

ANALYSIS OF CORRUPTION RISKS IN PUBLIC SECTOR EMPLOYMENT PROCEDURES



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USAID Partnership Against Corruption Project



This publication was prepared by the USAID Partnership Against Corruption Activity team with support from the American people through the United States Agency for International Development (USAID). The analysis was conducted by the Centre for Change Management. The contents of this publication do not necessarily reflect the views of USAID or the United States Government.

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EXECUTIVE SUMMARY

This analysis was prepared as part of the "Partnership Against Corruption" Project financed by USAID. It is a part of Goal 1, which focuses on strengthening the capacities, integrity, and accountability of the public sector to protect against corruption.

The employment system in the public sector of the Republic of North Macedonia is organized according to the principle of job positions and is classified as a merit system. This means that employment in public sector institutions should be conducted through an open, transparent, and fair selection procedure, typically accompanied by the announcement of the need for new employment and the publication of a public announcement. However, in practice, employment procedures in public sector institutions are recognized as one of the areas with the highest risk of corruption, due to their lack of transparency, resulting in subjective decisions that do not always select the best candidate. This issue pertains not only to the employment of administrative servants (a segment that is most regulated in the legislation) but also to other groups of public sector employees, such as authorized official persons, service providers, and auxiliary-technical staff in public sector institutions. An additional problem is posed by temporary employment (fixed-term employment and engagements based on contracts for services), as these are executed without a formal procedure and without predefined criteria, allowing institutions to engage individuals who do not meet the legal requirements for a specific job position.

For the purposes of the research, an analysis of the legal framework governing employment procedures and temporary employment in the public sector was conducted, along with a review of strategic documents of relevant institutions that highlight irregularities in employment procedures and the potential for corruption in temporary employment. Additionally, based on a request for free access to public information, data were collected from relevant institutions regarding submitted appeals in employment procedures with the Agency for Administration and the Second-Instance Commission for Decision-Making on Employment Appeals, as well as reports of discrimination in employment procedures submitted to the Commission for the Prevention and Protection against Discrimination.

The findings under the analysis indicate the need for improvement of laws and secondary legislation governing employment procedures and temporary employment in public sector institutions. The provided recommendations aim to further clarify provisions related to:

- The possibility of amending job systematization documents;
- The appointment of members of selection committees;

- The required educational qualifications for specific job positions;
- The allocation of the ratio of points in each phase of the employment procedure;
- The application of the Balancer;
- The criteria for fixed-term employment and service contracts.

The successful implementation of the given recommendations will contribute to an improved legislative and secondary legislative framework, which will enable greater transparency in employment procedures, reduce the risks of corruption, ensure the selection of candidates based on their professional qualifications, and establish clear criteria for the proper and lawful use of fixed-term employment opportunities and the engagement of external individuals through service contracts. Additionally, it will facilitate the adoption of written IT procedures for enhanced security of information systems in the employment procedure.

The findings and recommendations, along with the proposed measures and activities for implementation, are presented in the Action Plan contained in Annex 1 to this Analysis.

1. INTRODUCTION

This analysis has been prepared within the framework of the Partnership Against Corruption Project, funded by USAID. The aim of the Analysis is to examine the situation with employment in the public sector in the Republic of North Macedonia and to propose recommendations aimed at ensuring more transparent procedures for the selection, employment, and management of administrative servants. This effort is part of Goal 1— Strengthening the capacity, integrity, and accountability of the public sector in the fight against corruption, within the activities of the Partnership Against Corruption.

The objective of the project is to establish a partnership with the Government of North Macedonia to identify common priorities and co-create and invest in activities that strengthen national systems to reduce institutional vulnerability to corruption; and to enable the Government and other anti-corruption entities to take action in addressing corruption when it arises.

The materials analyzed included legal regulations for the selection, employment, and management of human resources in public sector institutions, annual reports from relevant national or international bodies, strategic documents of competent institutions, publicly available data, as well as data obtained through requests for free access to public information. These materials helped identify weaknesses in employment procedures within sectors covered by the research and facilitated the preparation of specific proposals to overcome the challenges. The analysis revealed the following inconsistencies in employment procedures for administrative servants:

- Education as a limiting factor: There are no predefined specific job competencies, leaving it to the discretion of the selection committee to determine what will be considered a desirable specific job competency; abuse of the system has been noted in the second phase of the selection procedure, namely the administrative servant test phase;
- Frequent changes to job systematization documents and their adjustment according to the education of the candidate;
- The allocation of the ratio of points in each phase of the employment procedure, which is often used to modify the ranking list;
- The objectivity of the interview scoring;
- The composition of the Selection Committee and the potential for external influences in the procedure.

