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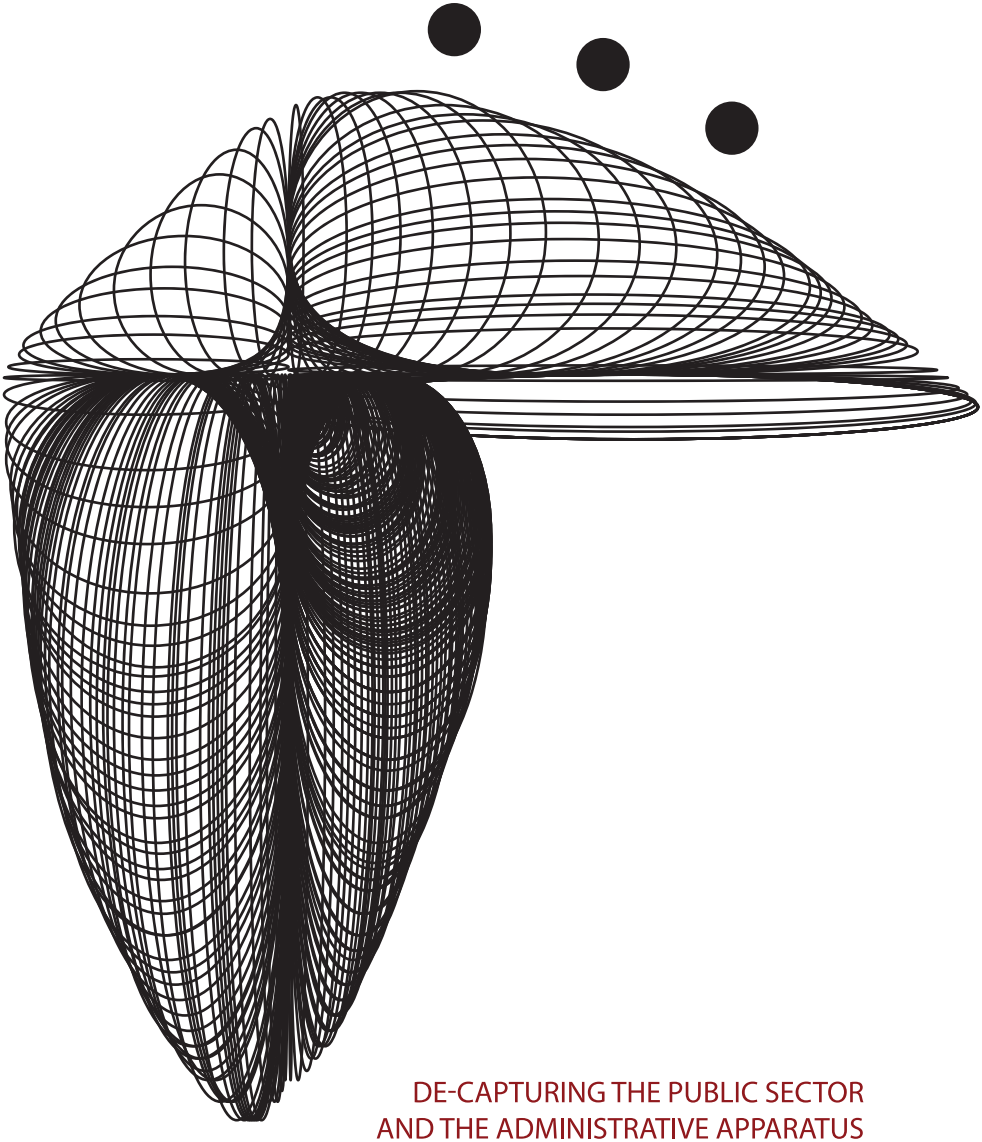

DE-CAPTURING THE PUBLIC SECTOR AND THE ADMINISTRATIVE APPARATUS

The Unfinished Business of Implementing EU's Urgent Reform Priorities of 2015

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De-capturing the Public Sector and the Administrative Apparatus: The Unfinished Business of Implementing EU's Urgent Reform Priorities of 2015

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THE DEFINITION OF STATE CAPTURE IN THE CONTEXT OF HYBRID REGIMES IN EASTERN EUROPE

It is essential to note that the notion of "state capture" as used in in this study is based on its contextual determination referring to the authoritarian policy making and governance in Eastern Europe mainly, in particular in the countries part of the EU (Hungary) or in an accession process (North Macedonia, Serbia under Aleksandar Vučić). We have elaborated the use of this notion in previous studies, analyses of the era of Nikola Gruevski in North Macedonia and the political crisis that brought forth European Commission's Urgent Reform Priorities (2015) set for the country targeting the problem of "state capture" specifically and the early parliamentary elections held in December 2016. In said studies,[1] basing our analyses to a great extent on the elaborations of the notions of "illiberal democracy" and hybrid regimes in Eastern Europe published mainly in several issues of the Journal of Democracy[2] but not only, we have defined the specific type of "state capture" as blurring of state and party, thus grounded in populism, amounting structurally to an excessive power of the executive branch. The latter consists in the type of governance which identifies state institutions, administration in particular, power with the ruling party and its program, becoming its (party's) instrument of execution rather than of the legislative branch which is reduced to an empty form manipulated through heavy-handed party control to legitimize the predetermined intentions and actions of the executive branch.[3]

> As noted in the EU progress report, even in a relatively stable situation, such as the end of 2015 and most of 2016, the Macedonian Parliament displayed weak legislative and oversight functions. This assessment can be explained through the presentation of its work which the ISSHS proffered in the previous CW: the Parliament is subordinated to and works in concert with the narrow ruling elite, while the parliamentary majority acts as a mere "voting machine" of

[1] Katerina Kolozova, *The Uses and Abuses of Neoliberalism and Technocracy in the Post-totalitarian Regimes in Eastern Europe: The Case of Macedonia* (Skopje: Institute of Social Sciences and Humanities, 2016), available at the Central and Eastern Europe Online Library URL https://www.ceeol.com/search/book-detail?id=606574, accessed on 10 September 2021. Compare also: Katerina Kolozova "The Uses and Abuses of Neoliberalism and Technocracy in the Post-totalitarian Regimes in Eastern Europe: The Case of Macedonia" in Victor Fridman, Goran Janev and George Vlahov (eds.), Macedonia & Its Questions: Origins, Margins, Ruptures & Continuity (Berlin: Peter Lang GmbH Internationaler Verlag der Wissenschaften Berlin 2020 [DOI 10.3276/b17262]), p.184 – 201.

[2] Michael F. Plattner, "Illiberal Democracy and the Struggle on the Right," Journal of Democracy Vol. 30, no. 1 (2019), 5-19; Jacques Rupnik, "The Specter Haunting Europe: Surging Illiberalism in the East," Journal of Democracy Vol. 27, no. 4 (2016): 77–87.

[3] Gordan Georgiev and Katerina Kolozova, A House Ready to Crumble? Putting Back the Building Blocks of Macedonia's Parliamentary Democracy (Skopje: Institute of Social Sciences and humanities [Институтот за општествени и хуманистички науки – Скопје], 2018), available at Central and Eastern European Online Library URL https://www.ceeol.com/search/gray-literature-detail?id=624563, accessed on 10 September 2021.

the legislative acts proposed by the executive branch. A significant amount of political will and concrete measures are needed to substantially improve its performance as a forum for constructive political dialogue and representation, according to the EU Progress Report.[4]

Similar studies have been undertaken, operating with the notion of "state capture" as defined here (including in the EU progress report of 2016)[5] as well as elsewhere such as by the Open Society Institute in Hungary in order to assess the policy climate which led or corroborated the Foundation's decision to leave Budapest which was completed in 2018.

In 2016 the Institute of Social Sciences and Humanities – Skopje (ISSHS) popularized the notion and the approach of analysis through its NED supported campaign of explaining "state capture" as defined in the opening paragraph – thus exceeding the issue of corruption and unravelling the method of this particular EU-technocratic authoritarianism. ISSHS also presented the notion and its case in point in North Macedonia in front of the policy makers in Brussels, representatives of the Commission as well as European MP's, at a roundtable in December 2015 at the European Policy Center, which was then reflected in the EU progress report on the country that followed later next year.

Thus, authoritarianism was demonstrated as embedded in EU aligned policies of the institutions of the state, thus the administration and the public sector more generally. In this study we want to return to this question and examine the discrepancy between the rhetoric of the ruling center-left party and the policies in place in the public sector and in the administration. The intention is to look at the values the existing style of administration seems to relies on, thus a philosophy of governance, in order to ask a simple question: dominant political rhetoric aside, has North Macedonia really moved beyond authoritarian governance judging by the treatment of the Citizen? We consider this question as part of the issue of the country's compliance with the European Charter of Fundamental Rights, referring to the Article 41 of the Charter more specifically (but not only), which is a question to be discussed below. We argue that for a substantive adherence to the EU accession chapter 23, Human rights and rule of law, the right to good administration and a public sector that puts the citizen at its center is of key importance. Good administration is not value-free, and

[4] Annual Context Watch of North Macedonia 2017, produced by ISSHS upon the commission of the Swiss Embassy in North Macedonia, p. 4-6.

[5] European Commission, "The Former Yugoslav Republic of Macedonia 2016 Progress Report" (Brussels: 9 November 2016), available at https://ec.europa.eu/neighbourhood-enlargement/system/files/2018-12/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf, accessed on 08 August 2017.

there is a difference between the European values of good governance, including the administrative sector and the authoritarian one regardless of whether in the guise of EU technocracy or otherwise. In October 2019, France vetoed North Macedonia's and Albania's opening negotiations of accession based on precisely its insistence that the formal and nominal adherence to the European principles of governance was not enough, and that a substantive sectoral transformation was required. Due to this observation, the EU adjusted the accession methodology.

2

A LITTLE BIT OF BACKGROUND: A GLANCE SIX YEARS BACK AND THE PRESENT CONTEXT

As mentioned above, the political crisis whose diagnosis was declared to be "state capture" North Macedonia found itself in back in 2015, was initiated by a nearly yearlong protest period of the student-professor plenums. The so-called academic plenum-movement evolved into a nationwide grass-root incessant series of protests organized in plenums (e.g., high school students' and teachers' plenums, part-time workers)[6]or otherwise (e.g., a citizens' initiative for the freedom of the press)[7], and, most notably, against the phenomenon of "state capture" itself by the #protestiram movement in the Summer of 2015. Dovetailing the civic movement, and seeking to become part of it expressed in open appeals in May 2015, SDSM (The Social Democratic Union of Macedonia) and its leader Zoran Zaev started releasing wiretapped conversations that were supposed to disclose the abuse of power and corruption in the government led by Nikola Gruevski. That very same year, a senior expert group appointed by the European Commission with the German jurist Reinhard Priebe at its lead, produced a study on the independence of the judiciary exposing the problem of the excessive power of the executive branch. The so-called report of Priebe was the foundation for EU's Urgent Reform Priorities set for the country in 2015. In this study, we will argue that these reforms have not been completed, at least not in the substantive sense as Macron would like to see them realized, and that the method of governance, embodied in the structure and style of work of the administration, has not changed since Gruevski's era.

