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Law on Senior Civil Service

Is the Government Hesitant to Adopt it?

Introduction

A professional, impartial, and effective public administration is key to the functioning of every democratic society. Therefore, it is very important to recruit educated and skilled professionals who are selected based on their qualities rather than their political affiliation. Recruitments, promotions, and dismissals of civil servants based on merit encourage candidates to apply for job positions in public administration, knowing that they will go through a transparent selection procedure and be assessed based on their competencies. Simultaneously, it motivates them to be proactive, ambitious, and hard-working, expecting to be rewarded for their work. This is especially important for senior civil servants with greater obligations and responsibilities. Hence, it is even more significant that their selection is merit-based. Their decisions affect the entire institution, which means they must respect the priorities of the government and the citizens they serve, acting in compliance with ethical standards. Such a professional attitude towards work, particularly among senior civil servants, strengthens personal and institutional integrity while increasing responsibility in work and enhancing public trust in institutions.¹

¹ Government of the Republic of North Macedonia, Reform Agenda of North Macedonia 2024-2027, September 2024, https://mep.gov.mk/data/MK_Reform%20Agenda_EN.pdf

The Role and the importance of the Senior Civil Service

SIGMA/OECD PRINCIPLES OF PUBLIC ADMINISTRATION

SIGMA/OECD developed the Principles of Public Administration in 2014 to support the European Commission's (EC) reinforced approach to public administration reform (PAR) in the EU enlargement process.² The Principles define what good public governance entails in practice, outline the main requirements to be followed during the EU integration process, and include a monitoring framework to enable regular analysis of progress made in applying those principles and in setting benchmarks for improvement.

While they represent a comprehensive framework of standards, a decade later, the need for revision arose to address the new challenges and updates in the standards and practices in the EU, SIGMA/OECD, and other international organisations. The revisions also aimed to better respond to society's challenges and the need for responsive and agile public administrations capable of addressing evolving political priorities and citizens' demands.³ They cover six areas of public administration, with 32 principles and 270 related sub-principles.

One of the areas covered is public service and human resource management, which highlights the necessity for civil servants' professionalism, integrity, and neutrality, as well as their recruitment and promotion based on merit and equal opportunities. There are five principles in this area, including Principle 9: Public administration attracts and recruits competent people based on merit and equal opportunities and Principle 10: Effective leadership is fostered through competence, stability, professional autonomy, and the responsiveness of accountable senior civil servants. These principles are related to senior civil servants, with Principle 10 focusing directly on them while Principle 9 addresses them more generally.⁴

Principle 9 establishes that public servants should be recruited through transparent and open competitions based on merit, and this process should be inclusive, thereby supporting diversity and equal opportunities in public administration. Furthermore, the announcements for recruitment should contain accurate job descriptions that provide the required candidate profile, along with work and salary conditions. This principle also lists potential requirements for the selection process of civil servants: selection committees should be composed of members qualified to assess candidates against the job requirements, free from conflicts of interest and political influence, while the selection methods should provide a fair and valid assessment of the experience, knowledge, skills, and competencies necessary to perform the job and ensure the selection of the most suitable candidates.⁵ The application of these sub-principles in the civil servant system should result in efficient and transparent selection processes, where applicants are informed of the recruitment decisions in a timely manner and have the right to request justification and appeal those decisions. These sub-principles should be applied equally to all

² OECD (2014), The Principles of Public Administration, OECD, Paris, <https://www.sigmaxweb.org/publications/principles-public-administration-overview-nov2014.pdf>

³ OECD (2023), The Principles of Public Administration, OECD, Paris, <https://www.sigmaxweb.org/publications/Principles-of-Public-Administration-2023.pdf>

⁴ Ibid.