Employment procedures in public sector institutions are recognized as one of the areas with the highest risk of corruption due to their lack of transparency, resulting in subjective decisions that do not always select the best candidate. In this context, the document adopted by the State Commission for the Prevention of Corruption, titled "Guidelines for the Implementation of Integrity Policy,"¹ emphasizes that:

"The risk of corruption is particularly pronounced in employment procedures, stemming from political influence in these procedures. One of the most visible 'symptoms' is the fluctuation of employees before and after elections, through new employment and the mechanism of temporary employment, which bypasses the Law on Administrative Servants."

Temporary employment in public sector institutions is also an aspect that opens a broad discussion due to the potential for abuse, particularly when it comes to employment in public sector institutions. Specifically, these employments are not conducted in accordance with employment procedures outlined in the Law on Administrative Servants and special laws, but rather, they are governed by the provisions of the Law on Labor Relations.² Given this, institutions utilize the legal possibility of employing individuals on a fixed-term basis who do not meet the specific legal requirements for a particular job position. In fact, institutions have at their disposal two mechanisms for fixed-term employment: employment directly announced by the institution itself and employment through temporary employment agencies. In addition to fixed-term employment, public sector institutions also engage individuals based on service contracts and copyright agreements, often utilizing services from copyright agencies. These employment practices have stirred public concern for an extended period, and the prevailing public opinion on this issue is that the primary criteria for entering into a fixed-term employment contract or an engagement through a service contract are political affiliation, nepotism, and friendly or familial ties.

The European Commission also notes the issue of temporary employment in its Progress Report³ on the Republic of North Macedonia, specifically highlighting the transformation of temporary positions into permanent employment, thereby circumventing legal procedures for filling job positions at the administration. A further concern is that these employments are not recorded in the Registry of the Ministry of Information Society and Administration, nor does the Ministry of Finance, which issues the financial approvals for this type of employment, maintain a record of them.

The findings from the analysis result in recommendations for improving the applicable legislation, as well as the secondary legislation that regulates the procedures

¹ <https://dksk.mk/wp-content/uploads/2021/11/%D0%9D%D0%90%D0%A1%D0%9E%D0%9A%D0%98-%D0%97%D0%90-%D0%9F%D0%A0%D0%98%D0%9C%D0%95%D0%9D%D0%90-%D0%9D%D0%90-%D0%9F%D0%9E%D0%9B%D0%98%D0%A2%D0%98%D0%9A%D0%90%D0%A2%D0%90-%D0%9D%D0%90-%D0%98%D0%9D%D0%A2%D0%95%D0%93%D0%A0%D0%98%D0%A2%D0%95%D0%A2.pdf>

² Law on Labor Relations, <https://mtsp.gov.mk/content/pdf/2023/trud/ZRO.%20precisten%20tekst%202023.pdf>

³ EC North Macedonia Report 2023, https://neighbourhood-enlargement.ec.europa.eu/document/download/28a9322a-3f18-434e-89d2-0890c90b2f96_en?filename=SWD_2023_693%20North%20Macedonia%20report.pdf

for the selection and employment of administrative servants. The consistent implementation of these recommendations will contribute to:

- Greater transparency in the employment at public sector institutions;
- Reduction of corruption risks and the facilitation of candidate selection based on their professional competencies;
- Precise regulation of fixed-term employment and its registration in the public sector employee Registry;
- Determination of the circumstances and criteria under which individuals will be engaged under service contracts at public sector institutions;
- Adoption of written IT procedures for enhanced security of information systems in the employment procedure.

The enhancement of the overall system for employment of administrative servants contributes to the implementation of higher-quality selection and employment procedures for skilled personnel at institutions. This, in turn, strengthens the operational functioning of institutions, enables the systematic application of processes and procedures, and ultimately leads to an improved quality of services provided to citizens. More importantly, it establishes a foundation for more effective policymaking and the achievement of the state's strategic priorities by eliminating opportunities for corruption.