A reminder of the type of "state capture" specific of the post-Yugoslav region and the wider Eastern Europe, a variant essentially different from the habitual use of the expression in the West, was indispensable in order to pose the key question of this study: has the change of government in 2017 led to a dismantling of "state capture" as per the criteria of the Urgent Reform Priorities of the European Commission (UC). Building on previous expert reports, analyses, campaigns and the critical voices among the public intellectuals, the EU progress report of 2016 called the type of authoritarianism and cronyism in governance typical of North Macedonia "state capture."

It is important to reiterate that the "diagnosis" of "state capture," as used in the present study and in said EU Progress report on North Macedonia of 2016, is not reducible to corruption but refers mainly to a type of lawmaking, cre-

[6] The massiveness and widespread relevance on national scale of these forms of protest is noted in the national survey on civic activism conducted by ISSHS in 2015/16, available at https://www.isshs.edu.mk/results-of-the-survey-on-civic-activism-4/, accessed on 12 September 2021.
[7] *Ibid.*; also consider Goran Rizaov, Freelance Workers Protesting Against Increased Taxation [Горан Ризаов, Хонорарците протестираат против згоелемените давачки], Prizma (22 December 2017), available at https://prizma.mk/honorartsite-protestiraat-protiv-zgolemenite-davachki/, accessed on 12 September 2021.

ation of policies and style of governance seemingly aligned with the European Acquis, but, in essence, representing *constantly changing and contradictory legislation that simply legalizes what in a normal democracy should not be legal, endowing the executive branch with excessive power and the capacity to penalize (through an ever-increasing number of severe fines) marginalizing the role of the judiciary*.

Gruevski was oftentimes praised by Brussels as a good technocrat, received positive progress reports, and, until 2015, the only criticism his governance received was the mantra "legislation was good but the implementation bad." [8] We argued and we still argue that it is precisely the legalization of potentially corrupt actions, cleverly camouflaged as aligned with the EU legislation, and its authoritarian treatment of the citizen, constituting rule of law in its own right, was the key of the specific type of seemingly euro-centric authoritarianism that marked Gruevski's governance. Here is a quote by one of our authors published in an op-ed for Open Democracy in 2015:

> Also, "hybrid regimes" or "competitive authoritarianisms" are not about absence of the rule of law and, hence, aberration from free market economy. Quite to the contrary, the state run capitalism is legally codified and it constitutes a political-economic system in its own right. The references to "the rule of law" and "free market" in the Western European sense of the word are obsolete when the EU rapporteurs attempt to measure the success of the "transition" from socialism according to the so called Copenhagen criteria. Namely, they do not apply to this particular form of neoliberal economy which is divorced from the democratic political model and the free market economy pursuing a creation of a new model which Viktor Orbán famously termed "illiberal democracy."[9]

Let us explain how this model of governance operates: The allegedly good law on higher education, according to numerous previous documents and statements of the European Commission,[10] which was adopted

[8] The former Yugoslav Republic of Macedonia: Recommendations of the Senior Experts' Group on systemic Rule of Law: Issues Relating to the Communications Interception revealed in Spring 2015 (Brussels, 8 June 2015), available at http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf, accessed on 09.11.2020.
[9] Katerina Kolozova and Jordan Šišovski, "Macedonia: the authoritarian challenge to Europe," Open Democracy (23 June, 2015), available at https://www.opendemocracy.net/en/can-europe-make-it/macedonia-authoritarian-challenge-to-europe/, accessed on 29 August 2021.
[10] European Commission, The Republic of Macedonia 2013 Progress report, 2013; a closed Panel at DG NEAR in 2015, a statement on the law expressed unequivocally by high ranking representatives - at that occasion we presented the reality of over 20 amendments which literally disfigured the original law adopted 9 years earlier.

in 2008 had undergone 21 amendments[11] whose sole function was – and probably still is – to impose centralized, government run control over content, decision making, standards of knowledge and scientific accomplishment, elaborated to such a degree of detail that it effectively not only dramatically undermined but probably effaced academic autonomy.[12] In that same era, the law on audiovisual services was generally in line with the EU directive. However, this had two little tricks in it, additions to the principles offered by the EU directive, that enabled the government to *legally* own the presumably independent media: it permitted not only product placement as per the provisions of the EU directive, but also "placement of ideas" which allowed the government to run constant campaigns and thus become the biggest advertiser, topping Coca Cola and Procter and Gamble.[13] That very same law is still in force, apart from the abolishment of the articles that legalized propaganda that was an accomplishment of the Social Democrats in the period of the interim government preceding the snap elections in 2016, and many parts of the problematic article 92 which were deleted mainly thanks to the direct advocacy of the Association of Journalists and ISSHS and their IPA-EU Delegation supported project 2017-2018. Key elements of the article 92 that produced the effect of an unnecessary oversight – capture by the state institutions - of program related issues (even though merely or seemingly "technical") are now removed from the law allowing for greater programmatic liberty.[14] Those very articles, in the form adopted in the era of Gruevski's presidency of the government, allowed control of the state agency of audiovisual services over the program content – seemingly the law didn't control the content but the form of the program. However, the form was so excessively regulated that the outlets were indirectly monitored as to what they broadcast – so, when an outlet would receive a fine of 20.000 euro for not having translated the word "ouch" in Macedonian in a "Tom and Jerry" cartoon, and if that outlet happened to be

[11] Закон за високо образование,„Службен весник на Република Македонија", број 35/2008, 103/2008, 26/2009, 83/2009, 99/2009, 115/10, 17/11, 51/11, 123/12, 15/13, 24/13, 41/2014, 116/14, 130/14, 10/15, 20/15, 98/15, 145/15, 154/15, 30/16, 120/16 и 127/16 (2008). [Law on Higher Education, Official Gazette of the Republic of Macedonia No. 35/2008, 103/2008, 26/2009, 83/2009, 99/2009, 115/10, 17/11, 51/11, 123/12, 15/13, 24/13, 41/2014, 116/14, 130/14, 10/15, 20/15, 98/15, 145/15, 154/15, 30/16, 120/16 и 127/16(2008)].

[12] Katerina Kolozova, Kalina Lechevska and Jordan Shishovski, T*echnology of State Capture Overregulation in Macedonian Media and Academia* (Second Edition), Institute of Social Sciences and Humanities – Skopje, [2015] 2019.

[13] Ana Blazeva et al. Freedom of Expression, Association and Entrepreneurship in a Captured State: Macedonia in 2015 (Skopje: Institute of Social Sciences and Humanities, p. 39), available at https://www.isshs.edu.mk/wp-content/uploads/2017/05/freedom-of-exspresion.pdf, accessed on 12 September 2021.

[14] Закон за изменување и дополнување на законот за аудио и аудиовизуелни медиумски услуги, Бр. 248/2018(2018). [Law amending the law on audio and audiovisual media services, Official Gazette of the Republic of Macedonia No. 248/2018(2018).]

somewhat critical of the government, one would interpret it as intimidation.[15] Such a degree of detailed control by a state agency of the structure of the program coupled with excessive fining, including the imposition of the categories of programs that needed to be shown combined with excessive fines for a failure to do so, was indirect government's meddling in the freedom of the press – editorial liberty was severely curtailed. Subsequently all media would mind the form but also the content as it is only reasonable to fear that a populist regime would make use of bureaucratic details coupled with draconian fining to exert pressure over any critical (of the government and ruling party) reporting. Indeed, they could be perfectly legally fined, moreover according to a law praised as European. Prior to the abolishment of said articles, the number of fines determined in the law and based on breach of criteria concerning programmatic structure or content was highest in Europe, whereas none of the EU countries fined for program related issues except for Hungary (and to a marginal extent Ireland) when our research was published (Autumn 2017).[16] Let us note that in 2015, according to the evidence based policy advocacy and campaign #zarobenadrzava, carried out by ISSHS with the support of NED in 2016, demonstrated that almost half of the articles in the Law on Audio and Audiovisual Services stipulated fines: 73 out of a total of 156 articles.[17] Furthermore, there is a tone of close control, even excessive policing in the discursive nature of the law itself, as demonstrated by our "linguistic forensics" (discourse analysis of the law),[18] and that hasn't changed essentially to this date – a change is detectable only in degree, not in substance. This quote from an essay published in 2017 and republished in 2018 is still valid:

> The high frequency occurrence of the expressions related to the law itself, such as law, article, and paragraph indicates a high level of auto-referentiality, sort of myopia, focus on the self. This focus on the instrument of definition and regulation (the law), rather than on its contents and practices, as is the case with almost all other laws where

[15] Regulatory Impact Assessment of the Effects on the Editorial Freedom Created by the Existing Legislation on Audio and Audiovisual Services. Institute of Social Sciences and Humanities, Skopje, 2017

[16] Ana Mukoska and Katerina Kolozova, Comparative Overview of the European Legislation [Споредбен преглед на европското законодавство во поглед на медиумските аудиовизуелни услуги] (Skopje: Institute of Social Sciences and Humanities), available at https://tinyurl.com/2kzbatsa, accessed on 12 September 2021. Visualisation by Risto Aleksovski.

[17] Kolozova, Lechevska and Shishovski, *Technology of State Capture Overregulation in Macedonian Media and Academia*, 18.

[18] Aleksandar Takovski, "Discursive Forensics of the Macedonian Law on Audio and Audiovisual Services," available at https://www.isshs.edu.mk/wp-content/uploads/2017/11/Discursive-Forensics-of-the-Macedonian-Law-on-Audio-and-Audio-Visual-Services.pdf (Skopje: ISSHS and IPA-CS supported project on media and freedom of the press, 2017-2018), accessed on 30 August 2021.

