

## Public services in the Republic of North Macedonia

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**Abstract:** Public administration is not bureaucracy - it is the bloodstream of the state. The public servant is the face of the state - the face of care, of legality and of hope. With the adoption of the Constitution of the Republic of North Macedonia on November 17, 1991, a legal redefinition and restructuring of all activities and relations between legal entities began. The goal of such changes was the creation of a new state organization. The changes first began with the privatization of public capital in economic activities, followed by reforms in the state administration and then reforms in public services that ended with the decentralization and privatization of all public institutions. Public services were created as a reflection of the needs of a modern industrial and urban society for the continuous performance of a large number of activities and the provision of services, without which everyday life would be impossible. <sup>1</sup>This paper will discuss public services in the Republic of North Macedonia.

**Key words:** public administration, control of public administration, public services and types of public services.

### 1. INTRODUCTION

Public services are services that satisfy some common needs of society because in no society can an individual satisfy his or her own needs, which is why the idea of social satisfaction of certain needs arises. Public services represent special and qualitatively differentiated entities that constitute the basic substrate of the public sector, whose essential mission is to satisfy the common needs of members of the social community.

In every modern society, there are a large number of public services, including health, education, social and child protection, science, culture, sports, post offices, telephony, etc. So we are talking about institutional structures that provide services to citizens in various areas of social life, in order to satisfy those needs that an individual usually cannot satisfy on his or her own.<sup>2</sup>

### 2. Definition of the term public services

The founder of the theory of public services is the French lawyer and theorist Leon Duguit. According to him, the essence of all administrative law is reduced to the law of public services, that is, the basis of public law does not stem from the right to order, but rather the rules for regulating and managing public services. According to Duguit's definition, "public service is any activity whose performance must be regulated, ensured and controlled by managers, because it is necessary for the realization and development of social interdependence, so that it can be fully ensured only by the power at the disposal of managers. However, Duguit's definition does not fully correspond to the contemporary conceptualization and functional trajectory of public services, because it contains premises that touch on the essence of the term authoritative administration."<sup>3</sup>

#### 2.1. Public services in the Republic of North Macedonia

The legal status of public services on the territory of the Republic of North Macedonia, as a separate legal regulation, was not legally regulated until 2005. Namely, the legal position of organizations that were of so-called special social interest, i.e. "non-profit organizations" was determined on the basis of the Law on Associated Labor. Although in the field of economy several regulations have been adopted that regulate the legal status of commercial organizations (the Law on Enterprises, the Law on Public Enterprises, the Law on Trade Companies, etc.), in the field of the public sector, for a long period of time since the independence of the state, no general law has been adopted that would regulate the legal status of organizations that are of public interest (in accordance with the terminology provided for in the Constitution of the Republic of Macedonia of

<sup>1</sup> Jeton Shasivari, Afrim Osmani, Administrative Law, Skopje, 2022. p. 112.

<sup>2</sup> Dr. Dejan Vitanski, Public and State Administration II edition, 2014. p.45.

<sup>3</sup> ibid, p.44.

1991).<sup>4</sup> Therefore, the Strategy for Reform of Public Administration has identified as one of the priority goals the adoption of a law that would regulate on a uniform basis the legal status of organizations (institutions) that perform public services as a public service of public interest. In order to operationalize this priority established in the Strategy for Reform of Public Administration in the Republic of North Macedonia, the Ministry of Justice prepared the Proposal for Adopting a Law on Institutions, and in early 2001 the Government of the Republic of Macedonia approved it and submitted it as such to the Parliament of the Republic of North Macedonia. The Parliament of the Republic of North Macedonia adopted the Law on Institutions in May 2005.

In the Republic of North Macedonia, instead of public service, the legislator operates with the term institution. In this context, according to the legal definition, "an institution is a form of organization for the purpose of performing a public service activity as an activity that is not classified as a commercial activity established by law and which can also be established by law as an activity of public interest.

A public service is when a task of general interest is performed by a public legal entity, but also when such a task is entrusted to a private legal entity, which is precisely for this reason granted special authorizations and imposed special obligations. Administrative Law 116 In other words, when an activity is performed by a public legal entity, it is sufficient that it be of general interest for it to be a public service, but when it is performed by a private legal entity, it is necessary that the task be of general interest and that person be under a special legal regime.<sup>5</sup>

### 2.1.1 Classification of institutions in the Republic of North Macedonia

Institutions are divided according to two basic criteria:

1. by subject (founder) and
2. by activity.

According to the first criterion, institutions can be established as:

- public institution
- public benefit institution
- mixed institution

Public institutions are organizations established by the state or municipalities to provide services of public interest, usually without the aim of making a profit.

In the second group of institutions, classification is made according to the type and nature of the activity performed. According to this criterion, there are the following institutions:

- in education: school, university, faculty, college, etc.
- in science: institute, etc.
- in health: clinical center, clinic, hospital, institute, medical center, health center, health station, pharmacy, etc.
- in social protection: social institution, kindergarten and other children's institution, etc.
- in culture: cultural center, cinema, theater, opera, ballet, etc.<sup>6</sup>

### 3. Supervision of institutions in the Republic of North Macedonia

According to the positive regulations applied in our country, several types of supervision are carried out over institutions.

