North Macedonia, as well as future perspectives regarding the promotion of this issue, taking into account the previous experiences, as well as comparative solutions. Consequently, during the research, we will use the positive-legal method, the historical method, the empirical and the comparative method.

Keywords: *public sector, state administration, administrative servants, staff recruitment.*

1. INTRODUCTION

The issue of employment in public sector is extremely important for countries in transition, especially countries aspiring to join the European Union. This is because there are European principles and standards that these countries need to meet, not only to harmonize legislation with European principles, but also to ensure their effective implementation. And not only because of harmonization with the European legislation, but also for strengthening the legal certainty, strengthening the trust in the institutions, democracy and the development of professionalism and the quality of the work of the institutions, it is necessary to implement reforms in the civil servant system.

Hence, the question of selecting the most favorable candidate or administrative servant is also an important question. The issue of selection of quality staff is also important in terms of consistent implementation of the principles in the work of public administration bodies, such as legality, accountability, efficiency. This is also because the main shortcomings in the work of the administration are most often a consequence of illegality and irregularity in the work of the staff as well as unsatisfactory personnel policy. (Dimitrijević and Blažić, 2008:211) Therefore, the selection of candidates should be conducted in an open, fair, and competitive procedure, a procedure in which the law or bylaws determine the rules for the selection of a candidate. If the rules are consistently followed, then the reduction of corruption risks in the selection of candidates is directly influenced, the political or other type of influence in the implementation of the procedure is reduced, and a candidate with certain abilities is selected, based on merit. The merit system is actually a system according to which candidates are selected based on the abilities they possess.

As the main features of the merit system are: recruitment of qualified staff, employment on the basis of fair and equal treatment, equal remuneration for equal work, maintaining the integrity of employees, quality of work, training and coaching of employees, protection of employees. (Pavlovska and Davitkovska, 2012)

„Given that the creativity and adaptability of organizations depends on the suitability, knowledge and creativity of the staff available to the institutions, these aspects come to the fore.“ (Starčević and Ines Jambrek Petrak, 2016:108)

In addition, in the procedure for recruitment of public servants, the two basic principles should be respected, namely the principle of equality and the principle of competitiveness. For example, in North Macedonia, according to Article 32 of the Constitution of North Macedonia, everyone has access to every job under equal conditions, while the exercise of employees' rights and their position are regulated by law and collective agreements.

The principle of equality is also provided by the Law on Employees in the Public Sector, so, according to Article 5 of this Law, the institutions, in accordance with the principle of equal conditions and equal access for all interested candidates to the job, are obliged to publish the announcements for the vacancies and the conditions for filling them through an internal, i.e. public announcement. Also, the institutions are obliged to plan the employments with annual plans, according to their needs, and based on the Methodology for planning the employments in the public sector in accordance with the principle of adequate and equitable representation.

What we want to emphasize is that in order to really have a good and successful civil servants system, which meets the European principles, it is not enough for those principles to be regulated by law. It is even more important in the legal legislation to reduce the discretionary powers and to achieve consistent implementation of the legal solutions.

On this issue, which refers to reducing the risks of corruption in the procedures for employment in the public sector is done research (project) which lists specific recommendations and measures that the competent institutions should take into account. (for more see in: Ivana Shumaumanovska-Spasovska et al, 2020)

2. LEGAL FRAMEWORK WHICH REGULATES THE PROCEDURE FOR RECRUITMENT OF ADMINISTRATIVE SERVANTS IN NORTH MACEDONIA

In Macedonia, since the independence (1991), and especially since obtaining the status of a candidate country for membership in the European Union (EU) (2005), normative, institutional and personnel reforms have been implemented in order to meet European standards for EU accession.

Regarding the civil service system, the key normative solutions with which the reforms were implemented are the Law on Civil (State) Servants adopted in 2000, the Law on Public Servants adopted in 2010, the Law on Public Employees from 2014 and the Law on Administrative Servants from 2014. (Now only the Law on Administrative Servants and the Law on Public Employees are in force)

In accordance with these legal solutions in the North Macedonia in 2000, for the first time with the Law on Civil (State) Servants, a special civil servants system was introduced, which regulated the employment procedure, rights, and responsibilities of employees in the administration with a special law. Previously, these issues were regulated by the Labor Law. In this way, a distinction was made between employees in the private and public sector (for the differences see in Davitkovski and Pavlovska-Daneva).