> the notions of program, services, and broadcasting are foregrounded, lead to two tentative interpretations: a) the law is hyper-regulating the content by placing more importance on itself as an instrument of regulation rather than the regulated material, b) it is a result of 'bad' or abusive/tendentious nomotechnique. The first assumption; that the Law is hyper-regulative, is additionally confirmed by the fact that *unlike* the laws of the other countries analyzed where the focus is first and dominantly on the content of the defined and regulated practices and participants, and only then on the regulator, the Macedonian law places much more attention to the regulatory body rather than the regulated practices. In laymen's terms the Macedonian law does not place primary and dominant importance on the practice (program, service, and broadcasting) or who it is carried by (media) as the laws of other countries do, instead the focus is on *how it must be done* (Law), and *who monitors and controls* the practice (The Agency).[19]

Going back to the law on higher education, originally praised for its quality of alignment with the Bologna process key documents (a view confirmed in an advocacy meeting held between ISSHS, experts and the cabinet of the Commissioner of DG NEAR (Directorate General of Neighborhood and Enlargement Negotiations of the EC) back in December 2015), it has become unrecognizable due to the 21 amendments. The students' and professors' plenum rose in protest against its amendments proposed by the government in the fall and winter of 2014 which displayed such level of authoritarianism and breach of academic freedom resistance was inevitable: it all began with an article which derogated the right and obligation of higher education institutions to issue a diploma of graduation, as one of those amendments required that the graduation and thus the validity of each diploma in every discipline is confirmed by the Ministry of Education and Sciences in the form of a so-called "state exam" carried out by the administration of the Ministry. Until 2018 it was the only law in Europe that stipulated imprisonment of rectors for the breach of the law on higher education itself, e.g., working without an accreditation of the Board of accreditation and evaluation in the higher education, not for breaking law according to the Criminal Code.[20]

It is an established method of the so-called "democratic backsliding" – EU oriented democracies "sliding back" to authoritarianism – hap-

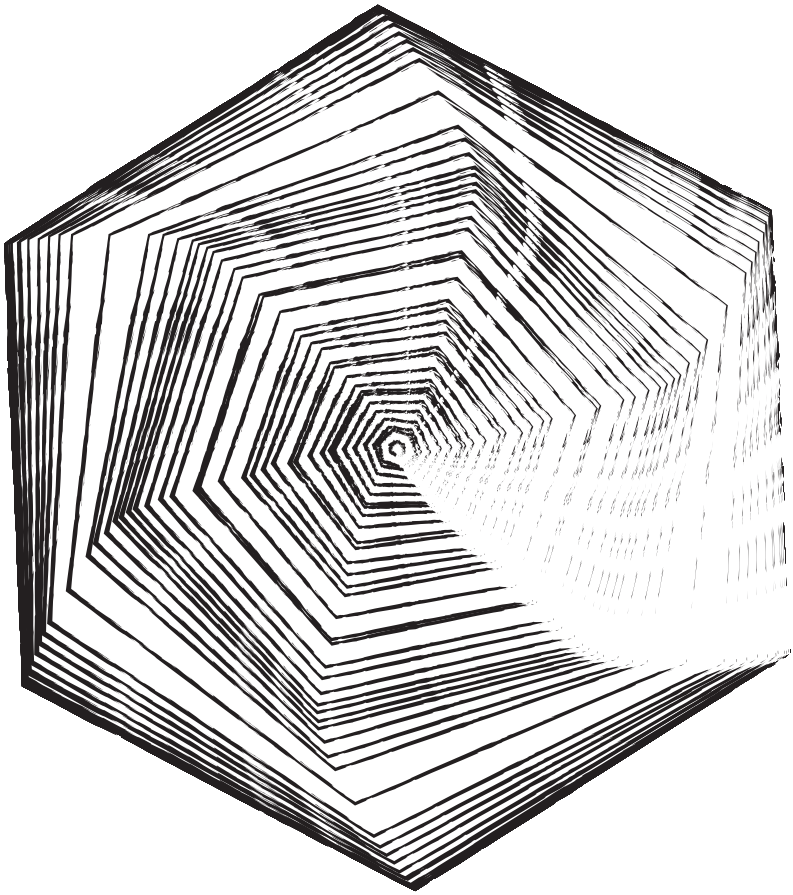
[19] Takovski, *Ibid.*

[20] Kolozova, Lechevska and Shishovski, *Technology of State Capture Overregulation in Macedonian Media and Academia*, 29.

pening in not only the Western Balkans (WB)[21] but also some of the EU States of Central Europe – produce as much laws as you need to cover dubious practices and all unlawfulness will become legalized.[22] It is not a matter thus of the existence of rule of law, but what sort of laws are in place and how are they implemented – we have argued that authoritarianism is embedded in the laws and regulations themselves, not in arbitrariness of their implementation. Quite to the contrary, the administration in an authoritarian system tends to be rigid, without sensitivity to the specificities of particular cases, inhumane in the implementation of the law. (Humanity and inhumanity, of sensitivity for the particularities of different social cases is something that can be embedded in the digital solutions themselves, part of the algorithms, thus we are speaking of humane policies and not necessarily of humans executing them, as they can be such – humane, socially responsible and responsive to the specificities of the individual cases - even if executed by a software). We argue that discussions of policies should focus on procedural means grounded in a value system and feasibility assessment instead of vague comments about mentality, and, of course, the "Balkan mentality" in particular, be it of the citizens or the administration. Thus, we avoid the fallacy of the question of good governance to be reformulated in terms psychology and deontology instead of policy studies, political studies and political philosophy. The great ruse of the autocrats of the region – "the legislation is good, the implementation is bad" implies their policy making – thus, method of governance – is good, but the evasive and uncontrollable phenomenon called "the mentality" (of the individuals working in the institutions, and the irresponsible citizens) is to blame.

[21] Florian Bieber, The Rise of Authoritarianism in the Western Balkans, Palgrave Pivot, Cham, 2020.

[22] Vurmo, Gjergji (2020) *Tailor-made laws in the Western Balkans: State capture in disguise. CEPS Policy Contribution 11 May 2020.*



3

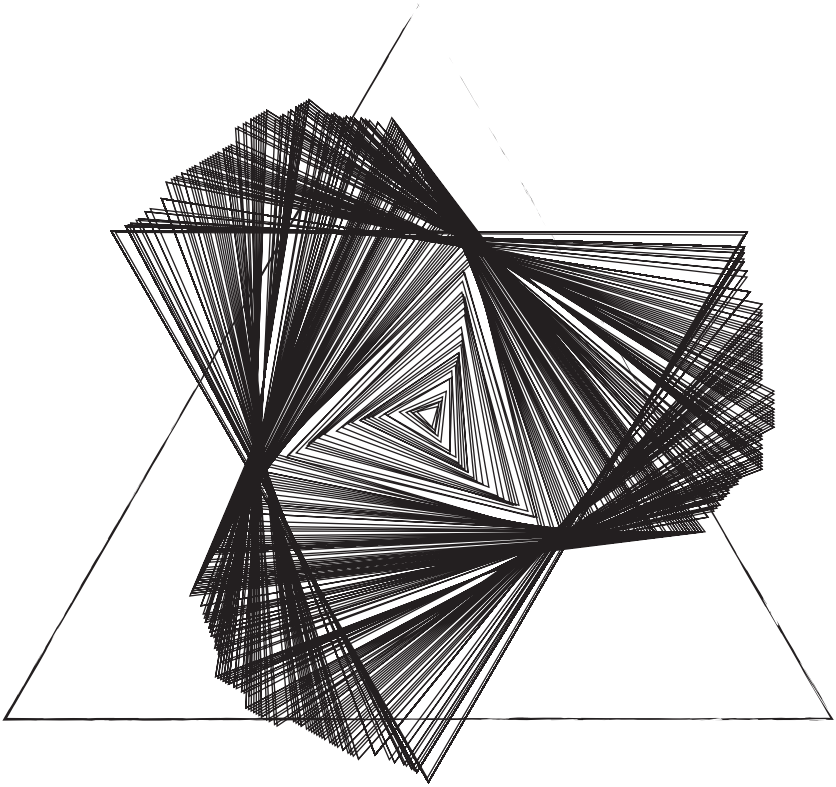
THE PHILOSOPHY OF AUTHORITARIAN RULE OF LAW AND ITS OPPRESSIVE ADMINISTRATIVE APPARATUS

Our argument for this stance is simple and straightforward: as the ruling elite cannot "enlighten" an entire population, it is not to blamed except for not enforcing stricter punishment of the corrupt judges, administration, businesses, academia, media, etc. – thus a vicious cycle is established. Namely, what began as Europe encouraging the government here and in the region of WB to "implement the good legislation" ends up being the core of the democratic backsliding, i.e., state capture enabled by an excessively powerful executive branch, subjugating the legislative and the judicial branches, with insensitive and intimidating discursive overtones toward the regular citizens and non-government legal entities.

We are revisiting this question in order to warn the current government and the EU not to fall into the trap of the era of 2011-2014 and mislead themselves by the mantra "the legislation is good, but the implementation is bad." There is always, as the examples above demonstrate, some series of tricks – "devils in the details" – in the *legislation that enable the phenomenon of state capture as one of the main mechanisms of democratic backsliding*. For example, in spite of the presumably good legislation, each procedure the physical and private persons engage with in front of the state institutions requires notarization of literally all documents, including originals and translations of court certified translations, by private notaries There is no public notarization since the era of Gruevski, and the number of certified notaries as well as their authorities have been on the rise for more than a decade, at occasions exceeding the authority of the lawyers. A notarized copy, ironically, is a greater guaranty of a document being an original than the original itself – they are treated as preventive forensics, an advance guarantee that a document or a signature isn't forged. This is certainly senseless. Thus, one wonders if there is a corrupt logic behind this outsourcing of responsibility and authority of the public sector to private firms. According to a story provided by a lawyer that participated in our field study, in many of their proceedings, courts choose to ignore the presentation of originals and require notarized copies. Isn't this costly outsourcing of the institutions' own authorities to the private services of the notaries not some form of systemic inefficiency implying non-individualized yet structural corruption in the very philosophy of governance and lawmaking? Isn't this inefficiency even more striking considering the enormously robust administration which poses an economic problem to North Macedonia? Doesn't the question of accountability follow, almost automatically? Also isn't this costly service also making services and institutions more inaccessible for the citizens? Doesn't the absurdity of ignoring originals by courts and demanding notarized copies – as per the law – raise suspicion about systemic corruption, between the Chamber of Notaries and the executive branch that produces those very same laws? Therefore, let us return to the question as if it were 2015 again: Is it true that

legislation – in all of its aspects – is good but the implementation is bad? Considering how detailed all implementation of each legal provision is in the laws themselves, it would be surprising to expect much improvisation by those who implement the legislation.

> Our topic here is not the issue of notarization but a citizens-centered, responsive, accessible, accountable and efficient administration as an important if not one of the key elements of the country's implementation of the European Charter of the Fundamental Rights in the legislation itself as well as the practice that should ensure from it. We are using it as an illustration of the falsity of the preconception that "the legislation is good, but the implementation is bad," and that this slogan used to mark Gruevski's era of democratic backsliding. In spite of the generally good legislation – if and when we can claim that is the case – there can always be a policy solution that is part of it, promulgating practices of administrative application that are neither transparent, nor accountable nor based on the respect of citizen's dignity.



4

HAS THE PROCESS OF DE-CAPTURING BEEN COMPLETED OR HAS IT EVER REALLY BEGUN FOR THAT MATTER?