1. Supervision over the legality of the work and acts of the institution is carried out by the competent ministry. When carrying out this supervision, when the competent minister determines that the institution is operating contrary to the law regulating the performance of the activity, he will indicate to the institution in a report the illegality in its operations and will set a deadline for eliminating the illegality, which cannot be shorter than six

<sup>4</sup> Borce Davitkovski, Ana Pavloska-Daneva, Administrative Law (part one - substantive law), Skopje, 2018, p. 125.

<sup>5</sup> Ibid, p. 125.

<sup>6</sup> <https://aspi.mk/imateli/25/>

months. If the institution does not act according to these indications, then the competent minister may issue a decision to temporarily stop its work and notify the founder thereof.

2. Supervision is also carried out over the constitutionality and legality of the general acts of the institution. Thus, if the general act of the institution is not in accordance with the Constitution or with a law, the competent minister has the right to stop its execution (to suspend it) and is obliged to initiate a procedure for assessing the constitutionality and legality of the stopped act before the Constitutional Court of the Republic of Macedonia.

3. The institution is also supervised over the issuance of public documents. If the competent ministry, in exercising its right to supervise the legality of the work, determines that the institution has issued a public document contrary to the provisions of the law, it adopts a decision to annul the public document, which is published in the media and files a report with the public prosecutor for criminal prosecution of the responsible person.

4. Supervision of the material and financial operations of the institution is carried out by the competent ministry and the state audit bodies.

5. Professional supervision is also carried out in the institutions. This supervision is carried out by specialized professional organizations and experts designated by the competent body established by law.

According to the Law, privatization can be carried out according to one of the following six models or privatization techniques:

- 1) transformation of a public institution into a private institution;
- 2) transformation of a public institution into a limited liability company or joint-stock company;
- 3) by organizing parts of a public institution in which commercial activities are carried out into a joint-stock company or a limited liability company;
- 4) sale of a share in a mixed institution;
- 5) sale of part of the premises or equipment of a public institution;
- 6) lease;
- 7) other methods determined by law.

The decision on privatization by transformation of a public institution into a private institution, upon the proposal of the competent minister, shall be made by the founder. The proposal shall be approved by the Government of the Republic of Macedonia. Before the decision on privatization by transformation of a public institution into a private institution is made, the institution to be privatized shall be offered to the employees for purchase. If the employees refuse to exercise the right of priority in the purchase, the founder shall conduct an open call for selection of the most favorable bidder. When a public institution, without liquidation, is transformed into a trade company in accordance with the provisions of this Law, a privatization procedure may be carried out simultaneously with the transformation. The provisions of the Law on Trade Companies shall apply to the transformation of a public institution into a trade company. Within the framework of the rationalization of the activity of public services, it is of particular importance to distinguish commercial activities that can be carried out under a different regime than the one under which the public service is carried out. Therefore, the Law provides for the possibility of part of the property and assets, together with employees who perform financial, bookkeeping-accounting, legal, administrative-technical and other auxiliary work, maintenance of hygiene, service and transport services, preparation and distribution of food (restaurants, canteens, etc.), accommodation (dormitories, etc.) or perform other commercial activities, to be organized in a limited liability company or a joint-stock company and at the same time to implement a procedure for their privatization. Organization of the administration When a co-founder of a mixed institution determines that his interest in being a co-founder of the institution has ceased, he will be able to sell his share in it to its other co-founders. If all co-founders refuse to purchase the share in the institution, an open call for tenders will be held to select the most favorable bidder. The law establishes the possibility of the so-called partial privatization of a public institution of the part that is not needed for the performance of the activity. Namely, the founder will be able to sell part of the space, equipment and other items and property that are suitable for performing a public service to legal entities or individuals that will meet the conditions set out in the law and in the law that will regulate the performance of a public service. First, the right to purchase will be offered to the employees in the organizational part from which the subject of the sale is determined. If the employees refuse to exercise the

