

Twenty years of transparency development in the public sector: What has been achieved?

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Abstract

Transparency is one of the crucial principles of sound good governance in the public sector. The main objectives of the research in the paper are concentrated around examining the development process of the principle of transparency within the public sector in Macedonia in the last twenty years or the beginning of the reforms until now. The scope of the research is concentrated around analysis of all government actions and the basic officially adopted documents in the field of public administration reforms while closely examining the evolutionary concept of e-governance, e-management and the principle of transparency. Consequently, the methods such as observation and content/critical analysis of the main research papers and governmental documents in the field are key methods that are applied in the research methodology. The research results point to the fact that in recent years there are significant results achieved in the field of e-governance and e-management. The mechanisms for transparency development by using e-government strategies and techniques greatly improved through the years. However, there are still many problems that require immediate actions. The research results impose a number of conclusions that, generally, ask for further strengthening of the overall institutional capacity, more effective and efficient anti-corruption coalitions and measures as well as strengthening the overall capacity of the administrative judiciary in the area of exercising legal administrative practices. There still remains the great challenge for developing sound positive legal solutions that will eliminate any aspect of doubtful thinking and will guarantee greater transparency and increased public confidence. Thus, the research in the paper is of great value for academicians and public administration practitioners as an example of permanent evolutionary efforts for achieving greater public sector transparency during a long transitional period in a country that hopes one day to become EU member.

Keywords: Public administration, strategy, e-government, Macedonia.

1. Introduction

Since its independence in 1991, the main foreign policy of the Republic of Macedonia until today is a full membership in EU. According the EU country reports through the years, generally, Macedonia lacks good governance in Ministries i.e. public administration and judiciary. Considering the fact that Macedonia was under Ottoman Rule for five centuries (1395-1912), in 1913 its territory was divided on three parts between neighbouring countries, two world wars or under German-Bulgarian-Albanian fascism and Yugoslavian communist regime (1945-1990) it can be easily concluded that the process of democratization of the Macedonian society is not easy and needs not years but decades to fully accept democratic values. Consequently, without implementing democratic values it is not possible one day Macedonia to become EU member.

The overall administrative reforms are complex process and their successful implementation depends on the political will on many parties involved in the process. Transparency and open government are one of the key principles in delivering sound administrative reforms and key criteria for judging the democratic development of the society. Today, the literature on transparency in government and public administration is vast in scope considering a great number of scholars and practitioners from both

developed and developing countries worldwide. As research results can be similar or different, the main point is clear, and that is: Democracy and the rule of law is not possible without transparency!

According to Rutovic, the process of democratization with the purpose of achieving better rights is not fully established without full access to public information (Rutovic, 2012). Other authors, such as Kovac point out that without transparency we can not speak about good governance and sound public management (Kovač, 2016). Some view transparency as one of the most powerful tool in fighting corruption (Dragos, 2006) while others point out that citizens have the fundamental right to know what public officials are doing and thus, to build their opinion about the public policies in objective manner (Edes, 1999).

In the following sections of the paper will be given an overview of the international (mainly EU) and domestic law framework that deals with transparency and open government as well as the analysis of the process of transparency development in Macedonia since its independence from Yugoslavia in 1991 until now. In this paper, the research divides the process of transparency development in the country into three phases i.e. (1999-2009); (2010-2016); (2017-2022). The periods or time frames under analysis are defined according to the time frame of the main strategic reforms that were prepared and implemented in the country by many governments through the years. In other words, the three main strategies for public administration reform in the country since 1999 until now.

2. International and domestic legal framework for transparency development

Generally, there are four fundamental principles that are of extreme importance for judging good governance in the society. Those are: transparency and openness, rule of law, public accountability and efficiency and effectiveness of the use of public resources. All these principles are the core of the *acquis communautaire* (Akimovska- Maletic, 2017). Consequently, public administration on all governmental levels must develop good democratic values by maintaining good mutual relations with the public it serves.