Since 2017 when the Social Democrats (SDSM) seized the political power on national level and later on local level, there has been improvement in terms of expanding freedom of speech, overall democratization of political climate, a change of style in administration leaning toward greater and more customized flexibility and improvement in terms of political depolarization. The progress at issue have been marked in the EU progress reports, but also by other international institutions and organizations of authority such as Freedom House (cf. reports of 2017-2019). However, let us note, once again, the change in style or mannerism does not mean change in policy, procedural requirements and thus the possible input and algorithm for a future digitalized administrative system. It is, however, noteworthy that not some vague and unmeasured (and probably unmeasurable) notion of implementation contributed North Macedonia's improved ranking on the Freedom House charts but rather a policy change carried out through changes in legislation – the removal of many lines of the then nine pages long article 92 in the law on audiovisual services that took place in 2018.[23] Also the reduction of the (formerly incomparable to any European country) number of fines in practically all of the laws that are not part of the criminal code but regulate specific subject matters, has helped improve the general democratic climate and encouraged freedom of expression. In other words, right policies have set the right climate for nurturing European values in the area of the freedom of the press. This example can be applied in an analysis of all areas of the social-economic reality of the country. In order to do so in a manner that discloses "de-capturing" and Europeanization of the public sector, one must keep in mind Priebe's Senior Experts Groups' second report of warning to the new government released in 2017 whose corollary is: one form of state capture might be replaced by another unless a balance between the executive and the other two branches is established.[24]

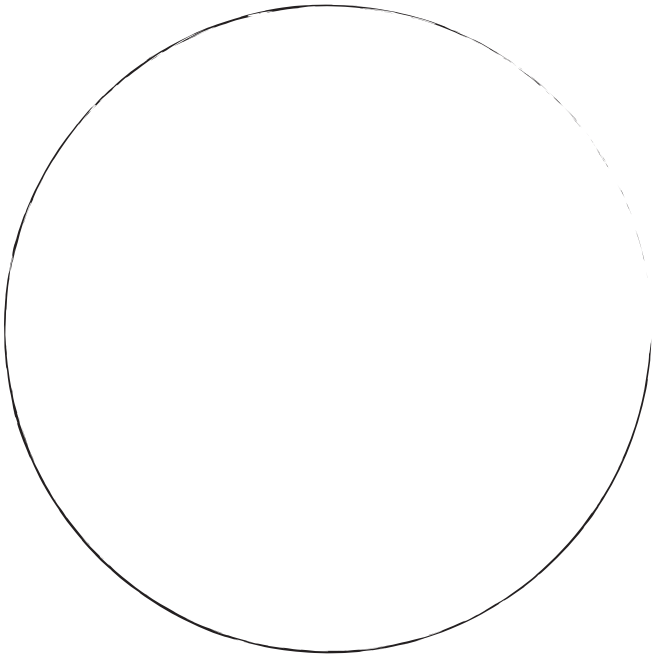
The essence of the phenomenon of "state capture," in Macedonian context, therefore, consists in the asymmetry of the executive branch that subjects systemically – and not only by way of corruption – the judiciary, in particular the prosecution as well as the legislative branch. One of the mechanisms of this type of governance, not unlike in the cases of Orbán led Hungary and Vučić led Serbia, is government's use of parliament as mere instrument for legislating practices that are in breach of the values contained in the European Charter of Fundamental Rights. Considering the

[23] In 2019 North Macedonia was ranked 95th compared to its ranking in 2016 when Macedonia was on the 118th position. Source: Annual indexes of "Reporters Without Borders" available online, at https://rsf.org/, accessed on 21 April 2019.
[24] "The Former Yugoslav Republic of Macedonia: Assessment and recommendations of the Senior Experts' Group on systemic Rule of Law issues 2017" (Brussels, 14 September 2017).

fact that since July 2020, North Macedonia has been expected to engage in a process of negotiations with the EU aiming toward full integration, in spite of the delays and setbacks due to the bilateral dispute with Bulgaria,[25] while keeping in mind that the first negotiating chapter covers precisely the areas of judiciary and European fundamental rights, we consider it more than timely to monitor and raise awareness as to whether the legislation indeed subscribes to the key values of the European Charter of Fundamental Rights. One of the core principles of the European Union, which is stated in the Preamble of the European Charter of Fundamental Rights "places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice."[26]

Authoritatively designed system of administration is unable to provide "individual centered" governance, whereas the excessive regulation that serves the quasi absolute control of the executive branch cannot guarantee a citizens' centered and responsive administration. Additionally, *Article 41 of the European Charter of Human Rights guarantees the right to good administration*, which is to be interpreted with the founding principle of the preamble cited above.

[25] Katerina Kolozova, "On the Macedonian-Bulgarian dispute and historical revisionism," Al Jazeera English (7 December 2020), available at https://www.aljazeera.com/opinions/2020/12/7/on-the-macedonian-bulgarian-issue, accessed on 12 September 2020.
[26] Charter of Fundamental Rights of the European Union, *OJ C 326*, 26.10.2012, p. 391–407, available at: https://eur-lex.europa.eu/eli/treaty/char_2012/oj, accessed on 06.10.2021



5

THE PROBLEM AT HAND: "ADMINISTRATION TOO BIG TO FAIL?" OR A CITIZEN-CENTERED ADMINISTRATION IN AN AREA OF DIGITALIZATION

a. A Jurisprudence of a State Protecting itself from the Citizen rather than the Other Way Around

EU accession negotiations begin with chapters 23 and 24 which concern the fundamental rights, or the European set of basic human right, and the judiciary in a country. The process, obviously, is premised on the assumption that a transposition of a value system, in the present case that of the European Union deemed to embody the principles of the European civilization, regardless of how general and vague the word "value" can sound, into a legislation is possible. What's more important is that said value system is assumed to be the touchstone of institutional policies and a political culture expressed in bylaws, guidelines and good practices rather than legislation only. Macedonian society, political elites and in particular policy makers appear to be unable to recognize both that such a thing is possible and how such possibility is materialized in practice: the laws prescribe every procedural detail, possibly because it is assumed that the citizens and civil servants will seek to abuse any law unless every detail is prescribed and all possibility of abuse is assumed. Obviously the legislator presumes its society's political and civic culture is law, but it also displays a mentality of its own – a paranoid system that fears abuse by the citizen each step along the way Thus, opposite to the European Charter's principle, the Macedonian state – as well as any other "illiberal democracy," in particular in the former Eastern Europe – protects itself from the citizens and acts preventively toward its own protection from the supposedly abusive citizenry, seen individually and collectively, rather than the other way around. It is for this reason that every procedural step is prescribed through legislation because autonomous actions of competent and responsible subjects seem to be presumed an impossibility.

> Conversely, if the administration – in its aspects of decision making not mere proceduralism that could be digital, thus human subject is presumed – cannot understand and comply with a certain value system, and if the legislation always already presumes this impossibility, how is the adherence to the value system of laid out in the European Charter of Fundamental Rights to be espoused and practiced? Let us rephrase the question for greater clarity: legislation and policies are indeed grounded in a value system, but they are not only predetermined by a value system existing in a presumable immutable culture, but also promulgate values and a vision of a society to be built. Thus, our legislator seems to espouse a deterministic view of the citizens' mentality and political culture as well as authoritarian imposition of a level of control completely infantilizing the citizen hindering the possibility of said values becoming part of the culture and overall so-

cietal comportment. According to Ljubomir Frckoski, an esteemed legal expert and one of the authors of the Constitution of the independent Republic of Macedonia after its cessation from Yugoslavia, the lawmaking in Europe is premised on the assumption of the honest citizen whose rights and freedoms are protected through legislation and its practicing, whereas the post-authoritarian societies such as the Macedonian seek to protect the system from the citizens.[27] Thus, the excessive bureaucracy veering toward absurdity Macedonian citizens encounter in situations as banal as getting their birth certificate (cf. the examples below) speaks of the fact that the legislature always already presupposes their attempts toward abuse and protects the bureaucratic Apparatus from the Citizen rather than the other way around. Therefore, the entire philosophy of law making, esp. in its aspects of prescribed administrative procedures, must be fundamentally changed and such change of mind requires legislators that will grasp the fact that the European fundamental rights are not form but substance to be expressed in the legislation and its implementation. In cases of digitalization of issuing of documents, e.g., birth certificates, the algorithm can and should rely on an in input of legislation conceived in line with the fundamental values, in particular article 41 of the European Charter of Fundamental Rights – a right to good administration, submitted to the principle that European institutions serve the citizen rather than the other way around.

b) The Fundamental European Values and Lawmaking

The lawmakers in North Macedonia, when engaging in negotiations on the first two chapters must see that legislation, if assessed through measurable indicators (in the form of a regulatory impact assessment, for example), reflects the following fundamental principles:

- placement of the individual at the center of the governing activities (to paraphrase the Charter, in particular its preamble) and
- the right to good administration as one of the fundamental rights guaranteed by the Charter at issue, under Title V: Citizens' Rights

For this reason, we will focus on the administration and its role of service to the citizens, namely on the issue of implementation of the URP (Urgent reform priorities) in terms of practice ordinary citizens are faced with on daily basis.

[27] Blazheva, Ana; Mukoska, Ana. Policy document concerning the public policy on the effects of existing regulation of editorial/media freedom. Institute of Social Sciences and Humanities – Skopje, 2018., p. 7.

We contend that "the bad implementation" consists in heavily bureaucratized state apparatus that hinders the right to good and individual centered administration, keeping the citizens in Kafkaesque mazes with no effective means to seek justice and compensation when damaged by the institutions (and private bodies performing public functions). The "bad implementation" (and we argue: not absence of implementation but rather – bad implementation) of the allegedly good laws is derived from certain *tenets of the legislation* that betray a self-serving state apparatus rendering the citizen a silent subject to contradictory and costly procedures. The same legislation and the prescribed steps of implementation, present in the laws and bylaws, leave the citizen without juridical and other mechanisms that would help defend the individual and collective civic right vis-à-vis the state. The Administrative court has proven to be useless as a mechanism of protection of physical and legal persons from the abuse of the executive branch.

There is one law however that go against our thesis that "the law is good but the implementation is bad", but only seemingly so. Namely, the general act regulating administrative procedures across sectors concerns the issue of implementation itself regardless of the type of legislation. Thus, by preserving the old authoritarian bureaucratic mindset and style of carrying out of administrative procedures with regard to all other legal acts, the institutions are consciously invested in a non-implementation or underplaying of one act in particular – that of procedural implementation. The two latest EU progress reports note the particularly low level of implementation of the Law on General Administrative Procedure,[28] by stating:

> Simplifying administrative procedures has been extremely difficult, as the Law on General Administrative Procedures has not yet been implemented systematically across the administration. The Ministry of Information Society and Administration has set up a 'help desk' team to support central and local government authorities in applying the law.[29]

The latest progress report, released in October 2020, in spite of its overwhelmingly positive tone, does remark a considerably underperformance when it comes to the issue of the implementation of the Law on General Administrative Procedure, simply repeating "ensure full implementation of the Law on General Administrative Procedures."[30]

[28] Decree of Entering into Force of the Law on General Administrative Procedure [Указ за прогласување на законот за општата управна постапка], Official Gazette of the Republic of Macedonia 124 (2015).

[29] European Commission, "North Macedonia 2019 Report", (Brussels, 29.05.2019), p. 14, available at: https://ec.europa.eu/neighbourhood-enlargement/system/files/2019-05/20190529-north-macedonia-report.pdf, accessed on September 1, 2021.