2. METHODOLOGY

The methodological approach applied in conducting this research and preparing the Report included an analysis of the applicable legal framework governing this area, specifically the Law on Public Sector Employees and the Law on Administrative Servants, as well as relevant secondary legislation derived from these laws. The methodological approach also encompassed a review of the legal framework regulating fixed-term employment, particularly the Law on Transformation into Permanent Employment. The employment procedures in state institutions and public sector institutions are regulated by legal provisions, which stipulate that these procedures are transparent, based on predetermined criteria, and aligned with the principles of expertise, competence, and equitable representation.

The legal framework for public sector employment consists of:

- The Law on Public Sector Employees⁴ – which defines the groups and categories of employees in the public sector and prescribes the minimum requirements for employment in the public sector (administrative servants, authorized official persons, service providers, auxiliary-technical personnel);
- The Law on Administrative Servants⁵ – which establishes the conditions and procedure for employment of administrative servants not only in state administration bodies but also in all public sector institutions that employ administrative servants;
- Specific laws in various public sector fields (healthcare, education, social and childcare, culture, public services, etc.) – which more precisely define the conditions and procedure for employment of various public service providers at institutions.

This framework is further detailed through secondary legislation that regulates various aspects of the public sector system, as well as the selection and employment procedures that are mandatory for different groups of employees at institutions.

The analysis of the Law on Public Sector Employees examined several segments that play a significant role in regulating labor relations and the functioning of public institutions. First, the classification of job positions was reviewed, focusing on the methods of categorization and determination of various job positions within the public sector. Second, the analysis concentrated on the Catalogue of job positions, where the content, publication, and announcement of availability of job positions for interested candidates were examined.

⁴ Law on Public Sector Employees,
https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/zakon_za_vrabotenite_vo_javniot_sektor.pdf

⁵ Law on Administrative Servants,
https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/zakon_za_administrativni_sluzhbenici_2022-konsolidiran_tekst_0.pdf

The next section of the analysis pertains to several pieces of secondary legislation, specifically: the Rulebook on the Content and Method of Preparing Documents for Internal Organization and Systematization of Jobs,⁶ the Rulebook on the Form, Content, and Manner of Keeping the Catalogue of Job Positions at the Public Sector, on the Method for Assigning Job Position Codes, as well as on the Procedure for Entering and Deleting Job Positions from the Catalogue,⁷ and the Methodology for Planning Employment in the Public Sector in Accordance with the Principle of Equitable Representation, as well as for the Form, Content, and Template of the Annual Employment Plan and for the Report on the Implementation of the Annual Employment Plan.⁸ This section explores how the process of organizing and structuring job positions within public institutions is regulated, how the content of work and responsibilities for each position is determined, and includes an analysis of the "Balancer" as a methodological approach to implementing the constitutional principle of equitable representation.

In addition to these key regulations, the method of work organization, specifically the content of documents for internal organization and job systematization in institutions of the state administration, is further regulated by several important provisions, such as: Law on the Organization and Operation of State Administration Bodies (Official Gazette of the Republic of Macedonia Nos. 58/00, 44/02, 82/08, 167/10, 57/11), the Regulation on the Principles of Internal Organization of State Administration Bodies (Official Gazette of the Republic of Macedonia Nos. 105/07, 146/07, 149/2011, and 166/15), and the Regulation on the Description of Categories and Levels of Job Positions of Administrative Servants (Official Gazette of the Republic of Macedonia No. 72/14). The method of work organization for other public sector institutions is further regulated by substantive laws specific to the area in which they operate.

Furthermore, the methodology includes a review of the reports and strategic documents of relevant institutions (MISA, SCPC, the Ombudsman, CPPD, SAO, etc.) and provides an overview of the situation regarding the procedures for permanent and temporary employment, specifically identifying aspects of employment procedures where weaknesses are located. The analysis also covers reports of the State Audit Office, which focus on fixed-term employment, service contracts in public sector institutions, and the implementation of IT procedures in procedures for employment of administrative servants.

The analysis also takes into account the findings under the European Commission's Progress Reports on North Macedonia and SIGMA's assessment of the principles of public administration for North Macedonia.

Additionally, in order to obtain reliable results, and in accordance with the Law on Free Access to Public Information, requests for free access to public information were submitted to relevant institutions. The data requested from institutions pertained to 1) the number of appeals submitted in employment procedures for administrative servants

⁶ https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/pravilnik.pdf

⁷

https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/pravilnik_za_katalog_na_rabotni_mesta_sl132_0509_2014.pdf

⁸ https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/Metodologija.pdf

in state institutions, and 2) reports submitted alleging irregularities and abuses in the employment procedures in state institutions.