⁵ Ibid.

recruitment procedures at all levels of civil service, including senior civil servants, to ensure the effective implementation of the principle of merit.⁶

On the other hand, Principle 10 is focused concretely on senior civil servants, who are defined as “the highest levels of professional management in public administration bodies, where managers enter into direct interactions with the political leaders: top-of-pyramid public servants in ministries (general secretaries or professional state secretaries), general directors of ministerial departments or equivalent positions in ministries, and heads of agencies”.⁷ Under this principle, it is necessary to regulate the scope of senior civil service, ensuring that senior managerial positions in ministries and agencies are not treated as political offices. Furthermore, such positions should be attractive through fair recruitment, competitive remuneration, professional challenges, autonomy and mitigation of career risks. There are also sub-principles focused on recruitment procedures, which must be merit-based and conducted professionally, impartially and transparently while supporting equal opportunities, gender balance and non-discrimination in senior civil servant positions. Regarding their work, senior civil servants must have clearly defined objectives aligned with the organisation’s mission and the government’s objectives, and their performance must be regularly assessed. Sufficient professional and managerial autonomy should be maintained to enable them to assume responsibility for managing staff, resources, and work. In addition, they have to continuously develop their skills to meet the demands of their roles. A final remark is made regarding the stability of the senior civil service, which fosters the continuity of institutional performance and memory; thus, appointing acting managers should not be a frequent practice.⁸ These principles establish the baseline for achieving an impartial, apolitical, and merit-based public administration, which can be accomplished in North Macedonia by adopting the new Law on Senior Civil Service as a starting point.

EC COUNTRY REPORT FOR NORTH MACEDONIA 2024

As the Republic of North Macedonia is a candidate country paving its way toward becoming a member state of the EU, it has to comply with the EU’s values and standards, including those regarding public service and human resources management. In its yearly country reports on North Macedonia, the EC has continuously emphasised the necessity of improving human resources management across the public administration and especially ensuring merit-based practices in recruitment, promotions, and dismissals, including at senior management levels, by setting criteria for their selection. In its latest report,⁹ the EC concluded that public service and human resources management are insufficient, and the politicisation of the public service has continuously undermined the consistent application of provisions on merit-based and transparent processes.

6 Ibid.

7 Ibid.

8 Ibid.

9 European Commission, “Commission Staff Working Document – North Macedonia 2024 Report”, 30 October 2024, https://neighbourhood-enlargement.ec.europa.eu/document/download/5f0c9185-ce46-46fc-bf44-82318ab47e88_en?filename=North%20Macedonia%20Report%202024.pdf

In addition to the identified deficiencies in the implementation of the existing legislation, it was noted that the long-awaited revised legislation on administrative servants and public sector employees (aiming at ensuring merit-based recruitment and fair promotions and dismissals), including the draft Law on Senior Civil Service, had not been adopted.¹⁰

Furthermore, following the May 2024 parliamentary elections in North Macedonia, it was evident that the change of government resulted in numerous middle management staff being replaced with acting managers, and many were demoted. The above-mentioned shortcomings have all contributed to a further decrease in citizens' trust in the public administration and its work.¹¹

CURRENT LEGAL FRAMEWORK

In the absence of legislation focusing specifically on senior civil service, the Law on Administrative Servants (LAS) regulates the criteria for access to senior civil service positions, including applying the principle of merit. According to the LAS, a senior civil servant, an administrative servant of the category B (B4—head of unit), is appointed by the head of the institution. There are special conditions for the job position of head administrative servant at level B4 that have to be met; nevertheless, the system is only partially based on merit regarding senior civil servants and remains 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.¹²

PAR STRATEGY FOR NORTH MACEDONIA 2023–2030

The most recent PAR Strategy for North Macedonia for 2023–2030, with the action plan for 2023–2026,¹³ was adopted in July 2023. The Strategy covers four key reform areas, sets out a clear baseline and clear objectives and targets, and identifies policy challenges and ways to address those challenges. One of its general objectives is achieving an apolitical, professional, and expert public administration, which begins by appointing senior civil service members based on the merit principle, thus opening the door to professionalising the entire public administration.¹⁴ Professional public administration, a specific objective 2.2 of the Strategy, envisages professional growth and development of every employee in the public administration, fostering a workforce with integrity, high moral values, knowledge of the profession, a professional attitude towards work, and the performance of work tasks.¹⁵

¹⁰ Ibid.

¹¹ Ibid.

