



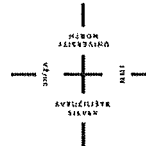
**Varazdin Development and Entrepreneurship Agency**  
in cooperation with

**Faculty of Law University of Split**  
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**University Department for Forensic Sciences**  
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**Faculty of Management University of Warsaw**

**Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat**



# **Economic and Social Development**

**31<sup>st</sup> International Scientific Conference on Economic and Social Development -  
“Legal Challenges of Modern World”**

**Editors:**

**Marijan Cingula, Douglas Rhein, Mustapha Machrafi**

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Split, 7-8 June 2018

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## THE APPLICATION OF THE EUROPEAN PRINCIPLES FOR GOOD ADMINISTRATION IN THE REPUBLIC OF MACEDONIA DE LEGE LATA AND DE LEGE FERENDA

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### ABSTRACT

*It is common knowledge that the organization, the functioning and the modeling of the administrative systems is a national question for every state, which leaves the European Union without a direct influence in the respective area. On the other hand, there is no doubt that by constantly emphasizing the public administration reforms as a key factor for integration, the Union becomes more and more relevant in that respect. Hence, the European institutions and organizations - especially the European Council - play a major role in the establishing of the fundamental European public administration principles. SIGMA is an organization also responsible for control over the fulfillment of the European public administration principles and gives directions on how to achieve these principles. As a part of numerous international acts, declarations and resolutions, these principles' aim is to harmonize the member states' governance systems in light of the way administrative bodies enforce their competences covering also the quality of services and the overall relationship between the authorities and the citizens. This way, certain European standards which, among other things, have a mandatory character are set. All the states striving to join the European Union have to undertake all the measures that will ensure a consistent application of the principles of the European administrative space and the *acquis communautaire*. Consequently, as one of the states claiming to join the Union, the Republic of Macedonia is also obliged to acquire such administrative capacities that will guarantee the application of the *acquis communautaire* - the general Administrative Law principles. This research is therefore focused on the importance of the European principles when speaking about the public administration quality, efficiency, effectiveness, transparency and responsibility. It analyses the legal framework where the European principles are set out, as well as the mechanisms the authorities and bodies undertake in order to ensure better execution of their responsibilities (e.g. electronic communication, enhanced inter-institutional cooperation and communication, training for officials and servants, etc.).*

*Thus, by examining the applicable legislation which regulates the public administration organization and operation we will try to identify and outline the key measures to be taken by the policy makers as to ensure not just de jure but also de facto strengthening of the public sector. In other words, we are referring to the steps necessary to improve the quality of public services and to modernize the administrative procedure, while still achieving depolitization and higher ethical standards. This is in fact the basic objective of the Public Administration Reform Strategy which is based on the progress Reports the European Commission delivers regularly (annually) delivers to the Republic of Macedonia.*

**Keywords:** *acquis communautaire. European integration, public administration, principle of efficiency and effectiveness*

## 1. INTRODUCTION

The public administration has always been an internal matter of the member states of the European Union. However, the member states' public administration is in charge of implementing the directives and recommendations of the European Union, hence its concern to ensure the quality and professionalism of each national administration, that is, the European Union's interest in the administrative capacities of its member states. For this purpose the European Commission has asked SIGMA<sup>1</sup> to assess the alignment of the public administration of the candidate country from Central and Eastern Europe with the principles and standards prevailing among the older EU member states.

The following is required of the candidate countries for EU membership:

- to have administrative systems capable of transposing, implementing and applying the acquis, which will achieve defined results.
- to meet the requirements for EU membership adopted by the Council of the European Union, that is, the requirements from Copenhagen and Madrid.
- to measure the progress towards the EU membership in terms of their “administrative and judicial capacities to apply EU regulations - the aquis”.<sup>2</sup>

SIGMA, for its part, has the role of evaluating the willingness of the candidate country for membership, assessing certain features of the state administration, such as:<sup>3</sup>

- respecting the principle of legality and the rule of law
- regulations concerning the liability of the officials
- regulations that ensure predictability in decision-making and facilitate judicial supervision of the administrative decisions and actions
- regulations regarding the managing and the control of the public finances and
- total ability of the administrative and judiciary systems for the application of those regulations

Consequently, SIGMA's publications include the five key conditions that need to be met for a successful reform: external pressure, internal dissatisfaction, reform strategy, reform management mechanisms and feedback and evaluation.<sup>4</sup>