The intention of these innovations is the realization of the basic principles in the work of the public administration such as the principle of efficiency, the principle of professionalism, responsibility and legality. One of the goals of the Law on Public Employees and the Law on

Administrative Servants was the introduction of a merit system in staff recruitment (merit system), as opposed to the spoils system. This intention has been met, but for some employees a combination of these two systems still applies, as is the case with category A or secretaries. Secretaries are appointed servants (this is the element of the spoils system), but they have to meet certain general and special conditions (this is the element of the merit system). Another significant novelty is the establishment of a special independent state body, which is the Agency for Administration, which is responsible for conducting employment procedures in the public sector, as well as for the legal protection of the rights and obligations of the employees.

To the question why two laws were adopted regulating the procedure for employment in the public sector, the answer would be partly that the Law on Public Employees can be applied as a *lex generalis* for employees in all institutions that are part of the public sector, while the Law on Administrative Servants has a narrower meaning or is a *lex specialis* and applies only to administrative servants.

The purpose of enacting these laws is to achieve the principles of professionalism, depoliticization of the civil servants system, as well as transparency in the procedures for employment and realization of the principle of equality. Also, to elect a servant according to certain abilities, and not according to discretionary powers based on nepotism, corruption and belonging to a certain political party.

We are expected to get a better of civil servants system, where employees will be selected based on their abilities who in their work will take care of consistent application of the principles of efficiency, effectiveness, responsibility, and will act to strengthen the trust of citizens in institutions.

The Law on Public Employees contains provisions relating to: general principles, job classification, employment records through the Public Employees Register, types of employment, general rights, duties and responsibilities of employees, mobility, enforcement oversight to the provisions of this Law by the Ministry of Information Society and Administration and the State Administrative Inspectorate, as well as other general issues for public sector employees.

The Law on Administrative Servants establishes a legal framework that covers all public sector employees performing administrative tasks. This law regulates the classification of the positions of the administrative servants, regulates the filling of the vacancies of the administrative servants, which can be through employment or promotion, regulates the employment procedure, from employment planning, employment application, selection procedure, testing, interviewing and selecting a candidate. The competencies of the bodies that have influence in the procedure are also determined, such as the Ministry of Information Society and Administration, the Ministry of Political System and Inter-Community Relations, the Agency for Administration, the Ministry of Finance and an organizational unit for human resources in the institutions.

More important bylaws that have some significance in the procedure for recruitment of administrative officials are the Act for internal organization and the Act for systematization of

jobs. (All bylaws arising from these two laws are published on the website of the Ministry of Information Society and Administration)

Despite the fact that there are special laws that regulate the civil service system in North Macedonia, such as the Law on Public Employees as *lex generalis* and the Law on Administrative Servants as *ex specialis*, still for some employees, especially those in public service (not in state administrative bodies), institutions that perform activities in the field of education, science, health, culture, labor, social protection and child protection, sports, as well as in other activities of public interest, the recruitment procedure of the personnel is performed in accordance with the provisions of the material regulations in the appropriate area. Also, for the issues that are not regulated by the Law on Public Employees, nor by the Law on Administrative Servants, nor by the special material regulations, nor by the collective agreement, the provisions of the Labor Law will be applied. All this indicates that the employees in the organizational units for human resources should be well acquainted with the legal framework that regulates the procedure for recruitment of staff in their institution, in fact, to have mastered that matter well, because for some employees it is implemented on the basis of the Labor Law (for example, technical staff), for some of the employees the provisions of the Law on Administrative Servants apply (for example, employees who perform tasks of an administrative nature), and for some of the employees the provisions of special material regulations in the respective area, for example, in education, health, social protection, etc.

3. INSTITUTIONAL FRAMEWORK

In the procedure for recruitment of administrative officials, the following institutions have a certain role: Ministry of Information Society and Administration, Ministry of Political System and Inter-Community Relations, Ministry of Finance, Agency for administration, Institution that needs to fill a vacancy, ie organizational unit for human resources.

The most important role in the procedure is played by the Agency for Administration, which is an independent state body. The Agency is responsible for: publishing advertisements for employment of administrative employees, organization of procedures for selection of administrative employees, handling complaints and objections of administrative servants in the second instance, conducting the exam for administrative servants and the exam for administrative management and other things determined by law.