3. STATE OF PLAY

Competent institutions and the broader professional public consistently address employment procedures in the public sector in their reports and strategic documents, continually highlighting problems and irregularities in this area. In addition, the reports also examine the problematic aspects of temporary employment in state bodies.

The analysis of conditions in the area of permanent employment procedures was conducted based on a review of reports and strategic documents of relevant institutions such as the MISA, SCPC, the Ombudsman, and CPPD. This includes identifying weaknesses in various aspects of employment procedures. The analysis examines reports of the State Audit Office that investigate employment procedures. Additionally, IT procedures related to the employment of administrative servants were also reviewed. This analysis provides a detailed overview of the conditions and the need for improvements in the area of public sector employment. It is evident that there is clear and precise regulation governing employment procedures for administrative servants, but there is no clear, precise, and uniform regulation governing employment procedures for other employees in public sector institutions.

The State Commission for the Prevention of Corruption (SCPC) has the legal authority to institute proceedings and act upon cases involving suspicions of corruption on its own initiative, based on information from the media (public information) or upon complaints from citizens, legal entities, or civil organizations.

In its 2022 Annual Report,⁹ the Commission noted that the majority of complaints submitted due to **suspicious of irregularities in employment procedures** alleged that the selected candidates were close to elected/appointed officials or affiliated with political parties, as well as due to the **abuse of the "Balancer"** by employees.

This trend continued throughout 2023, as the Commission emphasized in its 2023 Annual Report for 2023¹⁰:

*"The majority of complaints involving suspicions of irregularities in procedures pertain to **employment**, where, as in previous years, employment remains the most pressing issue for citizens. The discretionary powers of responsible individuals for decision-making and candidate selection often outweigh the established system for evaluating education, experience, and competence, as well as the **abuse of the 'Balancer'** by candidates during employment."*

Of the cases that the SCPC handled in 2023, based on suspicions of protecting personal interests, nepotism, cronyism, clientelism, violations of ethical codes, and similar issues, the Commission submitted 28 initiatives to relevant authorities to institute proceedings for determining the responsibility of official persons, based on evidence obtained from cases it handled.

⁹ <https://dsk.mk/wp-content/uploads/2023/03/GI-2022-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD.pdf>

¹⁰ <https://dsk.mk/wp-content/uploads/2024/03/1-%D0%93%D0%98-2023-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD.pdf>

The situation is similar when it comes to complaints submitted to the SCPC regarding cases of conflict of interest. This issue has increasingly gained public attention, leading to a rise in the number of reports concerning all forms of conflicts between public and private interests, **particularly in public sector employment, where there are allegations of nepotism, cronyism, clientelism, and political and partisan influence.** The number of reports of conflict of interest continues to grow.

One of the objectives defined in the **National Strategy for the Prevention of Corruption and Conflict of Interest 2021-20¹¹** is "ensuring integrity and transparency in employment and human resource policies in the public sector, based on a system of values and quality criteria," and one of the identified areas with the highest risk of corruption is "public sector employment." The first issue in this area is the *"inconsistency of numerous laws regulating employment, which allows for various forms of influence: political influence, nepotism, cronyism, and clientelism."* Furthermore, a problem is that the legal framework has not established a clear system for evaluating the criteria for selection in employment and promotion procedures in the public sector.

Based on identified issues related to public sector employment, the Strategy defines appropriate measures and activities aimed at overcoming them. The implementation of all activities outlined in the Strategy will contribute to resolving the problem of inconsistency among the numerous laws regulating employment and to establishing a clear and transparent procedure for evaluating the criteria for employment and promotion in the fields of healthcare, education, culture, and social protection. As the matter is currently regulated, it leaves room for undue influence on the employment procedure, which is why one of the proposed activities is the "adoption of secondary legislation to establish objective criteria and an evaluation procedure for employment and promotion, tailored to the specific needs of each sector." Finally, with the consistent implementation of activities in this area, discretionary powers of responsible official persons in employment procedures will be limited, ensuring integrity and transparency in public sector employment, based on a system of values and quality criteria.