The free access and exchange of public information is a condition *sine qua non* for delivering sound and transparent democratic policies. It is very well known that citizens have the fundamental constitutional right to be informed about the work of the public officials as well as officials that have the fundamental political responsibility to know the political positions of the citizens. Without the exchange of public information there is no base for judging the success of the officials as well as the degree of success of the public work they achieved in the past. As a result, public administrators must be always informed about what citizens think about their work and must always act in a manner that increases the citizen's confidence in what they are doing.

Building trust between public administration and citizens must be active and consistent and that can not be achieved without free flow of public information as one of the greatest resources and powerful tool for citizen's control over public policies as well as the legal fight against nepotism, corruption and bribery. Today, in the process of world globalization is given appropriate attention to the great value of public information and

free access to public information by the international (global) and national organizations, such as UN- Conventions, EU regulations, Ministries and Local Government Acts on public information etc.

2.1 EU regulations

Besides numerous international and UN- Conventions, what is more important for the democracy development in the Republic of Macedonia are the EU legal frameworks that pertain to securing transparency among the public sector employees. Most important official documents are the documents adopted by the Council of Europe known as the Recommendations R (81) 19, Recommendation R (2002) 2 and Recommendation R (2003) 13 that pertains to media obligation to inform citizens about any type of public information (Council of Europe, 2003).

In addition to the above-mentioned recommendations, the first serious step towards mandatory legal enforcement of transparency was the adoption of the Convention by the Council of Europe which defines a minimum standards for transparency development of the EU member states. However, the key decision by the Council of Europe that imposed significant impact on transparency development among EU member states was adopted in 1993. Subsequently, numerous decisions, decrees and directives were recommended and adopted by the European Parliament and Council of Europe, such as: Decision of the Commission of the European Community 94/90/EZUĈ; Decree No. 1049 of 2001; Directive 2003/98/EC and Directive 2013/37/EU (Akimovska- Maletic, 2017).

2.2 Domestic legal solutions

The right to free access to information of public character in the Republic of Macedonia is a Constitutional category. In other words, it is part of the Constitution adopted in 1991 under Article 16, paragraph 3 that guarantees freedom of exchange of any type of public information between institutions and general public. However, finally after almost 15 years of the Constitution, or in 2006 the first Law on free access to information of public character was adopted. The Law regulates all the aspects of free access to public information where the key role is performed by the so-called Commission for Protection of the Right to Free Access to Information of Public Character. Annually, the Commission publish a list of all the institutions on local or national level that, according the law, are holders of public information. Each of those public institutions must employ a responsible person that serves as a liaison between the public administration and the general public in providing accurate information of public character (LFAIPC-Art 1 & Art 5, 2006).

3. Public administration reform efforts through the years: Was transparency at the top of the agenda!?

Besides the fact that the domestic legal solutions in providing transparency in the public sector were first officially adopted in 2006 (The Law on free access to information of public character), the country was permanently active in developing long-term documents i.e. Strategies for public administration reform during the years. The pressure from the international community and the internal pressures for further democratization of the Macedonian society put the political officials in the country under “red light”. In almost

every EU country report dedicated to Macedonia the accent was put on public administration reforms as a key criteria for full membership in EU (besides fighting corruption and judicial reforms). The result of those pressures was the adoption of three subsequent Strategies for Public Administration reforms adopted in 1999, 2010 and the most recent from 2017. In all these Strategies, the issue of public transparency was consistent part of them with the hope of full implementation of the Strategies in the real life.

3.1 Transparency development at the beginning of the century (1999-2009)

The first Strategy on Public Administration reforms was adopted in 1999 and lasted until 2009. The basic principles upon which the Strategy was built were the following: a) Rule of law; b) Competency; c) Efficiency; d) Stability; e) Predictability; f) Responsibility; g) Equal treatment; h) Transparency; and i) Ethics (Markic, 2004). Without any of these principles its almost impossible to successfully implement the concept of good governance i.e. good management practices in public institutions. Besides very good theoretical intentions, the Strategy did not implement in practice of what was theoretically defined. There was not enough political and financial support. None of the principles that were the basis of the Strategy were fully implemented. Some of them, even partially were not implemented. Except for the new Law on free access to information of public character, the public insitutions were highly politicized and pretty much out of the public control. The principle of transparency was non-existent and was out of the political agenda of both right and left-wing rulling parties. The practice proved that these governmental structures did not have any political and institutional capacity to promote good governmental values in the eyes of the general public. Except for satisfying their personal imterests, the politicians did not successfully achieve any of the goals that pertain to developing transparency and protecting public interest.

