



PUBLIC SERVICE AND HUMAN RESOURCES MANAGEMENT: SHORTCOMINGS RELATED TO MERIT-BASED EMPLOYMENT AND ACCESS TO SENIOR CIVIL SERVICE POSITIONS

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The Principles of Public Administration, SIGMA/OECD:

A well-functioning public administration is a prerequisite for transparent and effective democratic governance.¹ It is the foundation for the functioning of the state, determining a government's ability to provide public services and foster competitiveness and growth, and it also plays a fundamental role in the European integration process by enabling the implementation of crucial reforms and efficient accession dialogue with the EU.²

Developed democracies as a rule boast professional, largely apolitical civil services, which have been recognised as a crucial component of good public governance.³ Their work is centred on protecting the public interest. Hence, a modern civil service must be governed by specific codified rules, which set standards and procedures for keeping the civil service merit-based and apolitical, while ensuring integrity and accountability of civil servants, as well as sufficient security of their job positions with a view to protecting them against politically motivated dismissals.⁴

This Brief is focused on shortcomings of laws governing state and public administration related to the merit-based employment procedure and the criteria for access to senior civil service positions and it offers concrete solutions for overcoming such deficiencies, which have been persisting over a long period of time.

(MERIT-BASED) ENTRY IN THE ADMINISTRATION

As regards the issue of filling positions in the administration, the head of the public institution may fill a position by concluding a contract for employment on a fixed term basis.⁵ For unpredictable short-term activities of duration of up to 30 days, the head of the institution announces the need for employment with the Employment Agency, free of charge, by referring persons for employment from the records of unemployed persons, in accordance with the Labour Law.⁶ There is not a single limit on fixed term (temporary) employments at the level of the administration, but only at the institutional level, and the criteria allow this limit to change every year.⁷

Employment in the public sector is done by publishing an announcement, whereby in a transparent, fair, and competitive selection procedure, the most professional and competent candidate for the job will be selected.⁸

The utilisation of agencies for temporary employments, although legalised under the Law on Public Sector Employees (LPSE), can be assessed as a deviation from the said Law itself since such employees are not obliged to meet the criteria and thus enter the public service without an announcement, which is a breach of the merit-based principle.⁹

1 <http://www.sigmaxweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>

2 Ibid

3 <https://weber-new.s3.us-west-2.amazonaws.com/wp-content/uploads/2020/05/23203507/Western-Balkans-PAR-Monitor-2019-2020.pdf>

4 Ibid

5 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

6 Ibid

7 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

8 Ibid

9 Ibid

Regarding the procedure for recruitment of administrative servants pursuant to the Law on Administrative Servants (LAS), public announcements are published on the website of the Agency of Administration (AA), as well as in at least three daily newspapers, one of which is a newspaper published in the language spoken by at least 20% of citizens, who speak an official language other than the Macedonian language. The deadline for applying for announced positions is between 15 and 20 days, as of the day of their publishing in daily newspapers. Internet portals also re-publish announcements. Namely they copy them from the AA website.¹⁰ However, publishing announcements in newspapers is a financial burden for institutions with a small budget.¹¹

Public announcements are written in clear and understandable language, meaning they state the following: the institution which has the need for an employee; the sector in the specific institution and the position, which is to be filled/is announced; general conditions; specific conditions; general work competencies; specific work competencies; working hours; and net amount of salary. However, they lack job descriptions.¹²

During the public competition procedure, clarifications are possible and provided in practice, but replies are not made publicly available. In addition, information about the possibility to send requests for clarifications is not included in announcements. Most often, there are dilemmas and ambiguities regarding the medical certificate.¹³ Moreover, if in the course of the administrative selection, the AA establishes the need for submission of additional documents, it notifies candidates by e-mail on their respective created profiles and candidates should submit the additional documents on the day of the interview.¹⁴