The competencies of the Ministry of Information Society and Administration, in relation to the Law on Administrative Servants are listed in Article 7. As more significant competencies related to the recruitment procedure, we state: the competence of the Ministry for prescribing the content and the manner of preparing acts for internal organization and systematization of the positions of administrative employees; giving consent for the acts for systematization of jobs in the institutions, giving opinions on the application of the Methodology for planning employment in the public sector; keeping us the Register of Public Sector Employees; keeping the Catalog of jobs in the public sector, keeping the transfer - the list of possible takeovers and others.

Pursuant to Article 8 of the Law on Administrative Servants, the Ministry of Finance has the authority to approve the annual plans of the first line budget users financed from the Budget of the Republic of Macedonia and the public enterprises established by the Republic of Macedonia for employment of administrative servants, as well as to give consents for provided funds in the Budget of the Republic of Macedonia for filling each vacancy of administrative employees for which the salary and salary allowances are paid from the Budget of the Republic of Macedonia.

Ministry of Political System and Inter-Community Relations, has the authority to give approvals to the annual plans of the state administration bodies for employment of administrative employees and to participate in the commissions for selection of administrative servants in these bodies, in accordance with the law.

According to the data published in the last Report from the Register of Public Employees for 2020, there are 1,332 institutions active in the public sector of the Republic of North Macedonia, in which 131,183 persons have been employed.

4. RECRUITMENT PROCEDURE

The procedure for recruitment of administrative servants can be defined as a procedure that is conducted in several stages, in which the most favorable candidate among the applicants should be selected, and the procedure is implemented on the basis of rules established by law and bylaws.

Recruitment of potential candidates is a process of attracting a sufficient number of qualified candidates in order to enable the selection of the most competent and fill vacancies. Whereas, the selection of candidates is the process of selecting candidates for a particular job by applying appropriate methods for verification of functional knowledge and skills, and employment decision making or rejection of candidates. (Sead Maslo, 2017: 7)

The selection procedure is carried out on the basis of a previously published announcement, with the exception of the mobility procedure.

The announcement can be made only if the job, for which the announcement is made, is provided in the Act for systematization of jobs and the Act for internal organization, if the job is not filled (exception to this rule is in temporary employment), if employment is provided with the Employment Plan and if there is a previously obtained consent for provided financial resources.

In order to start an employment procedure, the secretary, ie the manager of the institution submits a request to the Agency for publishing a public announcement, which the Agency should announce within 5 days from the receipt of the request. The request is accompanied by an excerpt from the annual plan of the institution regarding the number of planned new employments and the number of realized new employments. The announcement contains, among other information, the general and special conditions that the candidate must meet. (General and special conditions for filling vacancies are provided in Article 31 of the Law on Administrative Servants). The deadline for submitting the public announcement cannot be shorter than 15 days, ie longer than 20 days from the day of its publication in the daily

newspapers. Within this deadline, the candidates for administrative servants fill in the electronic application.

The procedure is conducted by the Employment Selection Commission, which is established by the Agency after a public announcement. This Commission is composed of: an administrative officer from the Agency, the head of the organizational unit for human resources management, the heads of the organizational units in which the positions are filled, an administrative servant from the Ministry of Political System and Inter-Community Relations if the procedure is conducted for state administration bodies. (more details on the composition of the Commission in Article 37 of the Law on Administrative Servants)

4.1. Definition of employer and public sector employees

Pursuant to Article 2 of the Law on Public Sector Employees, as employers in the public sector (institutions) are: state and local government bodies and other state bodies established in accordance with the Constitution and the law and institutions that perform activities in the field of education, science, health, culture, labor, social protection and child protection, sports, as well as in other activities of public interest determined by law, and organized as agencies, funds, public institutions and public enterprises established by the Republic of Macedonia or by the municipalities, by the city of Skopje, as well as from the municipalities in the city of Skopje. Whereas, employees in the public sector are considered persons who have established employment in any of the above definitions.

In public sector institutions, employee jobs are grouped into four groups (Article 14 of the Law on Public Employees): Group I - Jobs of administrative servants; Group II - Jobs of officials with special powers; Group III - jobs of public service providers and Group IV - jobs of auxiliary-technical persons.

According to Article 3 of the Law on Administrative Servants, administrative servants can be civil (state) or public servants. The division is according to the institution in which they are employed. Thus, a civil servant, ie another type of official determined by a special law is employed in the bodies of the state and local government and other state bodies established in accordance with the Constitution and the law. While a public servant is a person employed by institutions that perform activities in the field of education, science, health, culture, labor, social protection and child protection, sports, as well as in other activities of public interest determined by law and organized as agencies, funds, public institutions, and public enterprises established by the Republic of Macedonia or by the municipalities, by the City of Skopje, as well as by the municipalities in the City of Skopje.