3.2 Further development (2010-2016)

In December 2010 was adopted the second Strategy for Public Administration reforms in the country. After the big failure of the previous Strategy, it seemed that the Government officials learned that they can not “buy” time anymore. The domestic and international public pressure was consistently growing asking for solutions and results in the field of good governance and transparency. As a result, the Government established a Ministry of Information Society and Administration with the main purpose or goal to make public institutions open and transparent to the public. More important, in 2011 the Government established a new public institution i.e. Agency for Administration that in coordination with the newly established Ministry had an important task to fully implement the existing key Laws in the field of administration and public sector management (more precisely The Law on Administrative Servants and The Law on Public Sector Employees both adopted in 2014) (Official Gazette No. 27, 2014).

The key areas of the Strategy were public finances, human resource management, e-government & management and corruption (Government of the Republic of Macedonia, 2010).

Table 1. Public administration reform developments (December, 2010)

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|-----------|-----------------------------|---------------------------------|--------------------------------|---------------------------|
| PA Reform | Public Finances | Human Resource Management | E- Government and E-Management | Corruption |
| | Budget Preparation | Human Resource Planning | E-Infrastructure | Abuse of Public Resources |
| | Public Procurements | Human Resource Training | E- Public Services | Conflicts of Interest |
| | Internal Control | Human Resource Evaluation | | |
| | External Financial Revision | System of Salaries and Benefits | | |

Source: Dimeski, B. 2011. Public administration reform process in Macedonia: Between politics and good governance, International Journal of Politics and Good Governance, Vol. 2, No. 2.4 Quarter IV, p.7.

Mainly, the issue of transparency in the Strategy was covered by the implementation of the concepts of E-Government and E-management. The Ministry adopted a National Strategy on e-Government (2010-2012) in which were underlined the basic strategic and action plans for a successful implementation of the IT technology in support to more effective, efficient and transparent public administration. The overall organization of the E-Government and E-management concepts was put within a legal framework, such as: The Law on E-trade, The Law on Electronic Signature and Electronic Documents, The Law on E-Management etc. The implementation of the legal framework enabled successful implementation of the concept of E-services with the challenge to be implemented a new so-called E-benefits concept that in most EU countries was already implemented. As a result of the previous efforts, the business environment in the country considerably improved. The Law on Trade Enterprises and the Law on One-Stop-Shop System influenced the overall time for registering business in the country. Just four hours were needed to be registered any business in the country.

However, besides very good intentions, many problems in the successful implementation of the concepts for E-Government and E-Management were located. According the Strategy, they were identified as: a) slow computerization; b) inconsistent legal provisions; c) low-level of awareness about the use of E-services and their benefits; d) lack of some registries and the implementation of some E-services; e) small budget for E-service development; f) lack of mechanism for monitoring and controlling the overall quality of E-services; and g) lack of professionals or qualified people for a successful management and coordination of E-services and E-management of related services (Government of the Republic of Macedonia, 2010).

On other hand, the Strategy identified the following challenges for the future development, such as: a) developing a consistent system for following the EU recommendations for inter-operability frames and mutual exchange of information; b) the emergent need for developing additional E-services; c) improving the overall conditions for so-called pro-active and citizen-oriented services; and d) the emergent need of strengthening the E-infrastructure by developing and implementing broadband internet for all citizens in public places; and e) permanent development of the E-government web

portal and E-payments through the web portal (Government of the Republic of Macedonia, 2010).