A selection panel prepares the final ranking list of candidates, who have successfully passed the selection stages and announces it on the AA website within three days following the interviews. The final ranking is done according to points allocated for: administrative selection, the administrative servant exam, and the interview, for candidates, who have acquired minimum 60% of the total i.e., maximum number of points in all previous stages of the selection procedure. The Panel selects the best ranked applicant and submits the proposal to the secretary/manager of the institution. The secretary (or managers of institutions, where no secretary is appointed) decides on the selection within five days from the day of receipt of the proposal.¹⁵

However, the procedure is cumbersome at the very beginning, and it discourages the interest of external candidates. The list of required documents, which should be submitted in the early stage, should be revised and narrowed down and only selected candidates should be obliged to provide the required documents.¹⁶ Furthermore, there is no possibility of supplementing required obligatory documents, this being possible only for documents that candidates may optionally attach to the online application and which can be required by the AA during the evidence reliability verification and during the interview stage.

Decisions on appointments are available on the website of the AA. Reasoning is not provided for in the decisions, except for a formal statement on the appointment, available on the AA website.¹⁷ However, information about annulled announcements is made publicly available.

Under the latest amendments to the LAS, published on the Single Electronic Registry of Regulations (ENER), the MISA has envisaged several proposals for overcoming the current shortcomings recognized by relevant stakeholders.¹⁸

According to the amendments to the LPSE recently published on the ENER, MISA has announced several changes to the LPSE, which are related to temporary employments and are designed to overcome shortcomings in the applicable Law, such as ban on the use of private employment agencies.¹⁹

Furthermore, the current LPSE does not envisage a central focal point for publishing announcements for public sector employments, which makes the procedure discordant since there are differences in the content of public announcements, even for the same type of institutions; in addition, there is no possibility to follow-up the procedure for publishing announcements, etc.²⁰ Currently, there are inconsistencies in the rights and obligations of cabinet servants/advisors, who are administrative servants and special advisors, who are engaged from outside the administration and who are both to perform the same or similar activities. This creates a legal gap in their status and leads towards difficulties in coordinating and collaborating with state secretaries and employees in the concerned institution.²¹

The legislative framework on recruitment has not evolved much in the last four years. A small adjustment has been made in the eligibility criteria in order to define what the former generic formulation “to be in general good health” means, correcting thus only a minor weakness.²²

10 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

11 It costs about EUR 1,500 to publish an announcement in daily newspapers, especially when it comes to advertising numerous positions.

12 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

13 However, the AA has taken the standpoint that it will accept the same certificate for several different job positions for which the applicant has applied; the certificate is attached to the candidate's profile and is valid for a year. Interviewees believe that the issue of calculation of the work experience should be regulated precisely, as well as the classification of jobs, since data of the Employment Agency and of the AA do not correspond.

14 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

15 Mandatory requirements are set, such as: proof of citizenship; medical certificate; internationally recognized certificate of proficiency in one of the three most commonly used languages in the European Union (English, French, German); certificate/diploma for completed degree of education; proof of an unspecified ban on performing a profession, activity, or duty; etc. There are also optional documents, such as: recommendations from previous employers; certificates of attended trainings, professional certificates proving other professional qualifications and specializations, papers, and publications; an internationally recognized certificate of proficiency in one of the six official languages of the United Nations, etc. Having completed the application, applicants receive an identification code linking them with the results in the selection stages.

16 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

17 The LAS only states the grounds for annulment of public announcements.

18 https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=60140

19 https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=60142

20 Ibid

21 Ibid

22 Sigma/OECD, The Principles of Public Administration, Republic of North Macedonia, November 2021 <http://www.sigmaxweb.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>

(MERIT-BASED) ENTRY IN THE ADMINISTRATION IN REGIONAL TERMS

All public administrations in the Region have made an effort with respect to announcing civil-service vacancies nationwide.²³ Despite the fact that vacancy announcements can reach broad audiences, recruitment procedures themselves are not so simple, especially for external candidates.²⁴