4.2. Categories of administrative servants positions

According to the Law on Administrative Servants, there are four categories of administrative servants, and for each category of jobs there are certain levels or titles of administrative employees (Articles 22-27 of the Law on Administrative Servants). For example:

- Secretaries (A) - State secretary, Secretary general, Secretary of the City of Skopje, Secretary of a municipality, based in a city and Secretary of a municipality, based in a village
- Top administrative servants (B) - State advisor, Head of sector, Assistant head of sector, Head of department
- Expert administrative servants (C) - Advisor - Senior Associate - Associate - Junior Associate
- Assisting and expert administrative servants (D) - Independent officer - Senior officer - Officer - Junior officer

4.3. Ways of filling vacancies

According to Article 30 of the Law on Administrative Servants job vacancies in the public administration will be filled through: an employment procedure by issuing a public announcement, a promotion by issuing an internal announcement and mobility enabling civil service staff to be distributed or taken over.

4.3.1. Procedure for conducting new employment by announcing a public announcement

The selection procedure for employment is conducted in three phases and is conducted by a special Selection Commission which is obliged to take care of the legality of the procedure. The first phase is the administrative selection for employment and in this phase the data entered in the employment application are checked with the conditions determined in the public announcement, the attached evidence in the application and their scoring. For the candidates who during the administrative selection Commission determined that they do not meet the conditions set out in the public announcement, the selection procedure ends. The second phase is examination for administrative servant. At this stage, the candidate for administrative servants takes the exam for administrative servant organized and conducted by the Agency. Within three days from the day of conducting the exam, in accordance with the points obtained from the administrative selection and the exam, the Commission prepares and publishes on the website of the Agency, a ranking list with identification codes of the candidates. The third phase is evaluation of credibility of evidence and the interview. After the three phases are completed, the Commission prepares a final ranking list of the candidates who have successfully passed the phases of the selection procedure and publishes it on the website of the Agency. Then, the Secretary of the institution, within five days after receiving the proposal is obliged to make a decision on selection. The dissatisfied candidate has the right to file a complaint against the decision within eight days to the Agency, i.e., to a competent body in accordance with this Law. Within five days from the finality of the decision for selection, the manager of the institution makes a decision, i.e., concludes an employment contract for an indefinite period of time.

4.3.2. Procedure for promotion of an administrative officer by announcing an internal announcement

The promotion procedure aims to enable administrative staff career advancement, i.e., transition from lower to higher positions. In order to initiate a procedure for promotion of an administrative officer, the secretary submits a request for initiating a procedure for promotion of an administrative servant to the organizational unit responsible for human resources management in the institution, in which he / she indicates the level and job description proposed for filling. It publishes an internal announcement and application form for promotion on the website of the institution and the Agency. The conditions for promotion are determined in Article 48 of the Law on Administrative Servants. Candidates for promotion apply to the internal announcement by submitting the completed application and evidence for the data contained in the application and submit it through the archive of the institution to the organizational unit for human resources management in the institution. The deadline for submitting the announcement cannot be shorter than five, ie longer than ten days from the day of its publication. The internal announcement may be made by an administrative servant, employed in the same institution, who meets the general and special conditions for filling the position prescribed for the appropriate level in this law and in the act for systematization. The promotion procedure is conducted by a Selection Commission for promotion, which is established by the Secretary of the institution. The composition of the Commission is determined in Article 50 of the Law on Administrative Servants. The promotion selection process consists of two stages: administrative selection and interview. The administrative selection consists of checking the data entered in the application with the conditions set by law and the attached evidence in the application and their scoring. Based on the points from the administrative selection, the commission compiles a ranking list, whereby with a maximum of five best ranked candidates, within five days after the administrative selection, the commission conducts an interview. Based on the points from the administrative selection and the interview, the commission compiles a final ranking list and proposes the first ranked candidate to the secretary. Within three days from receiving the proposal, the secretary is obliged to make a decision for selection.

4.3.3. Procedure for filling a job through mobility

The procedure for filling a vacancy through mobility is regulated by the Law on Public Employees. Thus, according to Article 42, mobility is considered as a horizontal movement of an employee from one job to another within the same group of jobs, determined by this law. Mobility can be implemented by assigning, i.e., taking over the employee to a job at the same level, i.e., to a job for which the employee meets the general and special conditions set out in the act of systematization of jobs in the institution in which he is assigned or taken over. What is important is that the mobility is done without publishing an internal, i.e., public announcement.