In order to achieve the above-mentioned challenges, the Strategy defined a number of measures that had to be undertaken until 2015, such as: a) fully operational frame for securing inter-operability of public administration; b) increased budget for further development of E-services; c) introducing internet services for businesses, five crucial integrated internet services for citizens and internet services for public organizations to secure their direct access to public registries; d) implementing a centralized info center (open telephone line and web portal) for businesses and citizens; and e) common internet portal for E-management of all E-documents and administrative activities on every administrative level in the public sector (Government of the Republic of Macedonia, 2010).

Going further, during 2014, the crucial legislation that pertains to public administration democratic development was adopted by the Parliament i.e. The Law on Public Sector Employees and the Law on Administrative Servants (Official Gazette No. 27, 2014). In both Laws, more precisely in Article 73 of the Law on Administrative Servants and in Article 10 of the Law on Public Sector Employees, the principle of transparency among public sector employees is a crucial value of behaving on a workplace.

However, besides the best intentions in the Strategy, the country was “hit” by a deep political crisis that lasted almost two years (from the beginning of 2015 until the end of 2016). The political conflict between the two major political parties escalated in Government resignation. As a result, the big parts of implementation of the Strategy ended as a big failure. The concepts of E-government and E-management were not fully implemented as was planned before and the principle of transparency and open government were still not enough developed. In the eyes of the citizens, the Government was still perceived as a main contributor to all the problems in the society and one of the biggest challenges was to re-build the citizen’s confidence in public institutions. However, there was a little time to act quickly.

3.3 What are the perspectives (2017-2022)!?

After almost two lost years in political negotiations (2015 and 2016), there was an extreme need for continuing the process of building transparency and re-gain the public confidence in institutions. After the December elections in 2016, the new Government started to re-build the process of transparency development in the public sector by adopting a new Draft-Strategy on Public Administration reform for the following five-year term (2017-2022).

The Strategy orients towards the following four priority areas, such as: Strategic Framework, Public Service & HR Management, Accountability & Transparency and Service Provision & IT Support to Administration. Not surprisingly, but in this Strategic document (comparing to previous PAR Strategies), is given full attention to transparency development in the public sector. What that means for the public sector future developments in the country!?

The Strategy points out the basic actions implemented in a number of Laws around improving transparency in the public sector in the country, such as: The State Program for Prevention and Repression of the Corruption with Action Plan (2016-2019); The Law on Corruption Prevention; The Law on Preventing Conflicts of Interest; The Law on Whistleblowers; The Law on Public Internal Financial Control; The Code of Conduct of the Administrative Servants etc. In addition, a number of projects were started and implemented, such as the project titled “Open Data” that the Ministry of IT and Administration started to implement together with the Institute of Open Data in London and the Centre for Public Administration Research from Austria. Also, Macedonia signed the document called a Global Initiative to Open Government Partnership in 2011 that was a positive step further in exchange of important information concerning transparency of public data (Government of the Republic of Macedonia, 2017).

In perspective, the Strategy defines a number of measures to improve transparency by defining the common (general) goal and expected results, such as (Government of the Republic of Macedonia, 2017):

- (GENERAL GOAL)-Advanced concept of integrity by transparent and accountable behavior, oriented to people and business environment;
- (EXPECTED RESULT 1)- Implementing a system for an effective fight against corruption, conflict of interest and ethics in the public sector;
- (EXPECTED RESULT 2)- Better transparency and open public institutions; and
- (EXPECTED RESULT 3)- To implement mechanisms for greater protection of the rights of the citizens in front of the administrative courts.

4. Conclusions

After its independence in 1991, Macedonia still lacks a well defined system for transparent and open government. A number of laws, programs and strategies were adopted by many governments in the past. However, the basic problem with all of them is the implementation phase. As a consequence, there are a number of questions, such as: Why the implementation phase? What are the causes? Who is responsible? Etc.

There are many answers, but generally, they are the following:

- the lack of political will;
- the lack of public support and scientific research; and
- the lack of financial resources.