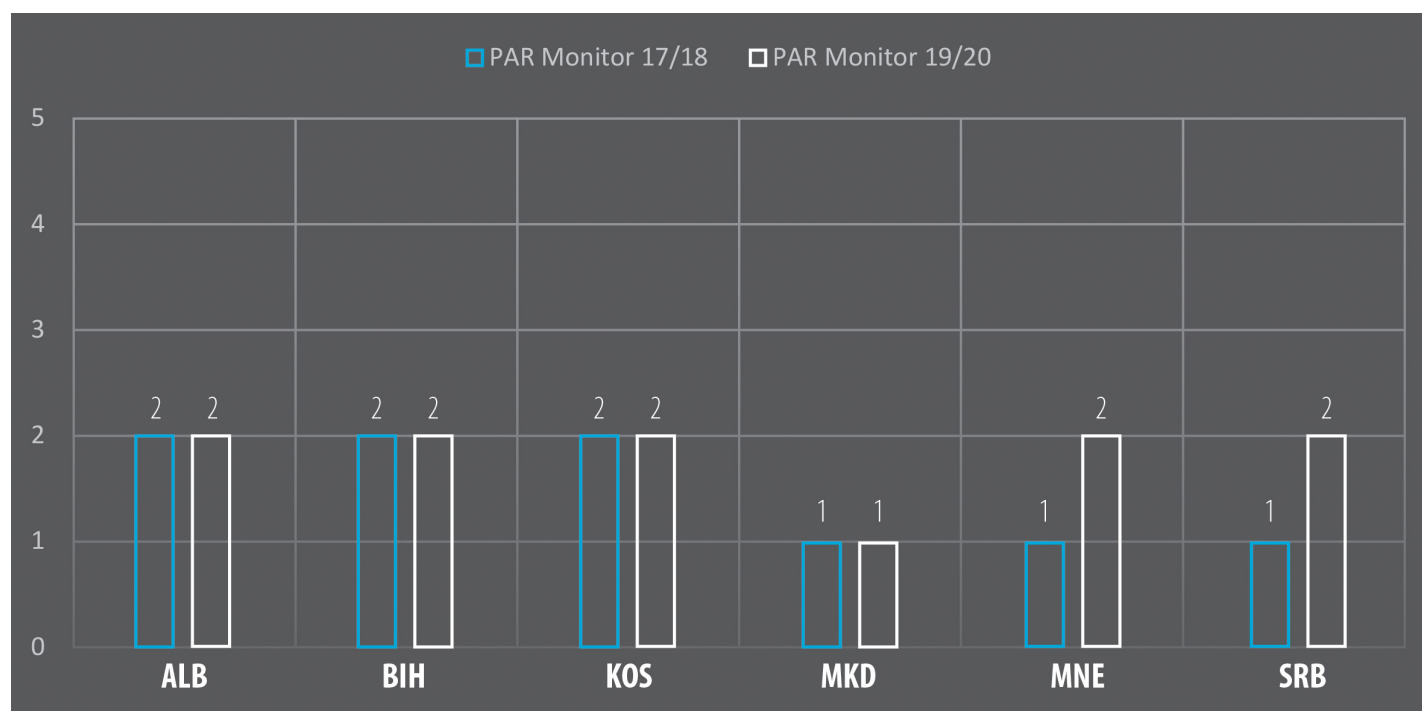
Most administrations in the Region disseminate public announcements through at least one nationwide channel.²⁵ Bosnia and Herzegovina and North Macedonia stand out in this regard as, in addition to being featured on websites of competent agencies, announcements are published in daily newspapers.²⁶ Analysis of the “user-friendliness” of the language of vacancy announcements reveals that efforts to this end are limited.²⁷ In Bosnia and Herzegovina, such texts are made clear and simple, whereas in Albania, Kosovo, North Macedonia, and Montenegro, the standard of clarity is met, but the requirement of using simple terms is met to a lesser extent.²⁸

Transparency also suffers in cases of annulment or cancellation of recruitment procedures, namely three administrations do not publicly announce such decisions: Albania, North Macedonia, and Serbia.²⁹