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<sup>1</sup> SIGMA is short for the English term of the joint initiative of the EU and OECD that finances the Support for Improvement in Governance and Management of the State Administration

<sup>2</sup> Cardona F., *Integriranje nacionalnih administracija u Evropski administrativni proctor*, 2009, SIGMA, Konferencija o reformi javne uprave i evropskim integracijama, Budva, Crna Gora, 26-27 March, p.2;

<sup>3</sup> Musa A., *Evropski upravni proctor: približavanje nacionalnih uprava*, 2006, Javna uprava- nastavni materijali, Pravni fakultet u Zagrebu, Zagreb, p.404

<sup>4</sup> SIGMA radovi: no.26, Poglavlje 2: Les Metkalf, U susret izazovu pristupanja, p.51

The criteria for EU membership, as defined by the Council of the European Union, are:<sup>5</sup>

1. Copenhagen 1993: stability of the institutions that guarantee democracy, rule of law and human rights;
2. Madrid 1995: adjustment of administrative and judicial structures so that the EU law can be transposed and effectively implemented;
3. Luxembourg 1997: strengthening and promotion of the institutions or strengthening of the operational capacity of the institutions
4. Helsinki 1999: the obligation of the candidate country to share EU values and goals as defined in the Treaty

"The Copenhagen and Madrid criteria in fact demand a professional state administration, free from inadequate politicization, based on merits, which works in accordance with acceptable standards of integrity. They demand a clear division between politics and the administration."<sup>6</sup> And this can be achieved through the impartiality, responsibility and integrity of administrative officials. At the same time, the European Commission does not propose a specific model of organization and functioning of the state administration, but the Commission insists that the countries adopt a law that applies specifically to the civil service; advocates for a career system in the civil service; independence of the state administration from political authority; importance of trainings; a raise of the salary of the state sector to that of the private sector.<sup>7</sup> All these principles or standards, common to the EU member states, that refer to the work of the public administration compose the so called European administrative space, which means that the EAP includes a set of common standards for action within the public administration that are defined by law and applied in practice through procedures and liability mechanisms.<sup>8</sup> First of all, it is based on four basic principles - the rule of law, confidentiality and predictability, the principle of openness and transparency, the principle of responsibility and the principles of efficiency and effectiveness.<sup>9</sup> In fact, we can classify the European principles in three groups: those relating to administrative officials (professionalism, impartiality, loyalty, prevention of conflict of interest, discretion), public service providers and services (independence, accountability, consistency, availability, efficiency, effectiveness) and quality of regulations (simplicity and clarity).<sup>10</sup> In relation to the office system, development of individual civil servant's responsibility, sufficient security in terms of employment, stability and level of earnings, as well as clearly defined rights and obligations are necessary, and the employment and promotion are merit-based.<sup>11</sup> Therefore, it is considered that "a modern, constitutional state service in democracy is possible only if the following conditions are met: separation of the public from the private sphere and separation of the politics from the administration - although they are interdependent, they still have a different source of legitimacy. The politics is based on public trust expressed through free political elections and is determined after each political mandate.

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<sup>5</sup> Cardona F., *Integrisanje nacionalnih administracija u Evropski administrativni proctor*, SIGMA, Konferencija o reformi javne uprave i evropskim integracijama, Budva, Crna Gora, 26-27 March, 2009, p.5

<sup>6</sup> Ibid., p.6;

<sup>7</sup> III del: Pripreme za ulazak u Evropski administrativni proctor, Poglavlje 7: Žak Furnije, *Administrativna reforma prema misljenjima Komisije o pristupanju zemalja srednje i istočne Evrope Evropskoj uniji*, p.106;

<sup>8</sup> Г.Силјановска-Давкова, Т.Трендафилова, Р.Тренеска, *Прирачник за полагање преоден испит*, Скопје, 2001, p.188;

<sup>9</sup> European Principles for Public Administration, OECD-Sigma, paper no.27

<sup>10</sup> Simac N., *Evropski upravni proctor i evropska nacela javne uprave*, Zbornik radova pravnog fakulteta u Splitu, god. 49, 2/2012, p. 351.-368, taken from file:///C:/Users/User/Downloads/zb201202\_351.pdf

<sup>11</sup> Taken from Raadshelders and Rutgers, "The Evolution of Civil Service Systems", in Bekke, Perry and Toonen (editors), *Civil Service Systems in Comparative Perspective*, Indiana University Press, 1996, SIGMA radovi: no.27 Evropski principi za drzavnu upravu, p.219