[30] European Commission, "North Macedonia 2020 Report", (Brussels, 06.10.2020), p. 12, available

Our qualitative research – the collected personal narratives – testifies of the grave disregard of precisely those aspects of the law that are supposed to align it with the European fundamental rights. What is glaringly missing is the respect of citizen's dignity, the concern about efficiency, decision making and carrying out judgment that would work in favor of the citizen rather than the state apparatus (as in the practice the situation is reversed): article 6 "The principle of proportionality," article 7 "The principle of economic and efficient procedure," article 14 "The principle of legal protection," article 17 "The principle of active assistance to the party," to name a few among many, *are systematically breached by the prescribed procedures of literally every special law and specific public institution.*

Procedures are constantly rendered more complex, more contradictory, protracted and lengthy whereas the articles quoted above among other articles in said law require quite the opposite. Costs of every procedure are further complicated and rendered increasingly costly thanks to the massive demand of notarization of every and each piece of document even when the original is presented or directly accessible to the authority. The compulsory notarization by private notaries demanded by mass by all institutions of the state raises suspicion of a possible systemic corruption that benefits both the institutions and the Chamber of notaries. Our comparative reading of the German law on notary services[31] and that in force in North Macedonia shows an unprecedented compulsive notarization requested by the state.[32]

Full implementation of the Law on the General Administrative Procedure could possibly be the only act that is not only not fully implemented but practically not at all, whose implementation is undermined by the contradicting other and special legal acts regulating particular areas.

In order to fully implement the Law on the General Administrative Procedure a full digitalization of the procedures – and not only of archiving of documents – should be enforced, which would both render the procedure efficient, shorter, lest costly as well as help cut the number of administrative servants, a burden too heavy for the Macedonian economy to carry.

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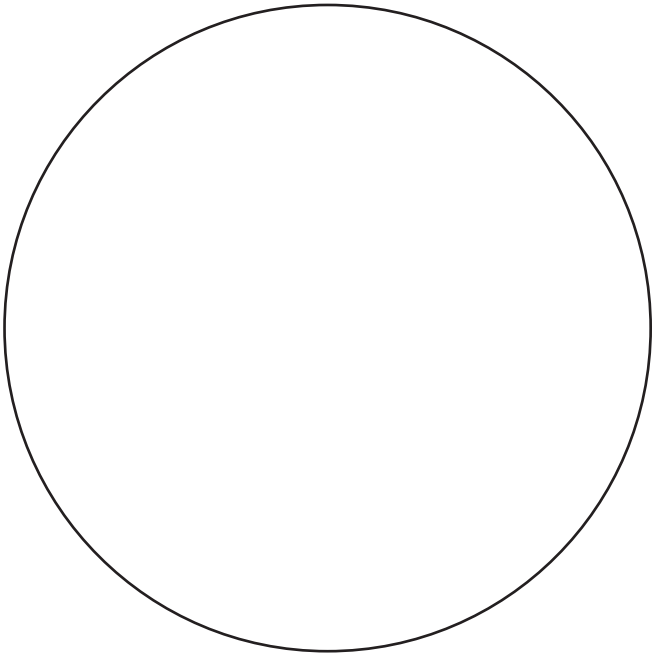
at: https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/north_macedonia_report_2020.pdf , accessed on September 1, 2021.

[31] Bundesnotarordnung (BNotO), Ausfertigungsdatum: 13.02.1937 Vollzitat: "Bundesnotarordnung in der im Bundesgesetzblatt Teil III, Gliederungsnummer 303-1, veröffentlichten bereinigten Fassung, diezuletzt durch Artikel 12 des Gesetzes vom 30. November 2019 (BGBl. I S. 1942) geändert worden ist", Stand: Zuletzt geändert durch Art. 12 G v. 30.11.2019 I 1942.

[32] Law on the Notariat, Official Gazette of Republic of North Macedonia nr.72/16 и 172/16, A decision of the Constitutional Court nr.129/16 of 24th of January 2018 in Official Gazette of Republic of North Macedonia nr.25/18.



6

THE FUNDAMENTAL RIGHTS IN PARTICULAR THE CITIZENS' RIGHT TO JUSTICE AND THE ADMINISTRATIVE PROCEDURES

Thus, we tackle the adherence to the principles of the fundamentals rights in lawmaking and governance, but, also, the concomitant issues *of institutional transparency, accountability and low to middle level of administrative corruption, encountered by the ordinary citizens (as opposed to the high level corruption that has been the main focus of the most recent reforms), measured through our evidence based research*. We will focus on the transposition of *Article 41* of the European Charter of Human Rights guarantees the right to good administration onto the lawmaking, policy making and their materialization in practice.

6.1. Methodology and research questions

Concerning methodology, let us note that the analysis shall be carried out through what we might call discourse analysis but one translatable into empirical evidence that shows what sort of concerns are predominant in the legislation and whether it demonstrates the key value of the European Charter of Fundamental Rights – the Citizen as the central concern – is espoused. Apart from this approach, we will engage in an analysis that is grounded in empirical field research, complied data on the perception of the citizens if the administration is efficient and citizen centered "displaying respect toward citizens" or quite different. We have also produced data measuring the authoritarian penchant of the predominant political culture in the country.

- Desk analysis and discourse analysis of legislation and secondary literature, including different reports, evaluations from institutions such as the Venice Commission, GRECO, but also the Council of Europe, that will give an insight into the respect of the individual citizen and the hierarchy between the institutions and the state addressing one of the central research questions:

    1. Is the administration, thus the system of law and public policies *implementation*, based on the respect of the citizen, protection of one's civic and citizen's rights?

    2. Is the system of implementing public policies (i.e. the administration) conceived as efficient and responsive toward the needs of the citizen, implying transparency, accountability and judicial defense of the individual's rights vis-à-vis the institutions?

    3. What is the underlying philosophy of the legislation: is it centered on the liberal tradition of defending of the citizen from the whims of the state or is it the other way around, namely protecting the state from the presumably always already corrupt citizen?

- Empirical research

Qualitative field research consisting of oral histories that will inform our analysis of the legislation and what type of administration it implies: the previously stated research questions will be addressed in the process of patterns identification in the data, with an emphasis of the implied question of – respect for individual citizen's dignity.

6.2. Outline of the study

1) Overview of samples of legislation the citizen encounters on daily basis, including the bylaws, and analysis of its envisaged procedures and their effects when it comes to citizens' responsive administration respectful of the human individual's dignity. This overview will consist of comparative reading of the legislation with that of the European Charter of Fundamental Rights, and the inferences will be both product of discourse analysis as well as empirically corroborated through quoted sources and data from the field research (up to 5 pages)

2) Analysis of individual examples obtained through the field research (up to 3 pages)

3) Comparative reading of similar issues related procedures in developed EU democracies and in North Macedonia (up to 2 pages)

4) Considerations of the democratic principles respectful of individual's dignity for an e-government; identification of the basic services that could be fully automated as a concrete step forward to be proposed to the policy makers. (up to 2 pages)

5) Conclusions and recommendations toward more accelerated automation of the administration based on a legislation espousing the principle of human dignity centered, citizen's responsive, accountable and responsive administration as true service to the citizens (instead of serving its own interests. (up to 2 pages)

6.3. Main findings

When it comes to the issue of rule of law and corruption among the administration, one that physical and legal persons encounter on a daily basis, the assigned court to solve disputes of potential abuse of administrative power and neglect of responsibility is the Administrative court. The Law on Administrative Disputes adopted last year that came into force in May 2020 should enable

tangible justice for those who have been wronged by the administration of an excessively strong executive branch. The Court's website does not offer information as to the number of disputes resolved in favor of the plaintiffs. The Ombudsman has issued reports on the matter covering the period of 2016-2019 stating that the administrative disputes were resolved in such a manner that citizens began to lose trust in the institutions and the judiciary in particular. That report was meant to serve as a proof of a captured state.[33] The further reports issued by the Ombudsman restated the same information with a more alarming tone,[34] which can be considered as an indication of "one state capture being replaced by another," to paraphrase Priebe.

The widespread corruption among the administration of the lower ranks is the one that ordinary citizens encounter on daily basis, according to a study produced recently by the Macedonian Center for International Cooperation (MCIC or the Macedonian transliterated acronym MCMS).[35] White collar corruption is something that regular citizens cannot identify as affecting their lives directly, except when they see it as systemic corruption, such as the expressed suspicion among the respondents in our qualitative research that the excessive outsourcing of institutional duties to the private notaries might be a result of a "deal between the institutions and the chamber of notaries." According to our in-house quantitative studies the distrust in the institutions of the state including the judiciary is very high, due to the perception that the institutions "serve themselves, the elites" and are all but a service to the citizens. In this respect, they do not see the Judiciary, in particular the Administrative Court, as an institution that could deliver justice to the citizens when they demand *transparent and accountable* actions of the institutions. Their suspicions are corroborated by the afore-cited reports of the Ombudsman. If the national and local governments and their institutions do not act as a service to the citizens and regularly get away with it due to absence of juridical impartial deliberation, the rule of law is in deep crisis – not because it is "good but not implemented." Quite to the contrary, the law on administrative procedures as well as the one on administrative disputes allows for such loopholes that the physical or legal persons engaged in a process against the state institutions can never reach

[33] Republic of Macedonia: The Ombudsman's Office, Annual Report on the Protection, Respect and Improvement and Protection of the Human Rights and Freedom in 2016 (March 2017) [Република Македонија: Народен Правобранител, Годишен извештај за степенот на обезбедување, почитување, унапредување и заштита на човековите слободи и права 2016], 9.

[34] Republic of North Macedonia: The Ombudsman's Office [Република Северна Македонија: Народен правобранител], p. 54, available at http://ombudsman.mk/upload/Godisni%20izvestai/GI-2019/GI-2019.pdf, accessed on 26.07.2020

[35] Natasha Ivanovska, et al. *Report on the Estimation of the Corruption: The Level of Corruption* [Извештај за проценка на корупцијата: Ниво на корупција], MCIC (MCMS [МЦМС]): Skopje, 2020, graph 7, p. 21

justice. And none has ever been reached as the four annual reports in a row produced by the Ombudsman show.

That is why, we argue, instead of focusing solely and exclusively on white collar crime and corruption among the high ranking officials – which, when carried out, throughout the past decades and not only recently, usually serves to undermine political opponents – the local and international civil society watchdogs and the EU rapporteurs should focus more closely on the corruption encountered by the ordinary citizens. In order to counter that corruption, the Administrative Court and the Law on Administrative disputes should act in an effective, just, transparent manner and should be subjected to institutional and civil society oversight. In short, *their blatant issue with transparency and accountability must be addressed*. To proceed with a systemic dismantling of the state capture is to arrive at a truly efficient and non-partisan administration: it is the perception of wide-spread corruption and, what is more worrying, its acceptability to an overwhelming majority of citizens[36] that needs to become a priority to any future government instead of focusing solely on the white-collar crime and high level political corruption. In addition to a reform in the administration where promotion and demotion and professional mobility would be an actual (not merely theoretical) possibility, North Macedonia urgently requires efficient administrative courts.

Juxtaposing citizens' perception of the praise of the judicial reforms received by the EC in its annual report and March 2020 update of said report, we can infer the following conclusion: nominal advancement can be noted, whereas the practice has been lagging behind. We wish to avoid repeating the habitual mantra: "laws are good, implementation is bad" – if the lawmaking were of a high quality, there would be provisions in it that would ensure their implementation. When reviewing the country's progress, the European commission, the international community and the expert public should focus on the legislative and bylaws, extrapolating principles from the actual provisions that ensure the practical implementation of the laws. The policy component in the analysis is key as it sheds light on how the principles are transformed into practice. We insist on calling many of the provisions mere principles; if there are no mechanisms envisaged in the laws and bylaws for their implementation and repercussions, if the institutions, including the Judiciary, fail to enforce the laws and fulfill their duty vis-à-vis the citizens. A "captured" judiciary, politically and/or corruptively manipulated, deprives physical and legal persons from the right to a just trial as a fundamental right. It is important to note this issue in the face of the incipient negotiating process of EU integration according to the methodology that nonetheless begins with Chapters 23 and 24.