Civil servants’ perceptions of the relevance of merit in the recruitment processes are predominantly negative, for instance in Bosnia and Herzegovina, Kosovo, and North Macedonia around 50% of respondents disagree with the statement that in their institutions civil servants are recruited on the basis of qualifications and skills. The general public has even more negative view than civil servants have in the context of perceptions about merit-based recruitment in public administration. The percentage of citizens disagreeing peaks at 86% in Bosnia and Herzegovina, closely followed by North Macedonia (74%) and Serbia (63%).³⁰

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Openness, transparency, and fairness of recruitment into the civil service



23 <https://weber-news.s3.us-west-2.amazonaws.com/wp-content/uploads/2020/05/23203507/Western-Balkans-PAR-Monitor-2019-2020.pdf>

24 Ibid

25 Ibid

26 <https://weber-news.s3.us-west-2.amazonaws.com/wp-content/uploads/2020/05/23203507/Western-Balkans-PAR-Monitor-2019-2020.pdf>

27 Ibid

28 Ibid

29 Ibid

30 <https://weber-news.s3.us-west-2.amazonaws.com/wp-content/uploads/2020/05/23203507/Western-Balkans-PAR-Monitor-2019-2020.pdf>

31 Ibid

32 Ibid

ACCESS TO SENIOR CIVIL SERVICE POSITIONS

The principle of merit is included in the civil service legislation as a criterion for access to senior civil service positions. Namely, according to the LAS, a senior civil servant, who is an administrative servant of the category B, (B4 - head of unit), shall be appointed by the minister/head of the institution/mayor. He/she should meet the special conditions for the job position of head administrative servant of level B4. Hence, he/she enters the civil service on the principle of merit. However, the system is only to a certain extent based on merit regarding senior civil servants, being still highly discretionary: the sole condition for an individual to be appointed as a state secretary or secretary general of an institution is to hold a B4 job position level.³³

The discretionary appointment and dismissal of senior managerial level civil servants remains the weakest area. Taking into consideration the LAS or the sector legislation, it can be concluded that even if there are formal public calls by some agencies, the entire system of senior managerial positions is not competitive, and merit based. The Government is developing a Law on Top Management Service (LTMS) (Law on Senior Civil Service) to overhaul the system.³⁴

In the Macedonian legislation there is no clear distinction between the political and professional level in the administration, i.e., the scope for senior management service is not clearly defined and delineated. On the other hand, the LAS makes the first step towards professionalization of executive managers in the administrative service, by including them in the highest category "A".³⁵

However, general and specific conditions are regulated by the LAS, but the same conditions for directors in state administrative bodies are regulated in separate laws.³⁶ The main objective of establishing a senior civil service is to differentiate the political from the professional level, to establish lines of accountability of senior managers, which will lead to the advancement of public services and strengthening good governance, as an immanent principle of public administration.³⁷

ACCESS TO SENIOR CIVIL SERVICE POSITIONS IN REGIONAL TERMS

When it comes to regulations ensuring merit-based recruitment for senior civil service managers, Albania and Kosovo have more comprehensive frameworks than Bosnia and Herzegovina, Montenegro, and Serbia, while North Macedonia has not been given a positive evaluation.³⁸

The prevailing perception of civil servants is that appointments to SCS positions are often not merit-based, with 42% in average at the regional level disagreeing that the best candidates get the jobs.³⁹ Looking at national level data, there is a substantial contrast between the figures from two groups of administrations: North Macedonia, Kosovo, and Bosnia and Herzegovina on one hand, where the level of agreement with this statement does not exceed 20%, and Albania and Montenegro on the other, where approximately 50% of civil servants in each case agree with the statement.⁴⁰ Serbia's results fall in between these two groups, with roughly a third of respondents agreeing and around the same number disagreeing when asked whether appointments to SCS positions are merit-based.⁴¹

33 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

34 Sigma/OECD, The Principles of Public Administration, Republic of North Macedonia, November 2021 <http://www.sigmaxweb.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>