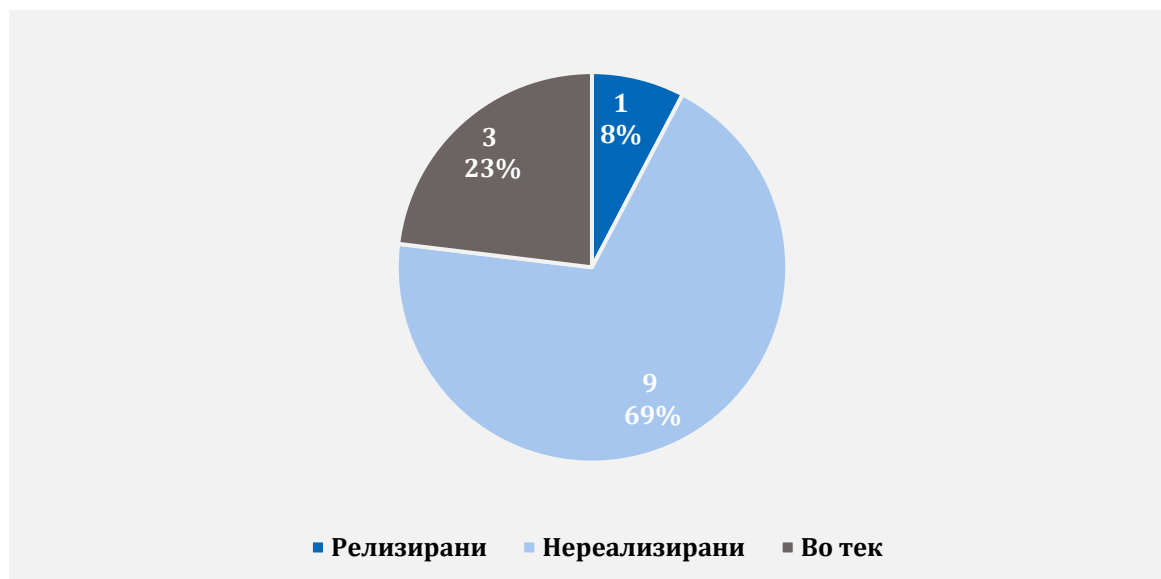
In the Annual Report on the Implementation of the National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025, covering the period from January 1, 2023, to December 31, 2023,¹² an overview is provided of the degree of implementation of activities aimed at addressing the issues identified in the Strategy, specifically those related to employment procedures. What is concerning is that as of December 31, 2023, out of a total of 13 planned activities, only one activity had been fully implemented, and that was under the responsibility of the SCPC. Three activities are currently in progress, while for as many as nine activities, responsible institutions have not made any implementation efforts, despite the deadlines having already passed.

¹¹ <https://dskk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

¹² <https://dskk.mk/wp-content/uploads/2024/02/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%9D%D0%A1-2023-Usvoen-na-sednica.pdf>

Chart 1: Degree of Implementation of Activities under the National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025 in Employment Procedures for the Year 2023

Implemented Not Implemented Underway



The **SCPC**, in the National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025¹³, also addresses the issue of temporary employment and notes that:

"A problem arises from the fact that the legal framework allows for long-term employment of individuals in the public sector through service contracts, copyright agencies, or temporary employment agencies, which further contributes to political influence in employment and the practice of nepotism."

The Strategy indicates that, to overcome such forms of corrupt behavior, measures should be taken to eliminate the possibility of temporary employment through temporary employment agencies and to abolish the possibility of transforming temporary employment into permanent employment without following the regular employment procedures.

However, in the Annual Report on the Implementation of the National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025, covering the period from January 1, 2023, to December 31, 2023,¹⁴ it is noted that these planned measures were not implemented by the end of 2023.

¹³ <https://dsk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

¹⁴ <https://dsk.mk/wp-content/uploads/2024/02/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%9D%D0%A1-2023-Usvoen-na-sednica.pdf>

In its **2022 Annual Report**,¹⁵ the SCPC noted that of the six initiatives submitted to competent authorities to institute proceedings for determining the responsibility of official persons for violating the provisions on the prevention of conflict of interest, five were related to the failure of official persons to recuse themselves and report a private interest in procedures involving the employment or transformation of the employment status of a person close to them. **The majority of conflict-of-interest reports received in 2021 also pertained to procedures involving the employment of close associates** and the failure to comply with the recusal rules established under the Law on the Prevention of Corruption and Conflict of Interest.