The administration is based on merits, and the professional ability of civil servants is entrusted to public contests for entry in the civil service, in accordance with the conditions prescribed by law".<sup>12</sup> The principles of openness, participativeness, responsibility and effectiveness are in fact the principles of good administration. Good administration involves the development of the best practices and standards in the dealings.<sup>13</sup>

## 2. EUROPEAN PRINCIPLES OF GOOD ADMINISTRATION IN THE REPUBLIC OF MACEDONIA

The Republic of Macedonia, as a transition country for more than two decades, faces the challenges of the new social order, which according to the Constitution of the Republic of Macedonia is based on the principles of separation of powers, the market economy and the introduction of pluralism (multiparty system). Since its independence, the Republic of Macedonia is committed to joining the EU and undertakes a number of measures to meet the criteria required for EU as well as NATO integration. However, during the process of implementation of the reforms, we faced numerous obstacles and problems that are constantly reflected in the reports that the EU Enlargement Commission submits to the Republic of Macedonia, which reflects on the non-opening of EU accession negotiations. The unsettled bilateral issue between the Republic of Macedonia and the Republic of Greece, concerning the name, is particularly influential here. The historical development of the Republic of Macedonia's entry into the EU has been marked by several periods, such as: the signing of the Stabilization and Association Agreement of 2004, when the EU integration process began intensively, the acquisition of the candidate status in 2005 and the visa liberalization process. From the acts drafted by the Republic of Macedonia, aimed at reforms in the public administration, we highlight the following: the Public Administration Reform Strategy of 1999, the Public Administration Reform Strategy for the Period between 2010 and 2015, the National Strategy for Integration of the Republic of Macedonia in the European Union since 2004, the National Program for the Adoption of the Acquis of the European Union (2014-2016), the Strategy for Public Administration Reform 2018-2022<sup>14</sup>. According to the National Strategy for Public Administration Reform in the Republic of Macedonia, the main goals of the reform are the following: compliance and training of the public administration in the Republic of Macedonia for a continuous process of transposition and implementation of the European legislation; empowering the public administration to create and implement the overall reforms of the economic, political and legal system and building institutions necessary for securing the free flow of goods, capital, services and people in the EU.<sup>15</sup> The basic vision is to achieve a depoliticized, efficient, effective and accountable public administration that provides quality and easily accessible services for the citizens and the business community on the whole territory of the Republic of Macedonia. In addition, the work of the public administration is based on European principles and values and contributes to sustainable economic growth, the rule of law, social cohesion and well-being.<sup>16</sup> Special accent is put on continuing the coordination of the public administration reform process, providing and developing a professional, professional, efficient, responsible, transparent and service oriented state and public service, improving the quality of administration according to the ISO 9001 standard and implementing generic and specialized training of state and public officials.

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<sup>12</sup> SIGMA radovi: no.27 Evropski principi za drzavnu upravu, p.220

<sup>13</sup> Lozina D., Klarić M.: "Dobra uprava" kao upravna doktrina u Evropskoj uniji, PRAVNI VJESNIK GOD. 28 NO. 2, 2012, file:///C:/Users/User/Downloads/lozina\_klaric%20(3).pdf

<sup>14</sup> [http://www.mio.gov.mk/files/pdf/dokumenti/SRJA\\_2018-2022\\_20022018\\_mk.pdf](http://www.mio.gov.mk/files/pdf/dokumenti/SRJA_2018-2022_20022018_mk.pdf)

<sup>15</sup> Национална стратегија за интеграција на Република Македонија во Европската унија, Влада на РМ, Скопје, 2004, p.16

<sup>16</sup> [http://www.mio.gov.mk/files/pdf/dokumenti/SRJA\\_2018-2022\\_20022018\\_mk.pdf](http://www.mio.gov.mk/files/pdf/dokumenti/SRJA_2018-2022_20022018_mk.pdf)

A special attention should be paid to the coordinating of the assistance from the European Union and the Member States, as well as to the coordinating of the other foreign assistance, including the capacity building, in order to provide support for the reforms that are complementary to the process of integration of the Republic of Macedonia in the EU.<sup>17</sup> If we want to talk about the compliance of the legislation in the Republic of Macedonia with the European principles, we must outline the basic public administration principles listed in the 2017 SIGMA publication. SIGMA classifies the European principles for public administration reform in six areas:<sup>18</sup>

1. the strategic framework of the public administration reform
2. policy development and coordination
3. public service and human resources management
4. responsibility
5. service delivery and
6. public financial management