36 Ivanovska, *Ibid*. graph 13, p. 32.

Finally, let us note that according to an in-house survey produced on a nationally representative sample of 1100 respondents, an overwhelming majority has ranked the Judiciary lowest when it comes to its independence and quality of work when compared to the other forms of governance. The institute conducted a survey based on a representative national sample for the purposes of this study. Citizens' perception of the independence of the judiciary in the past year, according to the results of the survey conducted by ISSHS, is the lowest so far, with an average grade of 1.92 (on a scale where 1 is the lowest grade, and 5 is the highest grade). Last year this grade was 2.03, showing that although the grade is similar the perception is that the independence of the judiciary system is still in decline.

According to the 2019 annual report by the Ombudsman office, several important tendencies were noted. Out of a total of 3,454 cases, 1,219 (35.29%) of those cases were noted violations of human rights and freedoms and out of these, in 532 cases (43.64%) the state administrative bodies, other bodies and organizations with public authorizations accepted the Ombudsman's interventions.[37] Compared to 2018, the data shows that in 2019 there was an increase in the number of identified injuries by 5.82%. On the other hand, the analysis of the data in relation to the accepted recommendations / indications shows a decrease of 28.25% compared to 2018 when the percentage of accepted recommendations was 71.89%.[38] This indicates the fact that the ambiguities in the legal regulations, as well as the unwillingness of the responsible persons to cooperate with the Ombudsman still cause harm to the citizens in terms of respect and realization of their rights, such as the case of non-acceptance of the recommendations for violation of the right to education of children with incomplete vaccination status, due to which 200 children were left out of the education system.

The complaints related to the work and actions of the Public Prosecutor's Offices in the Republic of North Macedonia were smaller than the complaints in the previous year. However, the remarks regarding the length of the pre-investigation procedures conducted before the Basic Public Prosecutor's Offices and the failure to inform the citizens - applicants about their course, remain a problematic characteristic of this reporting period.[39]

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[37] Ombudsman, "Annual report 2019 republic of North Macedonia Property Obligations Reading, Consolidated Recommendations on Human Freedoms and Rights" (2020), p. 169, available at: http://ombudsman.mk/upload/Godisni%20izvestai/GI-2019/GI-2019.pdf accessed on: 31 August 2020.

[38] *Ibid*.

[39] Transparency International Macedonia "The Banks Case in the Ombudsman's Annual Report for 2019", available at: http://www.transparency.mk/index.php?option=com_content&task=view&id=1333&Itemid=57 accessed on: 31 August 2020.

6.4. Examples from everyday life illustrating the problem of self-centered administration, legislation and procedures in place

For example, if one wants to "nostrify" a foreign degree one should first get diploma translation into Macedonian by court translator. Then go to a notary to get ACMIS stamp, as a mandatory for the verification of the diploma. However, there is an experience shared as a personal story where notary asked for an additional document proving that the court translator, is indeed a court translator, registered in Ministry of Justice, although it is already legitimized by the stamped translation.

It seems that the legislation exists not to enable "nostrification" of the diploma to the citizens but to primarily protect the state from supposed fraud, which as effect makes administration inefficient and untrustworthy.

Another case equally paradoxical known to public was the case of a socially disadvantaged boy seeking birth certificate, to whom the Ministry of Justice granted free legal aid, to fight before the Registry Office, which is an institution under the Ministry of Justice. The case shows that the state is using its resources twice to correct the error in its own case and procedure. We have chosen on "law that is good on paper but bad in practice," referred above, namely that on audiovisual services, as a case study demonstrating that what seems to be a good on paper law but lacking implementation is oftentimes bad on paper too. Let the reader be reminded that the mere removal of article 92 improved media freedom in the country by 14 ranks upwards in 2019. Said example demonstrates how predominantly good legislation can ensue grave negative practices due to a couple of articles legalizing what in a European democracy should and would be considered utterly undemocratic and contrary to the European values. The discourse analysis that follows, however, demonstrates that the law is not citizen-centered, not service oriented, that it is encumbered with state's self-centeredness and, finally, with control rather than good service and product.[40]

The comparative analysis of the language used in the Macedonian law on audiovisual services on the one hand and the corresponding laws of few EU member states (Austria, Croatia, Denmark, Finland, Greece, Netherlands and Sweden,) on the other hand, was undertaken to identify the central concerns according to a frequency of used words in the respective acts of legislation. The analysis is based on the presupposition that lexical frequency is a valid indica-

[40] We are paraphrasing an excerpt of a wider analysis by the team of ISSHS, produced by one of its researchers, individually presented here: ISSHS, policy essays http://www.isshs.edu.mk/wp-content/uploads/2017/11/Discursive-Forensics-of-the-Macedonian-Law-on-Audio-and-Audio-Visual-Services.pdf, accessed on 5 November 2020.

tor not only of the nature of a legal text, but more importantly *of its practice defining and regulating intentions and potential effects among the target audience (wider ideological implications)*. The procedure was carried out in three steps: a) identification of the 10 most frequently occurring full semantic expressions in each of the laws, b) interpretation of data and construction of the nature of the law based on the data so-collected, c) cross national comparison.

The word count of the Macedonian national law showed that:

a) The most frequently used term is Article, which together with the expressions law (4th most used term) and paragraph (of the article – 7th most used) are the focal points of the Macedonian law, providing the semantic core of the law itself. The frequency of their combined occurrence by far supersedes all other expression with high frequency. Compared to the laws for the other countries, only Netherlands and Croatia show similar tendency.

b) However, unlike ALL other laws analyzed, the second[41] most frequently occurring (combination of) expressions in the Macedonian law is "the Agency", referring to the Agency of AVM, and the term 'the Council' referring to the Council for radio broadcasting.

   In comparison, the terms referring to regulatory bodies in laws of the other countries such as 'authorities', 'minister', center', 'board' have 4 to 12 times lesser frequencies than the occurrences in the Macedonian law. Additionally, all the frequency of these occurrences places them in the lower part of the 10 most frequently occurring expressions.

c) Another notable difference in the text of the Macedonian law is the unprecedented occurrence of the constitutional name of the state Republic of Macedonia and the national broadcaster Macedonian Radio Television in the top ten most frequently appearing expressions. A tendency not found in any other national law.

d) The analysis of the texts of the Laws on AUM in the other countries showed rather different tendency. In these laws, the most frequently occurring expressions are: service, broadcast, media and program. In comparison, while the expression 'program' has high frequency in the Macedonian law, the term 'broadcast' is positioned 11th, but media, and especially 'service' fall out even from the 20 most occurring expressions.

[41] Actually, considered as a separate entry, the second most occurring expression is 'program' and all its derivatives; (450), but the combined occurrence of 'the Agency', and 'the Council' surpasses this number showing a tendency to stress the Agent rather than the content.

The differences in the lexical frequencies between the Macedonian law on one and the laws from the EU countries are shown in the table below showing in descending fashion the most frequent expressions as organized in regard to an aspect from the process rather than individual occurrences.

Macedonia	Other countries
law, article, paragraph	Program
agency, council	Service
Program	Media
MRT	Broadcast
Macedonia	Audiovisual

The high frequency occurrence of the expressions related to the law itself, such as law, article, and paragraph indicates a high level of auto-referentiality, sort of myopia, focus on the itself. This focus on the instrument of definition and regulation itself (the law), rather than on its contents and practices, as is the case with almost all other laws where the notions of program, services, and broadcasting are foreground, lead to two tentative interpretations: a) the law is hyper-regulating the content by placing more importance on itself as instrument of regulation rather than the regulated material, b) it is a result of 'bad' or abusive/tendentious nomotechnique.

The first assumption; that it is hyper-regulative, is additionally confirmed by the fact that UNLIKE the laws of the other countries analyzed where the focus is first and dominantly on the content of the defined and regulated practices and participants, and only then on the regulator, the Macedonian law places much more attention to the regulatory body rather than the regulated practices.

In laymen's terms the Macedonian law does not place primary and dominant importance on the practice (program, service, and broadcasting) or who it is carried by (media) as the laws of other countries do, instead the focus is on *how it must be done* (law), and *who monitors and controls* the practice (The Agency).

Finally, while the frequent use of the constitutional name is rather an interpretative challenge, the frequent appearance of the national broadcaster MRTV, could potentially mean two things: a) Macedonia, unlike Croatia, has no separate laws on the national and the private media, b) the law potentially prioritize the national broadcaster.

We have revisited our analysis of the law on audiovisual services, now improved by the removal of many aspects of the problematic article 92 we revised and

major parts removed of the massive text of the article at issue (9 pages long by 2017), in order to illustrate what remains from the task of "decapturing of the state" – in order to overcome the excessive power of the executive branch the administration ought to stop producing legislation that is self-serving and instead espouse the value of serving the citizens. The latter, in our analysis, refers also to legal persons as well as a self-serving administration undermines entrepreneurial endeavors, academic autonomy, true freedom of the press, etc. The asymmetric power of the executive branch is also manifested, let us reiterate, through the judiciary, in the form of the executive court which seems to serve to protect the institutions of the state from the physical and legal persons, instead of the other way around. The de-capturing has, therefore, not been completed as the ordinary citizens remain captured by the state, both the executive and the judiciary branch, a captive of a self-serving system that refuses to be accountable, transparent and legally responsible to its citizens. This self-enclosed system leaves the citizen outside of it, as an alien entity and its omnipotence is intimidating toward those outside the walls of the self-serving, inefficient and non-accountable administration.

7

PROCEDURALISM BASED ON THE WHIM OF MASSIVE AND INCOMPETENT ADMINISTRATION

Considering the problem of state-capture the SDSM led governments have undertaken to overcome is apparently ideological, namely implies a method of governance pertaining to the so-called model of "illiberal democracy," we have to raise the question as to why the new government have not recruited and promoted/demoted staff on at least the leading administrative positions, as the EU progress reports of 2018 and 2019 advise:

> The Commission's 2018 recommendation on merit based recruitments in open competitions remains valid, especially on senior management appointments. The respect for principles of transparency, merit and equitable representation remains essential.[42]

One also wonders why instead of decreasing the number of people employed in the administration, as it was announced by the government,[43] the number of employees in fact keeps growing. We presume it is the result of the well-known phenomenon of political clientelism whereby political parties reward their most active members by employment in the public administration which in turn votes for them in the elections to come. The old administration remains as it can also be motivated through means of political clientelism to support the current or incumbent government. Thus, public administration is in fact a huge potential voting machinery, a political weapon no government wishes to give up on – or at least no truly democratic government. Those whose jobs are independent from the mercy of the ruling party think for themselves when they vote and cannot be used as an easily manipulated voting machine. We contend it is for this reasons that all of the government so far have resisted cutting down on the number of public servants and introducing greater digitalization, thus maintaining a tacit systemic corruption, political clientelism invisible to an outsider's eye.