In accordance with its legal competencies, the SCPC conducts anti-corruption reviews of legislation (ACLR), which is a very important anti-corruption mechanism implemented based on the Methodology for Anti-Corruption Review of Legislation.¹⁶ The objective of the ACLR is for the Commission, through the review and evaluation of the content of proposed or enacted regulations, to detect and prevent risks of potential corruption and conflicts of interest that might arise from the application of certain laws or secondary legislation. In this context, the Commission conducted an analysis of the provisions of the Law on Transformation into Permanent Employment. The Report on the Anti-Corruption Review of the Law on Transformation into Permanent Employment¹⁷ concludes that "there are regulatory risks of corruption." Moreover, the analysis reveals that this Law conflicts with other laws that regulate issues related to service contracts, fixed-term employment, and the transformation into permanent employment in different ways. These issues are already regulated differently in the Law on Labor Relations, the Law on Obligations, the Law on Public Sector Employees, and the Law on Healthcare Protection.

Additionally, the SCPC, through its anti-corruption review of regulations, conducted an analysis of the provisions of the Law on Public Sector Employees, specifically Article 22. In the Report on the Anti-Corruption Review,¹⁸ a comparison was made between this provision and the provision of Article 24 of the Law on Private Employment Agencies, which essentially defines in a similar manner the cases in which a contract for temporary employment may be concluded. However, the Commission points to Article 24, paragraphs (2) and (3) of the Law on Temporary Employment Agencies.

According to this provision, a contract for the assignment of a worker to perform the same temporary tasks may be concluded for the duration of the need, but not longer than two years, with or without interruption. Paragraph (3) stipulates that a private employment agency may not assign a worker to perform the same tasks for the same

¹⁵ <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD.pdf>

¹⁶ <https://dksk.mk/wp-content/uploads/2020/12/%D0%9C%D0%B5%D1%82%D0%BE%D0%B4%D0%BE%D0%BB%D0%BE%D0%B3%D0%B8%D1%98%D0%B0-%D0%B7%D0%B0-%D0%B0%D0%BD%D1%82%D0%B8%D0%BA%D0%BE%D1%80%D1%83%D0%BF%D1%86%D0%B8%D1%81%D0%BA%D0%B0-%D0%BF%D1%80%D0%BE%D0%B2%D0%B5%D1%80%D0%BA%D0%B0-%D0%BD%D0%B0-%D0%BB%D0%B5%D0%B3%D0%B8%D1%81%D0%BB%D0%B0%D1%82%D0%B8%D0%B2%D0%B0%D1%82%D0%B0.pdf>

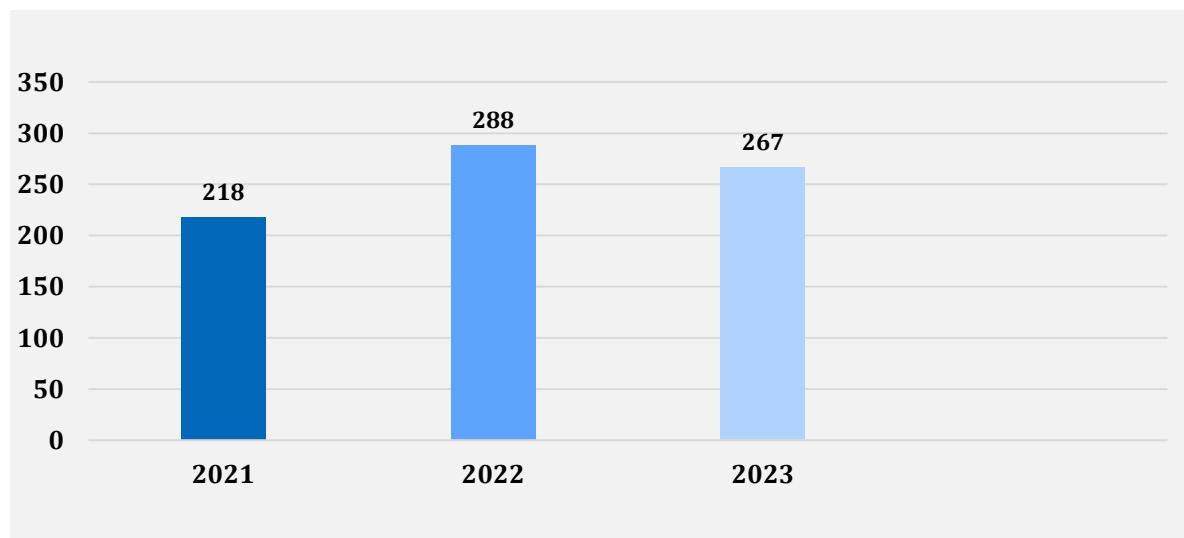
¹⁷ <https://dksk.mk/wp-content/uploads/2022/11/11-6715-3.pdf>