Within all these areas are listed the basic principles that should be respected for the purpose of consistent implementation of the set goals and tasks. Thus, within the framework of the first area, the basic principle is the preparation of a strategy for public administration reform that will outline the key challenges and the establishment of a separate central government body, and also it is necessary to list the basic goals and the expected results, as well as the method of monitoring the planned. The third principle is the financial sustainability of public administration reform and the last principle is the coordination between the political and administrative level in the implementation process. According to the framework of the second area, the basic principles are: - fulfillment of all functions that are crucial for a well-organized, consistent and competent policy-making system by the central government institutions, the establishment of clear horizontal procedures for regulating the national European integration, and the process need to be established and implemented under the coordination of the responsible body; to establish a harmonized medium-term plan for planning, with clear government objectives; regular monitoring of the government's work; to make transparent government decisions based on a professional evaluation of the administration and to ensure legal compliance of the decisions; the parliament controls the creation of government policies, while the organizational structure, procedures and personnel allocation in the ministries should ensure the establishment of the developed policies and legislation according to the government objectives; European integration procedures and institutional set-ups form an integral part of the policy-making process that needs to ensure systematic and timely transposition of the European Union *acquis*, policies and legislation should be designed in an inclusive way that enables active participation of society and enables the coordination of different perspectives inside the Government; legislation is consistent in structure, style and language; and is applied consistently in all ministries. The following principles are incorporated in the third area: the scope of the public service should be appropriate, clearly defined and applicable in practice; as should be the policy and legal framework for a professional and coherent public service; the institutional setup should provide consistent and effective human resources management practices in the public service; the recruitment of administrative officials should be based on merit; there should be no direct or indirect political influence on senior managerial positions in the public service; the remuneration system of civil servants should be based on the classification of jobs and the remuneration procedure should be conducted in a fair and transparent manner; professional development of administrative officials should be ensured,

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<sup>17</sup> Национална програма за усвојување на правото на Европската унија, ревизија 2014 - 2016 December, 2013, <http://www.sobranie.mk/WBStorage/Files/00npaa2014narativenobjavuvanje.pdf>

<sup>18</sup> [www.sigmaxweb.org/Principles-of-Public-Administration\\_Edition-2017\\_ENG%20\(1\).pdf](http://www.sigmaxweb.org/Principles-of-Public-Administration_Edition-2017_ENG%20(1).pdf)

which implies the maintenance of regular training of administrative officials and undertaking measures to promote integrity, prevent corruption and providing discipline in public services. In the fourth area that relates to responsibility the following basic principles are emphasized: the existence of internal, political, judicial and social responsibility; the right to access public information should be provided by law and consistently applied in practice, to have functioning mechanisms for protection of the rights of the individual to good governance and protection of the public interest; judicial protection in administrative disputes should be ensured; public authorities should take responsibility in cases of misdemeanors and guarantee compensation and / or adequate compensation. In the fifth area, the main task is the delivery of services, and the public administration is required to be citizen-oriented; the quality and availability in providing public services. For an adequate implementation the following principles are stated: the existence of a legal framework that guarantees that the civil service is citizen-oriented and applied in practice; establishment of mechanisms for ensuring the quality of the public service, ensuring the availability of public services. The sixth area is dedicated to public financial management and the following principles are stated: a medium-term budget framework covering a minimum period of three years should be prepared; the Ministry of Finance (or an authorized central body) should control the payment of funds from the sole account of the treasury bank and provide liquidity; also, the existence of a clear debt management strategy; established operational framework for internal control un which the responsibilities and authorizations are defined, and its application by the budget organizations; the existence of an operational internal audit framework that reflects the international standards and its application by the budget; public procurement regulations (including public-private partnerships and concessions) that should be aligned with the *acquis* of the European Union; the legal remedies system should be harmonized with the *acquis* standards of the European Union which ensures independence, honesty and transparency and prompt and competent handling of complaints and sanctions; public procurement is carried out in accordance with the basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of the public funds; the existence of an independent audit institution that provides high quality audits that positively affect the functioning of the public sector. What can be concluded is that in relation to the fulfillment of these principles, *de lege lata* in the Republic of Macedonia a number of **new** legal solutions have been adopted, amendments to the existing ones have been made in order to incorporate the principles required by the European Union . As an example, Law on General Administrative Procedure, the Law on Electronic Governance, the Law on Introduction of a Quality Management System and the Common Framework for Assessing the Work and Providing Services in the Civil Service, the Law on Free Access to Public Information, The Law on the Use of Public Sector Data, the Law on Prevention of Corruption, the Law on Prevention of Conflict of Interest, the Law on Administrative Officers (civil servants), the Law on Public Sector Employees and others regulations. What is missing is their consistent implementation, which is also indicated in the Annual Reports submitted to the Republic of Macedonia by the European Commission. This points to the fact that *de lege ferenda* in practice certain inconsistencies appear, for which, in the future appropriate measures and mechanisms must be taken in order to enable the *de facto* implementation of what is legally established, and the results to be visible for both the institutions and for the citizens. As an example, we would point out several legal solutions. Regarding the first area that concerns the preparation of a strategic framework, we would point out that the Republic of Macedonia constantly prepares multiannual strategies for the public administration reform in which the key priorities of the reforms are outlined. For example, in the 2010 Strategy, the focus has been put on some of the most important multidisciplinary functions of the administration, or the so-called *ocontemporary* administration functions, consisted of: a) policy making, b) inter-institutional cooperation and coordination, c) human resources development and management, d) public