The employee in the public sector, at his request or as needed by the institution, can be permanently assigned to another job at the same level, i.e., to a job that meets the general and special conditions prescribed in the systematization act, for which the manager of the institution

decides for its deployment in the institution. Also, the employee in the public sector, at the request of another institution, due to temporarily increased workload, may be temporarily assigned to a job that meets the general and special conditions prescribed in the act for systematization of the other institution, but in this case the assignment is made with the prior written consent of the employee and the managers in the institutions, and the decision for temporary assignment for a period of at least one month, and at most one year, is made by the manager in the institution in which he is employed. With regard to mobility through takeover, it is envisaged that the employee in the public sector, at his request, according to the need of the institution in which he is employed or at the need of another institution, can be permanently taken on a job at the same level, i.e., a job for which meets the general and special conditions prescribed in the act for systematization of the other institution, if agreed by the employee and managers of both institutions, and with the prior consent of the Ministry of Information Society and Administration and the body responsible for approving the annual plan for employment of the institution in relation to the budget.

4.4. Legal protection

The Agency within its framework establishes a Commission for deciding on complaints and objections of the administrative servants in the second instance. This commission decides on the rights and obligations from the employment of the administrative employees, as well as against the decision for election in employment procedure.

In accordance with Article 20 of the Law on Administrative Servants, the employees of the Agency have the right to appeal against the decisions that decide on their rights and obligations from the employment, as well as against the decision for selection. Their appeal is decided by the State Commission for deciding in administrative procedure and employment procedure in the second instance.

5. COMPARATIVE ANALYSIS

„The recruitment procedures set up in the EU Member countries' civil service systems attempt to combine two principles, one of these principles is the right to equal access of every qualified citizen to the civil service and the other principle refers to the interest of the public administration in recruiting the best available candidates for the civil service (merit principle). In any case, EU Member countries, irrespective of their particular career or position-based civil service systems, have developed recruitment systems which take both principles into consideration and have designed procedures intended to both select the best available candidates and guarantee the equal access right of every citizen. These systems are known, broadly speaking, as merit-based systems of recruitment carried out through open competition.“ (Cardona, 2006:2)

„Career-based systems tend to recruit once, at the bottom of the hierarchy. Candidates for internal promotions are sought within the existing pool of civil servants. Position-based systems open up all new jobs to competitive recruitment. Civil servants compete with outsiders from the private sector or other public organizations.“ (Wouter van Acker, 2019:1)

In the European Code of Conduct for all Persons Involved in Local and Regional Governance, article 7 provides that Human resource management should be guided by the principles of merit and professionalism.

The Recommendation No. R (2000) 6 of the Committee of Ministers to member states on the status of public officials in Europe sets out principles relating to the recruitment of public officials such as: Legal framework of public officials and implementation, Authority responsible for public officials, categories and levels of public officials, Conditions and requirements for recruitment, Recruitment procedures, Transfers of public officials, Promotions, Rights, Non discrimination, Participation of public officials, Social protection, Remuneration.

According to Article 41 of the Law on civil servants and employees in Montenegro, jobs are filled in several ways, as follows: the vacancy of the head of the administrative body and the positions from the category of senior management is filled on the basis of a public competition. The filling of starting positions within the categories of expert staff, executive staff, as well as the position of employees, is done on the basis of a public announcement. Filling a job that is not covered by the provisions of para. 1 and 2 of this Article shall be done through deployment. If the vacancy is not filled through the deployment, filling a job is done through internal announcement. If the vacancy is not filled either through deployment or through an internal advertisement, the filling is done through a public announcement. (Law on civil servants and employees, "Official Gazette of the Republic of Montenegro", No. 2/2018, 34/2019 and 8/2021)

The filling of a vacant position of a civil servant in a civil service body in Bosnia and Herzegovina is regulated by the Civil Service Law in Federation of Bosnia and Herzegovina and in accordance with Article 19, vacancies are filled in several ways: if there is a vacancy in the institution that cannot be filled by an internal transfer of a civil servant employed in a similar position in the institution, the institution may first advertise the vacancy internally. If such an internal transfer is not possible, the Agency shall try to fill the vacancy by an external transfer of a civil servant who is in a similar position in another institution. If such an external transfer is not possible, the vacancy shall be announced through a public competition. (The Law on civil service in the institutions of Bosnia and Herzegovina)