¹² Law on Administrative Servants, Official Gazette of the Republic of Macedonia no. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of the Republic of North Macedonia no. 275/19, 14/20, 215/21, 99/22 and 208/24)

¹³ Ministry for Information Society and Administration, "Public Administration Reform Strategy 2023-2030 with Action Plan for 2023-2026", July 2023, <https://kvalitet.mioa.gov.mk/wp-content/uploads/2024/05/strategija-za-reforma-na-javna-administracija-2023-2030-so-akcziski-plan.pdf>.

¹⁴ Ibid

¹⁵ Ibid

Within this specific objective, there is a measure to ensure the professionalisation of senior management positions in public administration, which should represent a model for the professionalisation of all other employees in public administration. To implement this measure, a Law on Senior Civil Service is envisaged to establish a unified system of objective criteria for the selection of senior managers in institutions through transparent procedures based on public announcements, prohibiting the appointment of 'acting officials' with an unlimited mandate and without fulfilling legal criteria, and ensuring continuity, professionalism, and responsibility in the management of the public service. It is envisaged that such a law will be adopted in the first quarter of 2025, following which the preparation of manuals and other tools for members of bodies/agencies for senior civil service and for future candidates for senior management is planned, together with the provision of training for members of bodies/agencies for senior civil service.¹⁶

Another measure listed under the same specific objective is the promotion based on 'merit' and 'smart' descriptions in public administration.¹⁷ The idea behind this measure is that promotion in the service will be based on a realistic assessment of the performance of each civil servant, which will prevent political influence and any kind of subjectivism in the further development of personnel in the public service. At the same time, the measure should prevent any kind of external influence and pressure in the process of filling managerial civil servant positions. It envisages several activities, such as vertically filling the positions of managerial administrative civil servants with personnel from within by promoting existing employees. This is intended to be done primarily through the adoption of a Rulebook on the promotion procedure with an emphasis on checking competencies during the interview, the verification of management competencies for candidates for promotion to managerial positions of administrative servants, and the publication of selection decisions with an explanation of each selection decision individually based on evidence.¹⁸

THE DRAFT LAW ON SENIOR CIVIL SERVICE

The purpose of preparing the Law on Senior Civil Service.¹⁹ is to establish a senior civil service based on expertise and merit to improve organisational capacities and strengthen good governance in public institutions. With the adoption of this law, a clear distinction will be introduced in Macedonian legislation between politically elected and appointed persons and public administration staff.

The draft Law on Senior Civil Service is intended to stipulate various aspects of the senior civil service in North Macedonia, such as the principles of the senior civil service, the Senior Civil Service Commission, the procedure for selecting and filling senior civil servant positions, the rights and obligations of senior managers, the performance management of senior managers, accountability, professional development, dismissal, and termination of the mandate, as well as other relevant issues. According to this draft law, the senior civil service covers the highest man-

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ ENER, "Draft Law on Senior Civil Service", 19.07.2023, https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=74070.

agement positions in public institutions, which are directly accountable to political-ly elected and appointed persons and are a link between the political and administrative structure of the institution.²⁰ This definition applies to state secretaries (in a ministry), directors (in a directorate in a ministry, in bodies within ministries, and in independent bodies of the state administration), directors general (in an agency), and inspectors general (in an inspectorate).²¹

The draft law also lists the general principles on which senior managers are selected and on which they are later expected to conduct their work, such as the principles of equal conditions and equal access to senior management positions, adequate and fair representation, and gender equality; autonomy; accountability; delegation; transparency and competitiveness; professional ethics, impartiality, and objectivity; and economic use of resources.