finances, including public procurement, e) anti-corruption measures f) optimization and simplification of business processes, e) improvement and simplification of administrative procedures and administrative services, h) provision of access to public information and i) e-government and e-governance. The above-mentioned modern management functions are important for the entire public sector, regardless of the organizational form and administrative level (central, regional, local). This will be the scope of the "public administration reform" in the Republic of Macedonia. Hence, the reform will cover the entire public sector.<sup>19</sup> At the moment, an adoption of the Public Administration Reform Strategy for the period 2018-2022<sup>20</sup> is expected, in which the mechanisms for coordination of the process of planning and policy making, as well as the drafting of laws are established through the competences of the following main institutions: the General Secretariat of the Government of the Republic of Macedonia, the Ministry of Finance, the Ministry of Information Society and Administration, the Secretariat for European Affairs and the Secretariat of Legislation. The reforms in the field of the official (civil servants) system in the Republic of Macedonia started with the adoption of the Law on Civil Servants, which was enacted in 2000. With this law for the first time since the independence of the Republic of Macedonia there was a separate law which made the distinction between the employees in the private sector, and the employees in the state administration whose rights, obligations and responsibilities are now regulated by the Law on Civil Servants. However, the fact that public servants were not covered by this law pointed the need for an adoption of another law - the Law on Public Officials, adopted in 2010, whose purpose was to regulate the rights and obligations of the employees in the public services. This law, however, did not really apply in practice because to the employees in the field of health *lex specialis* laws such as the Law on Secondary Education, the Law on Higher Education were applied, and to the employees in the field of education, the *lex specialis* Law on Health Care was applied etc. All of this indicated that the reforms in this area should continue and in order to overcome the existing situation concrete measures were taken. Hence, the reforms in the civil service system continue in 2014 with the adoption of two new legal solutions: the Law on Public Sector Employees and the Law on Administrative Officers, which had a suspensive effect on the application of February 2015. The purpose of these legal solutions was to establish a uniform system for employment, promotion, evaluation, responsibility of all administrative officials, but also to create criteria for equalization of salaries for the public sector employees. The main novelties that were envisaged are the preparation of a special catalog of jobs, employment plans<sup>21</sup>, ways of recruiting staff, assessment and increased responsibility. The catalog includes a description of the jobs together with their functional names for each job. There were numerous indications for this by eminent professors from the administrative department, who consider this to be one of the ways to solve the problem of temporary employment of administrative officials, which reaches a figure of 30% to 40% of the total number of employees in the public sector. The issue of passing a law which would determine the criteria for salaries of the administrative officials is still open. In terms of training, it is necessary to establish a special training center - an institution that would have similar status and competencies such as the existing Academy for Judges and Public Prosecutors. One of the positive novelties is that with the Law on Public Sector Employees, for the first time a legal authority of a state body was established, in order to establish and maintain a single registry of

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<sup>19</sup> Стратегија за реформа на јавната администрација во Република Македонија (2010-2015 ГОДИНА), 21 December 2010, [http://mioa.gov.mk/files/pdf/dokumenti/Strategija\\_zarJA.pdf](http://mioa.gov.mk/files/pdf/dokumenti/Strategija_zarJA.pdf)

<sup>20</sup> [http://www.mio.gov.mk/files/pdf/dokumenti/SRJA\\_2018-2022\\_20022018\\_mk.pdf](http://www.mio.gov.mk/files/pdf/dokumenti/SRJA_2018-2022_20022018_mk.pdf)