Accordingly, the Civil Servants Act in Republic of Serbia the order of actions in filling executive positions in all state bodies has been determined with article 49. When filling an executive position, the transfer of a civil servant from the same state body, with or without promotion, has priority. If the position is not filled by transfer within the same state body, the position is filled by transfer on the basis of an agreement on taking over an unassigned civil servant. If the vacancy is not filled by taking over an unassigned civil servant, the manager may conduct the procedure of taking over a civil servant from another state body. If the manager decides not to fill the vacancy even by transfer on the basis of a takeover agreement, an internal competition may be conducted, and if the internal competition was not conducted or failed, a public competition must be conducted.

Pursuant to Article 45 of the Law on Civil Servants in Croatia vacancies in state bodies are filled through a public competition, internal announcement, transfer or assignment of a civil servant in accordance with this Law.

From the comparative analysis we can conclude that between certain countries there are certain common institutes and standards, but also certain specifics by which they are distinguished. What is different from North Macedonia is that in the analyzed countries the civil servants system is not regulated by two separate laws. Also, in some countries the official status of employees at the local level is regulated by special laws (for example the Republic of Serbia - Law on Employees in Autonomous Provinces and Local Self-Government Units and the Republic of Croatia - Law on Civil Servants and Employees in Local and Regional Self-Government). There is also a difference regarding the determination of a competent body that conducts the procedure for recruitment of administrative servants. Regarding the model of filling vacancies in almost all countries, we have a mixed system, which means that the career system is applied when publishing internal advertisements, but also the position-based employment systems when announcing public advertisements. However, more and more emphasis is placed on the career system and the employment merit system. The principle of transparency in employment procedures is present in each of the analyzed laws.

6. CONCLUSION

Having in mind the above in the paper we can conclude that the legal solutions that regulate the procedure for recruitment of administrative servants in the public sector in the Republic of North Macedonia affirm the merit system for recruitment of public servants, which is based on merit and open competition between job candidates, but there is also a mixed system of filling vacancies, i.e., they can be filled both through the position-based employment systems and according to the career system (career-based system) when it comes to employee promotion. The merit system is introduced for the depoliticization and professionalization of the civil servants system. The main goal is to select the candidate on the basis of an open competition, instead of appointing officials from officials.

What we can summarize from what is presented in this paper is that:

- in the Republic of North Macedonia there is a special legal framework that regulates the rules for recruitment of administrative servants, namely the Law on Public Employees and the Law on Administrative Servants, also for some public sector employees there are special regulations that regulate their employment procedure.
- During the procedure for recruitment of employees in the public sector, the basic constitutional and legal principle of employment is respected, which is the principle of equal availability.
- The procedure is conducted before an independent and autonomous state body, which is the Agency for Administration.
- There is transparency of the procedure because the procedure is conducted either based on a published public announcement (for new employment) or on the basis of an internal announcement (for promotion of already employed administrative servants).
- Candidates should meet the appropriate general and special requirements for the specific job for which the announcement is made.

- For all participants in the procedure who applied to the announcement, there is a right to appeal, which is decided by the Appeals Commission, and judicial protection against the decisions of the second instance commission.
- Regarding the recruitment system in the Republic of North Macedonia, there is a mixed system, i.e., a system of jobs in case a public announcement is made and a career system when announcing an internal announcement for promotion of administrative employees.

We can conclude that in North Macedonia there is a good legal framework that regulates the procedure for recruitment of administrative servants and the legal solutions incorporate the basic European principles that provide a fair and transparent procedure for employment in the public sector. Here we primarily mean the principles of the EU Recommendation and the standards listed in research conducted by SIGMA (Cardona, 2006).

However, what needs to be considered is whether the provisions are consistently implemented in practice. Therefore, special attention should be paid to:

- Reduction of the discretionary powers during the implementation of the procedure
- In the future, the strengthening of the professionalism of the administrative servants should be emphasized and the affirmation of more and more frequent conduct of trainings for the servants. Here we would also like to emphasize the commitment of the employees in performing the work tasks.
- Strengthening the inter-institutional cooperation and coordination between institutions when it comes to issues that are of common interest to the institutions and when a certain approach should be provided to address an inconsistency that will appear in practice
- To establish a framework with certain criteria regarding the determination of the number of employees in the public sector institutions
- Strengthening the control mechanisms
- Affirmation of the use of the transfer list
- Clarification of the provisions for temporary employment.

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