¹⁸ <https://dksk.mk/wp-content/uploads/2023/08/%D0%98%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%B7%D0%B0-%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D1%82-%D0%B7%D0%B0-%D0%BA%D1%83%D0%BB%D1%82%D1%83%D1%80%D0%B0%D1%82%D0%B0-%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D1%82-%D0%B7%D0%B0-%D0%B2%D1%80%D0%B0%D0%B1%D0%BE%D1%82%D0%B5%D0%BD%D0%B8%D1%82%D0%B5-%D0%B2%D0%BE-%D1%98%D0%B0%D0%B2%D0%BD%D0%B8%D0%BE%D1%82-%D1%81%D0%B5.pdf>

employer for more than two years, with or without interruption. The Report concludes that **the way this legal provision is formulated leaves room for abuse**, allowing an individual to be engaged in a single institution for more than two years, albeit in different job positions.

Chart 2: Number of Applications Submitted with the Ombudsman in the Field of Labor Relations

In accordance with Article 77 of the Constitution, the **Ombudsman** protects the constitutional and legal rights of citizens when they are violated by state administration bodies and other bodies and organizations that have public authority.



In the 2022 Annual Report,¹⁹ the Ombudsman noted an increase in the number of applications related to labor relations, with a total of 288 applications submitted, compared to 218 in the previous year. The analysis of the data, by subcategories, shows that **the majority of applications pertain to employment procedures**. As in previous years, applicants pointed out violations of rights in employment procedures, specifically that during candidate selection, the scoring of candidates based on the criteria set forth in the announcement was not taken into account, and candidates with lower scores were selected without any explanation. According to the data in the 2023 Annual Report,²⁰ the number of applications related to labor relations was 267, and a significant number of complaints regarding violations of labor rights continue to be submitted.

Regarding the content of the submitted applications related to labor relations, a total of 267 applications were submitted. Of these, 34 complaints pertain to employment procedures, and 31 applications allege violations of labor rights in the public sector. This means that, out of the total number of applications submitted in the area of labor relations, 65 complaints, or 24%, relate to violations of labor rights in public sector institutions.

¹⁹ <https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2022/GI-2022.pdf>

²⁰ <https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2023/GI-2023.pdf>

Chart 3: Number of Received Applications according to applications' content

Процедури за права од работен однос во јавна администрација

Процедури за вработување

Исплата на плати

In the Report, the Ombudsman highlights the lack of transparency of institutions, noting that in a number of cases, the responses provided by the competent state authorities to the Ombudsman's requests are not precise, professional, or concise, but rather are general, superficial, non-specific, and unsupported by appropriate evidence. This is contrary to Article 34 of the Law on the Ombudsman, which establishes the obligation of state authorities to inform the Ombudsman of the measures taken to implement the Ombudsman's requests, proposals, opinions, recommendations, or remarks within a deadline the Ombudsman specified. For these reasons, the Ombudsman emphasizes the need for competent institutions to take measures to provide comprehensive and reasoned responses, supported by appropriate evidence.

The Commission for Protection against Discrimination (CPD) in its 2022 Annual Report²¹ indicates that **the majority of cases concerning protection against discrimination in 2022 were in the areas of employment and labor relations.** Specifically, when it comes to applications submitted by individuals, the largest number of them pertained to claims of protection against discrimination in the area of employment and labor relations. This area was reported in as many as 84 applications, representing more than half of the total number of applications, or 53.50%.

²¹ <https://kszd.mk/wp-content/uploads/2023/05/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%98%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-2022.pdf>

Chart 4: Number of Cases for Protection against Discrimination by Reported Areas

Culture, Membership of and Activities at Trade Unions ..., Housing, Justice and Administration, Other Area, Social Security, Education, Science and Sport, Access to Goods and Services, Public Informing and the Media, Labor and Labor Relations

In the **Public Administration Reform Strategy 2023-2030**,²² the second of the four priority areas is Public Service and Human Resources Management, with the general objective being: "A depoliticized, professional, and skilled public administration." One of the measures proposed to achieve this objective is the introduction of a merit-based system in employment procedures for administrative servants. Another measure aimed at realizing the general objective is **to strengthen the role of competency-based interviews in procedures for employment at the public administration**. This measure is planned to be implemented by structuring and conducting interviews in a completely different manner from current practices. Activities will focus on forming interview committees composed of professionals, psychologists, and individuals with established personal integrity, and the results of the conducted interviews will be presented in a special report and made publicly available. The indicator for the successful implementation of this activity is defined as the "Percentage of published decisions for the selection of the most successful candidate, with evidence-based reasoning for each decision individually." The activities for implementing this measure are scheduled to begin in the third quarter of 2024 and to conclude by the first quarter of 2026.