right of priority in the purchase, the competent ministry will announce an open call for tenders to select the most favorable bidder. The purpose of purchasing part of the space, equipment and other items and property that are suitable for performing a public service can only be the further performance of a public service. This means that the part of the space, equipment and other items and property that are being sold cannot be intended for another activity or other purposes. Therefore, the buyer will be able to take possession of the object of sale only after obtaining a work permit for performing the public service. And not only that. The buyer will be obliged to ensure the continuous performance of the public service. This can be achieved independently or in an agreement with the public institution from which the object of sale was purchased or with other public institutions. The conditions and manner of ensuring the continuous performance of public services will be determined by the concluded agreement. The buyer will not be able to change the activity that was performed with the object of sale nor lease or sublease it without the consent of the competent ministry. If the buyer is not an institution, he will be obliged to establish a public service institution and will have to obtain a work permit. If the buyer does not establish the institution within the specified period and does not obtain a work permit, if he does not ensure the continuous performance of the public service, if he changes the activity that was performed with the object of sale or leases it out for sublease without the consent of the competent ministry, the sale agreement is considered terminated by force of law. Lease is a specific model of ownership transformation. In this case, the ownership does not change, but the performance of the public service is privatized. Facilities and equipment that represent organizational units (organizational units, parts, etc.) can be leased. In which public services can be provided. Just as in the model for the transformation of a public institution into a private institution, the competent ministry as the lessor will offer the right to lease first to the employees. If the employees refuse to exercise this right of preference, the competent ministry will announce an open call for selection of the most favorable bidder. The main obligation of the lessee who will take possession of the leased object after obtaining a permit for the work from the lessor will be to ensure the continuous provision of public services independently, in agreement with the lessor or with other public institutions. The lessee will not be able to change the activity that was carried out in the part of the public institution or with the assets of the public institution that will be the subject of the lease, nor to sublease the leased object without the consent of the lessor. If the lessee cannot be an institution, he will be obliged, within the period specified in the agreement, to establish a public service institution and obtain a permit for operation. If the institution is established within the deadline set for the lease and does not receive a permit to operate, the lease agreement will be considered terminated by force of law.<sup>7</sup>

#### **4.Data from a survey on how satisfied citizens in the Republic of North Macedonia are with public services and public institutions in the country**

Main findings from surveys and research

##### **1. General satisfaction with public administration services**

- From a survey conducted by the Institute for Political Research (Detektor)<sup>8</sup>, the latest data show:
  - o About 41% of citizens are satisfied with the services they receive from the public administration.
  - o 56.4% of citizens expressed dissatisfaction with the services of the administration (public institutions) — which means that more citizens are dissatisfied than satisfied.

##### **2. Satisfaction with specific administrative services**

- According to the SIGMA/OECD<sup>9</sup> study on public administration:

o Satisfaction varies by type of service:

The highest percentage of those who stated that they were completely or partially satisfied were users of services from social welfare institutions — about 73% satisfied.

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<sup>7</sup> Borce Davitkovski, Ana Pavloska-Daneva, Administrative Law (part one - substantive law), Skopje, 2018, pp. 132-134.

<sup>8</sup> <https://ipis.org.mk/istrazuvanja/>

<sup>9</sup> <https://www.sigmaweb.org/en/partners-and-regions/republic-of-north-macedonia.html>

More than 60% were satisfied with several other administrative services (for example, unemployment services, health institutions, tax services).

o There are also differences in the perception of various aspects: the time needed to obtain a service, access to information, user communication and ease of procedures.

### 3. Local public services (municipalities)

- From another survey on satisfaction with municipal services:

o Around 40% of citizens are generally satisfied with the services provided by their municipality.

o Only 6.9% are completely satisfied, and 32.8% are only satisfied.

o 31.1% were neither satisfied nor dissatisfied, while 28.2% were dissatisfied or very dissatisfied.<sup>10</sup>

## 4. Perception of trust and transparency of institutions

- Other surveys show that general trust in institutions (e.g. parliament, government, courts) is low to moderate, which suggests that satisfaction with the functioning of public institutions may also be associated with low trust in institutions in general.<sup>11</sup>

Although the exact figures vary by research and type of service, there is no unanimous high satisfaction score — often the percentage of dissatisfied citizens is higher or within a significant division between satisfied and dissatisfied. In specific services (social, health, registration) the majority show satisfaction, but in general a low to moderate level of satisfaction with public administration is observed, especially when it comes to communication, waiting times or perception of bureaucracy.

Table 1: Citizens' satisfaction with public institutions in the Republic of North Macedonia

| Type of public institution / service | Satisfied citizens (%) | Dissatisfied citizens (%) | Source                  |
|--------------------------------------|------------------------|---------------------------|-------------------------|
| Public administration (general)      | 41 %                   | 56 %                      | Detector Institute      |
| Social services                      | 73 %                   | 27 %                      | SIGMA / OECD            |
| Other administrative services        | About 60%              | About 40 %                | SIGMA / OECD            |
| Municipal services                   | 40 %                   | 28 %                      | Poll for municipalities |
| Neither satisfied nor dissatisfied   | 31 %                   | –                         | Poll for municipalities |

Source: Data is taken from relevant research by the Institute for Political Research "Detector", as well as SIGMA/OECD analyses and local government surveys.

## CONCLUSION

Considering all of the above, we can conclude that public services perform such an activity without which the everyday life of people cannot be imagined. Public services as such, established by the Constitution and the law, performing an activity of an immaterial nature, enable both physical and legal persons to satisfy cultural, health, educational, training, scientific and similar needs, as well as by performing economic activities, provide individuals with satisfaction and the opportunity to fulfill communal, economic, railway, electricity distribution and other needs. Through public services, a closer and more efficient cooperation is achieved between individuals, the citizens of a society.

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<sup>10</sup> portal.mdt.gov.mk

<sup>11</sup> Institute for Communication Studies, <https://iks.edu.mk/>.

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