<sup>21</sup> The professors from the administrative department continually pointed out the necessity of this novelty in their scientific papers, see also: Давитковски Б., Павловска-Данева А., Муцунски Т., *Јавната администрација на РМ - носител на процесот на евроинтеграција*, Зборник на Правниот факултет „Јустинијан Први“ во Скопје, во чест на проф.д-р Наум Гризо, Скопје, 2011

all employees in the public sector institutions. In accordance with Article 19 paragraph 1 of this Law, the Ministry of Information Society and Administration, as a state administrative body responsible for administrative reform, was obliged to establish and maintain a register of public sector employees in electronic form. Pursuant to Article 2 paragraph 1 of the Law on Public Sector Employees, the Register includes persons employed in: the state and local government bodies and other state bodies established in accordance with the Constitution and law; and the institutions that perform activities in the fields of education, science, health, culture, labor, social protection and child protection, sports, as well as in other activities of public interest determined by law, organized as agencies, funds, public institutions and public enterprises established by the Republic of Macedonia or the municipalities, the City of Skopje, as well as the municipalities in the City of Skopje. This report on the data from the Register of Public Sector Employees for 2015 is prepared on the basis of Article 20 paragraph 1 of the Law, and is the first report of this nature, in which the data on the public sector institutions are systematically presented in relation to their number, type, title, branch of government, activity and founder, as well as data on the employees in these institutions about their number, groups, subgroups, levels, titles, gender positions, age, level of education and community affiliation. According to the data provided in this report out of the total number of 1288 institutions in the public sector, the total number of employees is 128 347 persons. Out of these, 40 196 are employed in state organs, 11 325 in the Ministry of Internal Affairs, 7205 in the Army of the Republic of Macedonia, 227 in the Intelligence Agency, 2858 in the judiciary and 18 581 in other state authorities. In the City of Skopje and the municipalities, there are 5744 employees in total, and 64 168 in the public institutions, where 19 855 are employed in the public institutions in the field of health, 3282 are employed in the public institutions in the field of culture, 34 338 are employed in the field of education, and in the public institutions in the field of labor and social affairs. The remaining 18 239 are employed in public enterprises. This number does not include the elected and appointed persons who, according to the definition of Article 2 of the Law on Public Sector Employees, do not belong to the employees in the public sector.<sup>22</sup> The second such Report for 2016 provides the following data. There are 129,653 persons in the public administration enrolled in the register of employees in the public sector in 1,291 institutions. According to prof. Davitkovski, compared to the previous report, it is obvious that the number of employees in the Army, and in education and health care is growing, in comparison with the classical civil servants in the ministries, whose number unfortunately decreases, and if the total figure is taken into account and the state administration is compared with the rest of the employees in the public sector and the employees in the private sector, it can be noticed that according to European and world standards the public administration is overloaded, while there are too little employees in the state administration. Therefore, it is necessary for this trend to be well noted and investigated. At the same time, another trend are the employments according to the Ohrid Framework Agreement which have grown from 10 percent to 19.4 percent, that is, about 20 percent, as well as the aging of our administration.<sup>23</sup> According to the data from the Register, we have too many public sector employees, which need to be reduced, especially in the area of public services. In order to do this, it is necessary to make a detailed analysis of which part or what kind of employees is a surplus and to find ways and mechanisms to reduce this overcapacity. For example, if we examine healthcare, we need to analyze the number of employees in the administration, nurses, paramedics, physicians, to determine the necessary number of the people on which the continuous performance of the

<sup>22</sup> Годишен извештај за податоците од на вработените во јавниот сектор за 2015 година, [http://mioa.gov.mk/files/pdf/dokumenti/Registar\\_mart2016.pdf](http://mioa.gov.mk/files/pdf/dokumenti/Registar_mart2016.pdf)