Besides declarative support for the governmental reforms that will enable transparency improvement in public institutions, politicians care more about their personal political careers and much less about the societal values including transparency. They are not aware of the fact that transparency is a fundamental democratic value of the human civilization. The public interest in Macedonia was not coherent with the political will and the acts of politicians. It seems that there is a need for a greater international monitoring

of the acts and behavior of the politicians in Macedonia. It seems that they are not well educated and majority of them do not really understand what is the value of transparency.

The public support and public pressure was present through the years but very weak and not enough. Every public action towards improving transparency was understood as a political campaign from the opposition party(s). Even the scientific research and reports on transparency development were understood as a critics to government and, accordingly, some sort of political propaganda. Unfortunately, from the independence until now, the political culture of all political establishments did not improve in democratic sense. Even the empirical scientific research on transparency development is not on a needed scientific level as in EU countries.

Finally, the country is always under economic and judicial crisis. The main economic parameters (like budget deficit, exports vs. imports, unemployment, standard of living etc.) are negative trends since the country's independence. The lack of financial resources for a successful implementation of the public administration reforms including improving transparency was one of the basic limitations. In many cases, through the years, many of the officially adopted governmental projects or programs were abolished or remained half implemented without producing a valuable impact on changing societal behavior. Judiciary needs to be really independent. In the past and still in the present there were cases where judiciary was not immune to political influences and pressures in deriving judicial decisions in the country.

There is no doubt that many Governments in the country through the years spent a large financial and human resources and time in order to make public sector more efficient, effective and transparent. Also, there is no doubt that the present Government has the best intentions in putting a huge efforts for the successful implementation of the new Strategy. This time, it seems that there is no even "space" for making mistakes because of the past experiences. The 21st century is moving fast as never before.

References

1. Akimovska- Maletic, I. (2017), *Free Access to Public Information as a Prerequisite for Transparent and Accountable Public Administration*, Security Concepts and Policies- New Generation of Risks and Threats, Ohrid, Macedonia, pp. 310-324.
2. Council of Europe- Committee of Ministers (2003), Recommendation Rec(2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to criminal proceedings (Adopted by the Committee of Ministers on 10 July 2003 at the 848th meeting of the Ministers' Deputies), Strasbourg, France.
3. Dimeski, B. (2011), Public Administration Reform Process in Macedonia: Between Politics and Good Governance, *International Journal of Politics and Good Governance*, Vol. 2, No. 2.4, Quarter IV, pp. 1-14.
4. Dragos, D., Neamtu, B. (2006), Transparency in Public Administration: free access to public information. A topical comparative analysis of several jurisdiction from Central and Eastern Europe, *Transylvanian Review of Administrative Sciences*, Vol. E/February, Issue 16, pp. 12-24.
5. Edes, B. W. (1999), Openness and Transparency in Governance: Challenges and Opportunities, *The Second NISPAcee Civil Service Reform*, Maastricht, The Netherlands, p. 151.

6. Government of Macedonia: Ministry of Information Society and Administration (2010), *The Strategy for public administration reform in the Republic of Macedonia 2010-2015*, EuropeAid/127747/C/SER/MK, Sector of Policy Analysis and Coordination, pp. 1-77.
7. Government of Macedonia: Ministry of Information Society and Administration (2010), *The Draft-Strategy for public administration reform in the Republic of Macedonia 2017-2022*, pp. 1-68.
8. Kovač, P., <https://www.degruyter.com/downloadpdf/j/nispa.2016.9.issue-2/nispa-2016-0014/nispa-2016-014.pdf>, date: 10.09.2017.
9. Law on administrative servants, Official Gazette of the R.M., No. 27 from 05.02.2014.
10. Law on public sector employees, Official Gazette of the R.M., No. 27 from 05.02.2014.
11. Law on free access to information of public character, Official Gazette of the R.M., No. 13 from 01.02.2006.
12. Markic, L. (2004), *National Case-Study: Public Administration in the Republic of Macedonia*, Centre for Public Administration and Public Policy, Euro-Balkan Institute, No. 45, pp. 17-29.
13. Rutović, T., <http://maticacrnogorska.me>, date: 09.09.2017.