While the Law on Administrative Servants and the Law on Public Sector Employees in principle ensure merit-based recruitment, promotion and dismissals, these laws are not fully applied across the administration. There are contradicting provisions in the Law on Internal Affairs, which allow employees to be excluded from the application of the Law on Administrative Servants. Procedures for temporary or service employments with lower criteria are used in many cases, bypassing the criteria set in the Law on Administrative Servants.[44] Some progress was made in improving transparency, with the adoption of the

[42] European Commission, "North Macedonia 2019 Report", p. 11

[43] Zaev: Reducing the Administration by 20% and a Smaller Number of Ministries is One of the Principles of the New Government [Заев: Намалување на администрацијата за 20% и помал број на министерства е еден од принципите за нова Влада], Rabotnik (4 August, 2020), available at https://tinyurl.com/y2tldaol, accessed on 1 December 2020.

[44] European Commission, "North Macedonia 2019 Report",p. 12

2019-2021 Transparency Strategy, the operationalization of the open government data portal and the publication of data on government spending.

One of the documents considered to be the key step in ensuring the necessary reform process for administration was the adoption of the Strategy for reform of the administration 2018-2022 by the Ministry of information society and administration in 2017.[45] The strategy focuses on four aspects as priorities in the reform process: policy development and coordination, public service and management of human resources; responsibility, accountability and transparency; Services and ICT support of administration. Although the priorities overlap with our analysis in some of its parts, our study confirms that there are no substantial improvements in the implementation of the Strategy.[46]

[45] Public administration 2022: Strategy for reform of the administration 2018-2022. Ministry of information society and administration, 2018. Available at: https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf Accessed on: 11.11.2020

[46] *Ibid*.

8

DIGITALIZATION OF THE ADMINISTRATION

Digitalization is agile process while the state bureaucracy is completely opposite. Digital transformations enable easier accessibility and improvement of the services for the end users. Moreover, digitalization will ensure also efficacy and the overall transparency of the work.

Digitalization in the executive branch is initiated and ongoing process. Announcing the digitalization in the administration, the government presented 707 out of 1267 services under all ministries on the platform Uslugi.gov.mk. All of them could not be finished from the very start to the end online. At some of them, the only available online thing is the list of the needed documentation. For others you can submit applications online but there are always some problems like: physical presence for getting the documents, contacts with post-offices, some of the services are not available for paying online etc.

As an answer to the COVID-19 pandemic, some of the processes provided by the government and ministries were digitalized. Official meetings turned on-line, the economic measures provided by the government for the citizens were fully digitalized and they could be fully online. Ministry of education and science provided on-line educational platform for education on primary and secondary level. The faculties also turned on digital classes, but most of them stopped there, making the bureaucracy even complicated for the students. Also, the Ministry of Health has announced some changes in the contact between the doctors and patients, by using digital tools. Digital scheduling of tests for COVID-19, new digital health services in order to extend maternity leave and health insurance, home treatment by the family doctors of patients with COVID-19, introduction new centralized system for on-line prescriptions prescribing, register of e-prescriptions for easier providing of the patients' therapy.

Stop Corona national application was designed and shortly in use, but has never been accepted by the citizens.

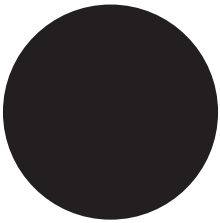
Digitalization process on the municipal level is still an issue. The processes of digitalization depend on the local authorities' will for changes. There are few ongoing projects in partnership with CSOs for active citizen enrolment in the decision making and creating initiatives for actions and they are implemented in the municipalities of city of Skopje, Karposh, Veles and Valandovo. They are not digitalized in manner to make payments and got needed documentation from municipalities but it's good step toward digitalization of the services provide by the municipality.

There was an announcement for starting the process of digitalization on local level, call for development of digital tools and solutions for better quality

of services in the local government that will be implemented by the Fund for Innovation and Technology Development and UNDP. It will consist setting up an E-platform of electronic system for payment of taxes to the municipality, a system for electronic payment of bills to public enterprises, electronic system of volunteers and Online platform for municipal forum.

The plan is to be implemented by the end of the year in 5 pilot municipalities: Centar Zhupa, Bogovinje, Sveti Nikole, Prilep and Kumanovo and will be available completely free of charge to other municipalities that will be willing to cooperate. The realization of that will be big step forward in improving the services for the citizens provided by the municipalities.

Although there are different pushes and processes still the digitalization of the administration remains to be a serious challenge which reflects in the overall efficacy, transparency, accessibility and satisfaction of citizens.



9

FIELD RESEARCH ON THE PERCEPTION OF INEFFICIENCY, LACK OF TRANSPARENCY AND PERCEPTION OF CORRUPTION

The following part of the text will present analysis of the personal stories, as part of the oral history research gained through our web site as a crowdsourcing method for gathering personal experiences of the citizens with institutions and public administration. The examples used here are result of the qualitative coding process that enabled to extract several categories recurring in the stories and related to the overall goal of the research. The analysis of personal stories goes hand in hand with data gathered through desk research that was necessary for reading of the findings.

9.1. Transparency

Transparency is measured mainly through open information for the processes and decisions of the institutions. However, not just open but also clear and understandable information are part of transparency. Official information should not be understood by only experts, researchers and civil society advocates. The information and procedures should be accessible and clear for all citizens. The analysis shows that our institutions lack transparency not only in terms of open information to citizens but also accessible to them. Accessibility entails clear pathways for each administrative procedure, and support into gaining knowledge and assistance in understanding and navigation through complex procedures. In practice where the procedures are complex, citizens use lawyers for navigation and execution of their rights and obligations. This practice is more efficient but costly and creates and encourages unequal accessibility for the citizens. An individual citizen usually faces many obstacles and frustrations when dealing with institutions. For example, in the following quote the lack of accessibility and transparency meant failing to apply for certain service. "I had problem to find the right and precise information on procedure for application and failed to submit the documentation on time. I faced confusing information, then difficulties in communication with the officials. I had to call many times and still didn't have the answers I needed. Additionally, there is no possibility for electronic communication nor submission which makes for me as employed person difficult to access the institutions, since they work also within my working hours and I had to use my breaks or ask for extended time from work to manage all the requirements. As a young person I find it hard to navigate in those institutional mess and be able to make things done without help of friends, relatives and connections. " Student from Bitola (25 years).

Another aspect of the transparency is related to the official communication with the institutions. Most of the stories contain information of problems in the communication with official in terms of non-professional communication, discrimination and uncompleted information.

"I have called the Contact Phone Office 38 times. I have written 10

> emails to ask if there is a problem and when it would be. There is no answer whatsoever."
>
> "The clerk at counter 4, where we were directed, also did not have a mask. When I asked him where his mask was, he addressed me in a terribly harsh tone and said: "I do not intend to suffocate at work for 8 hours, you are rude to address me like this!? I am here to do you a favor. All women are the same!! "

Although the Ministry has adopted Codex for workers in administration[47] the lack of accountability both in terms of internalization of professional ethic code and mechanisms for self-regulation as well as functional administrative procedures for complaints again proofs to be one of the key barriers in strengthening of transparency and communication in the administration.

9.2. Inefficiency

The overall inefficacy of the administration was pervasive element of most of the citizen experiences. Under efficacy we refer to getting services without complications and through regular procedures. However, in most of the stories there are different obstacles in the administrative processes – errors in the procedure, errors in documentation, asking for additional documentation, extending the timeframes, non-punctuality and problems in communication with officials etc. Other research also confirms inefficacy to be the biggest problem for the citizens. For example in the survey research by EvroThink states that non clear procedures, long pathways until the procedure is finalized, unpleasant and unprofessional approach of the employees in institutions, and the longevity of procedures are named as the most frequent problems citizens face.[48] The inefficacy results with confusion, frustration and the overall law trustworthiness in institutions. Here are some examples for the overly confusing and inefficient administration of procedures that make institutions vulnerable to corruption and citizens frustrated, feeling uncertain.

> "I live 150 km from the capital, even though I gave birth in Skopje. I can get a birth certificate only in Skopje. There was a small mistake that needed to be corrected, but they sent me back 3 times because it has not been corrected and they told me to come in 5 days. " P. from Kicevo (about 40)

[47] Codex for workers in administration. Ministry of information society and administration. Public gazette of Republic of Macedonia No. 27/14 Available at: http://www.pravda.gov.mk/toc1/1854 Accessed on 11.11.2020.

[48] Анкетно истражување ЕвроМетар 2019 година. Ставови на граѓаните за работата на јавната администрација [Survey research EuroMetar 2019. Citizen perceptions on the work of the public administration]. EuroThink. 2020.

The example above portraits how one of the simplest procedures for obtaining birth certificate could easily turn into and never-ending saga of errors and frustrations which cost the citizens additional money but also time and are stressful. The following example is also typical story of lack of efficacy also when dealing with mistakes. Those experiences as mentioned before, cost lots of time money not just for the citizens but also for the administration, since for the single document it takes number of same procedures to be executed.

> "My mother and I have different surnames. There was error in her first marriage certificate and she took care to correct it. However, her erroneous surname begins to appear in my excerpt "out of nowhere" even though it was corrected once. This has caused us a lot of administrative problems. We had to pay for more than 20 excerpts, but the correct one was never taken out. We went to a special counter in the Registry Office to report the error with all the necessary documents and evidence and again had to pay 300 denars to correct the error. Still the new certificate again was not corrected. It took us again time, stress and money to make complaints and try find "connections" to get the corrected document, but we failed. Eventually we encountered an employee who listened us and corrected the mistake (it only had to be entered in the computer) and managed to get a signature from the authority in 10 minutes."

It is important to also note that the endurance and resources invested in such cases are not available to all citizens. Many restrictions regarding intersecting demographic issues (social status, education, place, gender etc.) could prevent the person from sustaining in the institutional labyrinth due to scarce resources and/or access to them. Therefore, to maintain the accessibility for disadvantaged citizens, institutions should further invest into additional support in terms of assistance.

Also one of the main features that prevails in most of the personal experiences is the notion of necessity to find "connections" in order to more efficiently go through the administrative procedure. Other research also suggest that for the most of the population (more than two thirds) there is a perception that you need to have "connections" in institutions to get your job done[49]. However pervasive this strategy is, the data from oral history show that it doesn't actually make things easier nor efficient. Therefore "connections" seem to be more of a burden than efficient tool for both administration and citizens.

[49] EuroThink, *ibid*.

9.3. Perception of corruption

Typical examples of so called small scale corruption are perceived to be present in all levels of institutional structures and fields. The data we gathered didn't gave us a direct example of corruption but the notion of corruption was part of the stories where citizens "know the tariff" or know there is tariff for certain services and procedures. Those are mostly analyzed to be part of the "culture of corruption" which by also means it is highly likely to be normalized. For example, it is perceived as common experience to buy the doctor and the medical personnel (small) gifts as an act of gratitude for the help. In some cases, people accepted it as a correction mechanism for the state shortcomings, people compensate doctors and professors for the insufficient salaries.