<sup>23</sup> Годишен извештај за вработени во јавниот сектор, (Annual report on the data from the register of employees in the public sector ), <http://vesti.mk/read/news/12374634/4306563/vo-javniot-sektor-vraboteni-vkupno-129-653-lica>

tasks would depend, and then take appropriate measures for the others. Regarding the institutional setup or the organizational structure of the public administration, we would point out that in the Republic of Macedonia, despite the fact that the decentralization process began from 1 July 2005, the number of central bodies is still alarming and points to the need of a detailed functional analysis that will serve to reorganize and optimize the number of institutions. For example, considering the data obtained from the Register of Public Sector Employees, the total number of institutions in the Republic of Macedonia is 1288. Out of those, public institutions are 888, public enterprises 128, municipalities 81, courts 35, independent state administration bodies 32, composition of ministries 29, Public Prosecutor's offices 29, legal entities with public authorizations 16, Ministries 15, independent state bodies 12, regulatory bodies 10, Secretariat in Government 3, Judicial Council 2, Government of the Republic of Macedonia 1, President of the Republic of Macedonia 1, Ombudsman 1, National Bank 1, a special state administration body 1, Government service 1, Hall 1, Council of Public Prosecutors 3. There are 763 or 59% local institutions, and 525 or 41% institutions at the central level. The largest number of institutions are in the field of education, a total of 538, representing 41.67% of the total number of institutions in the public sector.<sup>24</sup> Regarding the service delivery area, we would point out the new Law on General Administrative Procedure, adopted in July 2015, in which the emphasis is on the service orientation of the public administration and efficient, effective and quality administrative and procedural protection is guaranteed. Regarding the incorporated European principles in this law, we would state the principle of proportionality, the principle of delegation of competence, evaluation of evidence, electronic communication between the parties in the procedure, the wider subject of application of the law, which is now applied not only for the adoption of specific administrative acts, but also for the provision of public services, undertaking of material actions and concluding of administrative contracts. The ambivalent nature of the administrative procedure comes to light through the principle of proportionality, which used to be a principle of protecting the rights of citizens and protecting the public interest, and which in fact, is one of the principles of the good governance model. The principle of hearing the parties, which on the one hand allows the party to actively participate in the procedure, and on the other hand affects the transparency of the procedure, providing legal security for the party and respecting the principle of legality. This principle is also indicated in the Resolution and the Good Governance Recommendation. The principle of equality, impartiality and objectivity affects the exercise or the alignment with Article 6 of the European Convention for the Protection of Human Rights, which the independence and impartiality of the body when deciding in the procedure is required. Regarding the area of responsibility and accountability, several laws have been adopted, such as the Law on Free Access to Public Information, the Law on Prevention of Corruption, etc., in which the European principles were incorporated. However, despite the efforts and the numerous institutional reforms, the remarks from the Progress reports on the Republic of Macedonia prepared by the European Commission say that the Republic of Macedonia is not yet fully prepared for the consistent application of the principles and points out that in the future a strong political will to ensure the independence of the administration and respect for the principles of transparency, merit and equitable representation is much needed. Particularly concerning are the European Union's remarks in the Progress Report of 2015 according to which: "The country is moderately prepared in terms of the reform of its public administration. Some progress has been made in the legislation and improvement of the provision of services to citizens and business entities. The concerns about politicization have increased with the content of leaked conversations and delaying the full implementation of the new legal framework".

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<sup>24</sup> Годишен извештај за податоците од регистарот на вработени во јавниот сектор 2016 (Annual report on the data from the register of employees in the public sector)

The specific remarks are that "the country should in particular: deal with the serious concerns about the politicization of the public service; ensure full implementation of the principles of accountability, transparency and merit (Emergency reform priority, including the introduction of an enhanced information system for human resource management); suspend and re-examine the implementation of the Law on Transformation in full-time employment until the principle of merit is fully respected (Emergency reform priority); adopt a Public Administration Reform Strategy and a Public Finance Management Reform Program that will address identified weaknesses, including budgetary transparency. What is also indicated is the increased number of targeted, as well as political and arbitrary employments. The concerns also apply to the transparency of the staff mobility and possible abuse of the dismissal procedures. The public sector is additionally inflated with the practice of creating new jobs on a political or social basis, especially before the new laws enter into force. The efforts to achieve the goals of equitable representation do not always take into account the real personnel needs of the institutions and the principle of merit, while the number of public sector employees that do not have to appear at work is increasing. Budget transparency is not provided because comprehensive, timely and credible budget information is not publicly available. In addition, the fiscal strategy 2015-2017 and the 2015 budget were adopted without proper parliamentary discussion."<sup>25</sup> The 2016 report suggests that there is not enough commitment to implementing the Commission's recommendations since 2015. The main remarks are that the public sector is used as a political instrument and politicization in the administration. Likewise, the lack of political commitment to deliver the necessary reforms in the management of public finances has led to a significant reduction in EU financial assistance in 2016. It is also necessary to reduce the excessive classification of documents by the government as confidential (also "Emergency reform priority"), which hinders the citizens' right to access to public information, the existing complaint procedure remains difficult, complex and long, and consists of several degrees, while the interoperable framework is not functional due to lack of resources and political will to implement.<sup>26</sup> What the European Union points out to us is that the future reforms should ensure the professionalisation of the heads of the administrative agencies and bodies, the MISA should have adequate resources to fulfill its responsibilities for professional training and development of the administrative officials and should develop all necessary tools to meet the requirements of the new legislation. The government should review the service modernization setting, including digitalisation of public services, in order to match the strategic goals with the available resources. The MISA should review the existing inventory of government information systems, databases and registers, and respond to how they can be streamlined, their quality increased, and registers integrated into the common interoperability framework.<sup>27</sup> In order to achieve the stated goals and improve the reforms in the new PAR Strategy 2018-2022, the formation of a Public Administration Reform Council is intended, which together with the other