The government should establish the Senior Civil Service Commission, which will be introduced and composed of five members, performing their work full-time within a mandate of five years. Specific criteria and procedures for the selection of the members of this commission have also been stipulated. The commission is primarily intended to implement procedures for the selection of senior managers and to establish databases of experts and boards for selecting senior managers, among other competencies.²²

Furthermore, to ensure a merit-based selection of senior managers, the draft law also establishes specific criteria and selection procedures implemented by a selection commission formed by the Senior Civil Service Commission specifically for each senior management position to be filled. When appointed, senior managers serve as chief executive managers in the bodies where they are appointed, whose main responsibility is to manage the administrative and organisational operations of the institution and to manage the human, financial, and other resources at the disposal of the institution, as well as to implement the policies of the Government of the Republic of North Macedonia and its ministries.²³

The competencies of senior managers (which are listed separately for state secretaries, directors, directors general, and inspectors general) must be performed in accordance with the Constitution, laws, strategic and program priorities of the institution, strategic and program priorities of the Government, and the tasks assigned by the public official.²⁴ In addition, senior managers are expected to adhere to the highest standards of personal integrity and professional ethics and to respect the Code of Ethics for Senior Civil Service.²⁵ These obligations imply that senior managers are not only selected based on merit, but they also need to ensure the impartiality and transparency of their work, thus proving their commitment to the Government's priorities and the advancement of society as a whole. According to the draft law, their performance should be assessed based on the degree of completion of the yearly goals determined by the public official together with the senior manager.²⁶

20 Article 3, Draft Law on Senior Civil Service.

21 Article 5 para. 1, Draft Law on Senior Civil Service.

22 Article 21, Draft Law on Senior Civil Service.

23 Article 40 para. 1, Draft Law on Senior Civil Service.

24 Article 42 para. 1, Draft Law on Senior Civil Service.

25 Article 43 para. 1, Draft Law on Senior Civil Service.

26 Article 45 para. 1, Draft Law on Senior Civil Service.

This legal solution offers a comprehensive framework, focusing specifically on the senior civil service and setting standards for merit-based appointments of senior managers. It has been in the process of preparation since 2017. However, no significant development toward its adoption has been made due to a lack of political will, determination, and decisiveness. Moreover, considering that 2024 is an election year in North Macedonia, it was only published on the Single National Electronic Register of Regulations of the Republic of North Macedonia (ENER) on 19 July 2023 and has yet to be adopted.

PAR MONITOR FOR NORTH MACEDONIA 2021/2022

According to the latest PAR Monitor for North Macedonia,²⁷ the discretionary appointment and dismissal of senior managerial-level civil servants remains the weakest area. In the Macedonian legislation, there is no clear distinction between the political and professional levels in the administration, i.e., the scope for senior management service needs to be clearly defined and delineated. While the LAS makes the first step towards professionalising executive managers in the administrative service by including them in the highest category, 'A', there is still a need to establish detailed criteria and selection procedures for senior managers. The new Law on Senior Civil Service has been under preparation for the past few years, and it is expected to introduce merit-based and open competition in recruitment and dismissal of senior civil servants when adopted. While most of the interviewees in the PAR Monitor pointed out that a separate or new law does not necessarily have to regulate these aspects, it is still crucial to address them in Macedonian legislation, given that senior managers should possess appropriate experience, skills, knowledge, and competencies to perform tasks based on clearly established standards.

²⁷ Julijana Karai; Angel Mojsovski, "PAR Monitor for North Macedonia 2021/2022", European Policy Institute, 2023, https://epi.org.mk/wp-content/uploads/NATIONAL-PAR-MONITOR-NORTH-MACEDONIA_-_2021_2022-1.pdf

Conclusion

The senior civil service system is only partially based on merit. The currently unclear legal framework allows for the abuse and distribution of positions in non-transparent procedures based on party affiliation and coalition agreements, which is especially notable following the country's election processes. This results in institutional inefficiency and disrupts the timely and high-quality delivery of services to citizens.

Hence, it is essential to immediately regulate this matter by adopting the Law on Senior Civil Service and begin implementing it. The delay in implementing the law leads to the continuation of non-transparent and low-quality appointments of directors and managers. For years, the international community has been pointing out the need for de-partisanship and investment in the capacities of the public administration so that the separation of political and managerial positions in institutions, through an established selection mechanism based on merit, will ensure greater efficiency in the work of the institutions. Subsequently, this would contribute to the professionalisation of the entire public administration, resulting in high-quality public services and a higher level of trust from its citizens.

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