> "She was my sister and was diagnosed to be in a life-threatening situation and urgently needed surgery. The doctors from the clinic said that the first free term for surgery is after three months and that she can't be operated immediately. Devastated we found a "connection", person related to the doctor, we paid a certain amount of money and they scheduled an operation for two days."

The problem with corruption but moreover the perception of corruption we focus on, is one of the effects of low efficacy and non-transparency as well as lack of accountability discussed in the analysis before. Therefore, perception of corruption could be countered by strengthening of the trustworthiness, efficacy, transparency and accountability as the main problems that should be directly tackled.

10

EASY, SWIFT AND ECONOMIC ACCESS TO ONE'S PERSONAL DOCUMENTS AS A FUNDAMENTAL EUROPEAN RIGHT.

North Macedonia and the quality of its legislation concerning the issues of digitalization of public services and the administration more generally has been highly praised in the European Commission's feedback on the harmonization of the national legislation with that of the Acquis [50] and in EU progress reports.[51] In 2019 three key laws on digitalization aimed for improving the administrative services for the citizens and legal persons were been adopted, namely the Law on Central Population Register, the Law on electronic management and electronic services, and the Law on electronic documents, electronic identification and trust services.[52] Nearly three years have passed and, according to our comparative analysis of said three laws with 5 laws[53] and 6 bylaws on personal documents, combined with an analytical reading of three strategies,[54] one on the is-

[50] European commission, European Neighbourhood Policy And Enlargement Negotiations, Acquis, available at https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/acquis_en , accessed on 03.09.2021.

[51] European Commission, "North Macedonia 2020 report", "North Macedonia 2019 report."

[52] Закон за централен регистар на население, Службен весник на Република Северна Македонија, бр. 98 ,(2019).[Law on Central Population Register, Official Gazette of the Republic of Macedonia No.98 (2019)]; Закон за електронски документи, електронска идентификација и доверливи услуги, Службен весник на Република Северна Македонија, бр. 101, (2019). [Law on electronic documents, electronic identification and trust services, Official Gazette of the Republic of Macedonia No.101 (2019)]; Закон за електронско управување и електронски услуги ,Службен весник на Република Северна Македонија, бр. 98,(2019).[Law on electronic management and electronic services Official Gazette of the Republic of Macedonia No. 98 (2019)].

[53] Закон за лична карта, Службен весник на Република Македонија број: 51/11, 13/12, 166/12, 154/15 и 55/16, (2016). [Identity card law, Official Gazette of the Republic of Macedonia No. 51/11, 13/12, 166/12, 154/15 и 55/16, (2016)]; Закон за патни исправи, Службен весник на Република Македонија број: 67/92, 20/03, 46/04, 19/07, 84/08, 51/11, 135/11, 154/15, 55/16, 302/20, 122/21, (2021). [Passport law, Official Gazette of the Republic of Macedonia No. 67/92, 20/03, 46/04, 19/07, 84/08, 51/11, 135/11, 154/15, 55/16, 302/20, 122/21, (2021)]; Законот за безбедност на сообраќајот на патиштата, Службен весник на Република Македонија број: 169/15, 226/15, 55/16, 11/18, 83/18, 138/2017, 191/18, 70/19, 98/19, 302/20, 122/21, (2021). [Road Traffic Safety law, Official Gazette of the Republic of Macedonia No. 169/15, 226/15, 55/16, 11/18, 83/18, 138/2017, 191/18, 70/19, 98/19, 302/20, 122/21, (2021)]; Законот за матична евиденција, Службен весник на Република Македонија број: 8/95, 38/02, 66/07,98/08, 67/09,13/13, 43/14, 148/15, 27/16, (2016). [Law on Personal Records, Official Gazette of the Republic of Macedonia No. 8/95, 38/02, 66/07,98/08, 67/09,13/13, 43/14, 148/15, 27/16, (2016)]; Законот за општа управна постапка, „Службен весник на Република Македонија" бр. 124/15, 65/18,(2018). [Law on General Administrative Procedure, Official Gazette of the Republic of Macedonia No. 124/15, 65/18, (2018)].

[54] Strategy for a Reform in the Public Administration 2018 -2022 година (2018) [Стратегија за реформа на јавната администрација 2018-2022 година], available at https://mioa.gov.mk/?q=mk/node/1587, accessed on 30 August 2021; Strategic Plan for the State Civic Regsitry Office [Стратешкиот план на Управата за водење на матични книги 2018-2020], available at https://uvmk.gov.mk/wp-content/uploads/2021/03/strateski-plan-2018-2020.pdf, accessed on 30 August 2021; Strategy for Regional Development of the Republic of North Macedonia 2021-2031 [Стратегија за регионален развој на република Северна Македонија 2021-2031], available at https://mls.gov.mk/files/Strategija-Za-RRR.pdf , accessed on 30 August 2021.

sue of decentralization including the topic of digitalization, we had to conclude that, sadly, not much has been accomplished in terms of alignment of the legislation on personal documents with that on digitalization as well as its aspect of decentralization of services. Here, we might say, the legislation is good but the implementation is bad – but it will be only partly true. The implementation is bad or next to impossible because it is, apparently, in conflict with the existing laws on personal ID's, birth certificates and the aforementioned Strategy on digitalization] as well as that on decentralization of digitalization, namely the quoted Draft Strategy on Regional Development. Our field research, in which we have established regular exchanges with the persons in charge of prime minister's cabinet, we have been informed that the revision of 150 laws is underway, with several ministries mobilized and that the first tangible effects of these processes would occur in July 2022. However, we are not informed as to how much of the changes under way concern the laws on personal documents (ID's, certificates from the civil registries etc.), nor do we have any insight as to whether the changes we identify here and in another study[55] as indispensable are the ones that the government will undertake in the upcoming period.

The Law on Central Population Register is one of the three laws on digitalization adopted in 2019 which allows for fully centralized archive of all the relevant personal documents and data of the citizens, unifying the full the Civil Registry's database with the bases on personal ID's of the Ministry of Interior. We argue that such a database enables simplified, dramatically more efficient procedures for the citizens that will be also legally reliable with some adjustment of the set of the existing laws on personal documents cited above. Being able to carry out a complete procedure of accepting an application, its speedy and reliable processing, and issuing the document to a citizen, be it in printed or digital form, can be ensured precisely by the digital Central Registry of the Population coupled with some necessary revisions in the existing laws on personal ID's. Below, we offer examples of such possible revisions.

At the moment of producing the present study in its pre-published form, we must note with regret that the Ministry of Interior has not introduced any adjustments to its laws on personal ID's since the adoption of the three laws on digitalization in 2019 and the establishment of the now fully functioning digital Central Register of the Population. The law on personal ID and the law on travel documents have undergone only one change – concerning the use of the constitutional name, Republic of North Macedonia, after the ratification of the so-

[55] Digitalization as the Way to a Trully Citizens Centred Afministration: Decentralization of the Processes as Means of Swift and Efficient Reform [Дигитализацијата како пат на вистинска администрација ориентирана кон граѓаните: Децентрализација на процесите како средства за забрзана и ефективна реформа], available at https://www.isshs.edu.mk/digitalizacijakako-patnavistinskaadministracija/?lang=mk, accessed on 30 August 2021.

called Prespa agreement completed by both (then) Macedonia and Greece by January 2019. The law concerning driver ID's has undergone to changes since 2019 but none of them concerns or is in any way linked with the processes and the adoption of the laws and strategic documents on the digitalization of the public sector. Regarding the issue of decentralization of the processes of digitalization, in particular in the area of personal ID, let us note that, based on data received through a recent study by Metamorphosis, a local foundation on internet society,[56] staff is required in the municipalities throughout the country that can process the electronically received and issued services – even when technical equipment is in place, increasing and retraining staff is of pressing necessity in order to render those services fully functioning. In case, the government opts for reforms whereby certain services are decentralized – e.g., one can apply for one's ID from any physical location as long as there is an office of the Ministry of Interior or of the Civil Registry, or even remotely if abroad – more staffing and training will be required. The latter implies that the administration will have to be restructured and retrained rather than simply laid off.

[56] We were able to consult the manuscript produced by the Foundation Metamorphosis from Skopje, which is at this point still unquotable.

RECOMMENDATIONS

- To overcome the phenomenon of "the bad implementation" here conceptualized as heavily bureaucratized state apparatus steps for dismantling of the discourse of auto-referentiality and the philosophy of "unlawful citizen" should be first and foremost be taken into account

- To improve accountability of institutions through strengthening of the capacities and mechanisms for juridical and other mechanisms that would help defend the individual and collective civic right vis-à-vis the state. Here the implementation of the Law on the General Administrative Procedure is considered as crucial.

- Full implementation of the Law on the General Administrative Procedure to be ensured by accompanying other and special legal acts regulating particular areas.

- Full digitalization of the procedures – and not only of archiving of documents – should be enforced, which would both render the procedure efficient, shorter, lest costly as well as help cut the number of administrative servants, a burden too heavy for the Macedonian economy to carry.

- Transparency should be strengthened by adding the dimension of accessibility of the information and services for the citizens through clear procedures, but also necessary assistance and guidance by the administrative officials.

POST-SCRIPTUM: Throughout 2021, ISSHS has advocated for a full digitalization of the personal documents as the first step toward establishing citizen-centered public sector. On September 2nd 2021, along with civil society partners and the key policy makers, ISSHS co-organized a conference at which said policy recommendations were reiterated and elaborated. The event was followed by an invitation of the Prime Minister's cabinet to share our set of policy recommendations in the form of a declaration addressed to the government. On October 5th 2021, the government adopted the majority of the recommendations at stake in this study and the previous policy documents produced as part of our NED project initiative.[57]

[57] Online Nova TV, Home, Government: Adopted amendments to the six key laws for the digitalization process, 05.10.2021.[Онлине Нова ТВ, Дома, Влада: Усвоени измени на шесте клучни закони за процесот на дигитализација, 05.10.2021.], available at https://novatv.mk/vlada-usvoeni-izmeni-na-sheste-kluchni-zakoni-za-protsesot-na-[...]id=IwAR09JwohvxszuYgPqDF-PZu9uaVQsg2SauyD9TDYSFIH4YUs7vlBnFk7LJVc , accessed on 05 October 2021.

The Institute of Social Sciences and Humanities, Skopje (ISSHS) is a non-profit research organization in applied social and humanities studies focusing mainly on multi-issue policy studies. It holds the status of a scientific institution in the fields of social sciences and humanities accorded by the Ministry of Education and Science of the Republic of Macedonia (Decision nr. 30). It is also an accredited graduate school offering MA level programs in multi-issue policy studies, cultural studies and gender studies. The Institute holds an Erasmus+ charter of Higher Education Institutions in Europe. Its core activities consist in multi–issue policy studies and policy related advocacy and training, coupled with basic research in the social sciences and humanities. Making findings visible and putting them into function that can contribute to positive changes in society is attached to that of policy research: data driven advocacy and awareness raising are part of every policy research activity we undertake. We also provide consultancy and act as multi-issue policy studies think tank.

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