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<sup>25</sup> The Law on Transformation into Full-time Employment was adopted in February in a shortened procedure and without prior consultation with the public on a national level and the EU partners, only a few days before the Ohrid Framework Agreement laws entered into force. This law bypasses the principles of employment based on merits by converting thousands of temporary employed into full-time public service employees or public sector employees without a public competition. While the employment of representatives of the largest non-majority community is growing, the smaller communities remain less represented.

Извештај за напредок на Република Македонија за 2015, taken from [http://www.sobranie.mk/content/%D0%9D%D0%A1%D0%95%D0%98/PR2015\\_All\\_CK\\_FF\\_MK\\_16.11.2015.pdf](http://www.sobranie.mk/content/%D0%9D%D0%A1%D0%95%D0%98/PR2015_All_CK_FF_MK_16.11.2015.pdf)

<sup>26</sup> [https://eeas.europa.eu/sites/eeas/files/20161109\\_report\\_the\\_former\\_yugoslav\\_republic\\_of\\_macedonia\\_mk.pdf](https://eeas.europa.eu/sites/eeas/files/20161109_report_the_former_yugoslav_republic_of_macedonia_mk.pdf)

<sup>27</sup> <http://www.sigmaxweb.org/publications/Monitoring-Report-2017-the-former-Yugoslav-Republic-of-Macedonia.pdf>, <http://www.sigmaxweb.org/publications/principles-public-administration.htm>

competent institutions will take care of the coordination and the undertaking of appropriate measures in the process of implementation of the set goals and tasks.<sup>28</sup>

### 3. CONCLUSION

The purpose of this research was to determine the level of readiness of the public administration in the Republic of Macedonia for accepting the European standards in building capacities and the work of the public administration bodies. In concurrence with the foregoing, we can conclude that every country, even the Republic of Macedonia, which pretends to enter the European family, has to fulfill these principles in a way that will bring an appropriate legal framework in which they will be guaranteed, but also to ensure political climate and stable institutions that can ensure consistent application of the foreseen principles. Therefore, we believe that the Euro-integration process requires serious commitment from the Republic of Macedonia and the undertaking of adequate normative and institutional reforms, prepared and based on previous analyzes and strategies for the measures that need to be taken. What is required of the Republic of Macedonia is the fulfillment of the Copenhagen criteria and the principles of good governance, the concrete introduction of a career system in recruiting administrative officials in the public administration bodies, responsible, efficient and transparent public administration, affirmation and strengthening of the role of the non-governmental sector or civil society in creating public policies, providing administrative capacity for effective programming and management of IPA funds. The measures that need to be taken consist of the preparation of Action Plans and Programs, the establishment of a separate body, that is the Training Center for Administrative Officers, conducting an annual evaluation and monitoring over the implementation of the specific steps foreseen in the action plans and programs, preparation of reports on what is implemented and what is not and what are the obstacles faced by the institutions in the implementation of the reforms and the high political will for achieving the predetermined goals. In the very near future, concrete measures should be undertaken in order to establish clear criteria for the establishment of new bodies, reorganization the public administration, improvement of the communication between the institutions and the citizens, professionalization and de-politicization of administrative officials, the digitization in the institutions will be done, the institutions' accountability will be increased, especially when providing information of public character, higher quality of services will be ensured, increased responsibility and accountability of the employees and the institutions especially in the use of public funding, establishment of a consistent system of salaries, and in each of the institutions it is necessary to implement a quality management system. Only this way can we restore the confidence in the institutions, reduce the politicization of the administration (reduce the influence of the political officials on the personnel policy) and enable the realization of the principle of the rule of law.

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