35 State Secretaries, Secretaries General and Secretaries at municipalities and the City of Skopje

36 Ibid

37 https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=51541

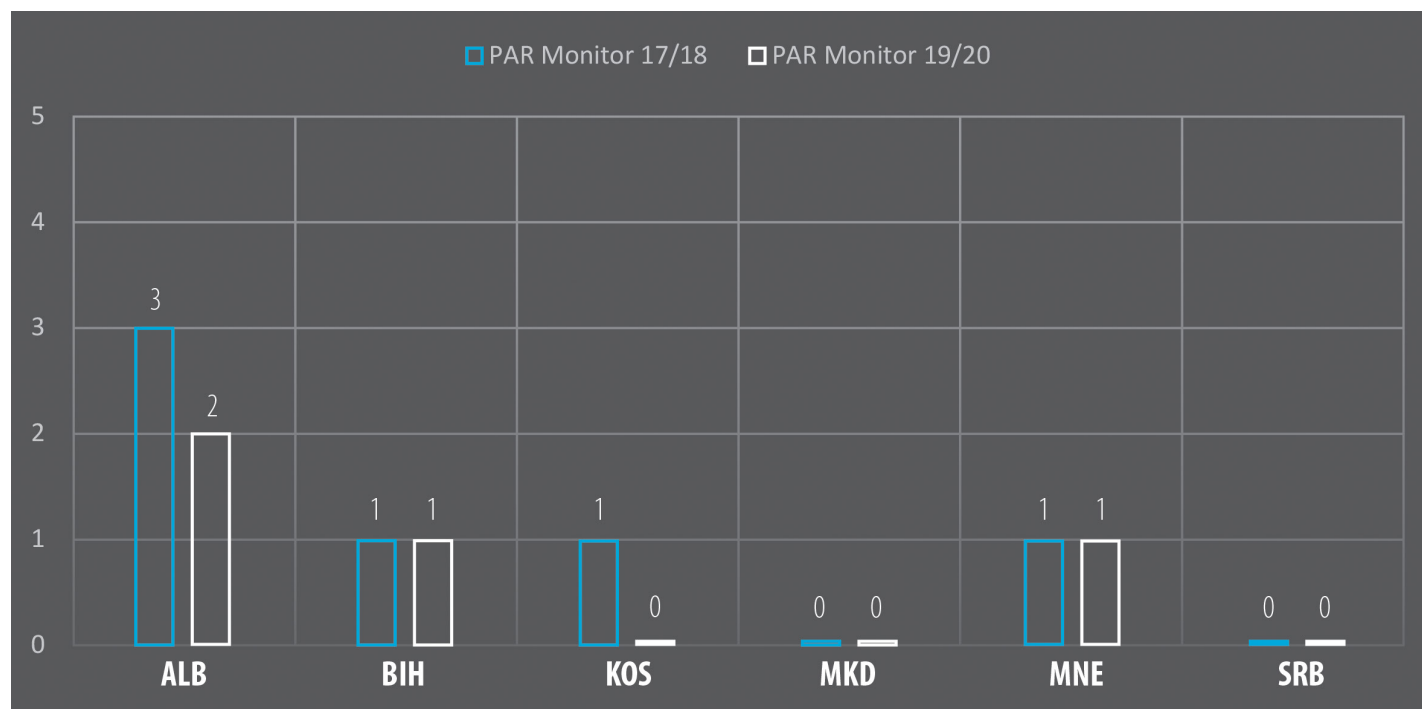
38 <https://weber-new.s3.us-west-2.amazonaws.com/wp-content/uploads/2020/05/23203507/Western-Balkans-PAR-Monitor-2019-2020.pdf>

39 Ibid

40 Ibid

41 Ibid

Effective protection of senior civil servants' position from unwanted political interference

**Recommendations In this Area:**⁴²

- *Announcements for employment vacancies should contain information about a contact person, who is to deal with requests for clarifications; the language of announcements should be more citizen friendly; excessive administrative and financial burden on candidates should be avoided; comprehensive reasoning as to why a certain candidate has been selected, or not, has to be provided.*
- *The number of temporary engagements should be limited by law and its usage should be revised.*
- *The Law on Senior Civil Service should be adopted.*

42 EPI, PAR Monitor for North Macedonia 2019/2020, https://epi.org.mk/wp-content/uploads/National-Par-Monitor-Macedonia_Final_eng.pdf

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