²² https://mioa.gov.mk/content/Strategija%20RIJA_MK%2003.pdf

The State Audit Office (SAO), as the independent supreme audit institution of the Republic of North Macedonia, transparently, timely, and objectively informs the competent institutions and the public about the findings from the audits conducted. In 2022, the SAO conducted an audit of the compliance of the information system for application, examination, and employment at the Agency for Administration in relation to its responsibilities in public administration employment. According to the findings from the Audit Report,²³ during the examination procedure, employees at the Agency are prohibited from having network access to the computers in the examination room, as well as network access to the module and database of exam questions, except for IT personnel when technical reasons require their intervention.

Network access to the computers in the examination room, as well as to the module and database of exam questions during the examination, constitutes an abuse of official position and authority in accordance with the law.

According to the audit findings, it is necessary for the Agency to maintain records of network access to the computers in the examination room and to the module and database of exam questions, including the time of access, the username of the employee who accessed the system, and the actions performed during the access.

Furthermore, the SAO noted that the **Agency lacks a written procedure for IT security of the information system**. Such a procedure is necessary for the active management of users within the system, monitoring and recording user access to the system, controlling access to the Agency's premises, monitoring log ins in the Agency's IT systems and network traffic, and ensuring an audit trail for managing IT security incidents.

The scope of the SAO's audits includes, among other things, employment in public sector institutions, with a particular focus on **temporary employment and engagements based on service contracts**, given that this type of employment is a means of circumventing the legal procedures for employment at institutions. The audit reports conducted in several public sector institutions in 2021, 2022, and in 2023 identified **a series of irregularities concerning fixed-term employment procedures** and the engagement of individuals based on service contracts:

- The fixed-term employments carried out were not planned in the Annual Employment Plan, **which is not in accordance with Article 51, paragraph 1 of the Law on Budgets;**
- Individuals employed on a fixed-term basis were engaged for a period of up to three years, **which is not in compliance with Article 22, paragraph 12, in conjunction with paragraph 3 of the Law on Public Sector Employees**, which stipulates that the contract for the assignment of an employee to perform the same temporary tasks may be concluded with a duration as the duration of the need, but not longer than one year for the same employee with the same employer;

²³ https://dzt.mk/sites/default/files/2022-07/72_FINALE_RU_Informaciski_sistem_za_prijavuvanje_polaganje_vrabotuvanje_Agencija_administracija_2021.pdf

- Some of the job positions for which approval was granted by the Ministry of Finance were not aligned with the positions to which these individuals were actually assigned;
- When engaging individuals from temporary employment agencies, no request specifying the required qualifications that the candidate must meet was submitted, **which is not in accordance with Article 11 of the service contract for temporary employment;**
- The engagement of external individuals to perform work tasks was carried out without prescribed criteria for determining the amount of financial remuneration, and the attendance of these individuals at the workplace was not monitored. As a result, **there is a risk of paying financial remuneration to individuals who were not present at the workplace and did not fulfill the agreed-upon work obligations.**

In order to address these irregularities, **the SAO emphasizes the need to adhere to legal procedures** in cases where non-compliance has been identified and highlights the necessity of establishing criteria for the engagement of external individuals.

Additionally, the reports of the State Audit Office should be taken into account during parliamentary review. The oversight role of the Parliament includes the examination of these reports at its sessions. This is particularly important as it enables oversight of the institutions' work towards responsible and efficient operations, as well as control and supervision of budgetary funds and their expenditure.

In the Report on Monitoring Employment, Allocation, and Implementation of Budgets in Public Sector Institutions,²⁴ prepared by the Center for Change Management (CCM), weaknesses in the employment procedures under the Law on Administrative Servants were identified. Specifically, the Report emphasizes that the employment procedures are identical and not tailored to the needs of the positions being filled (a general test is administered, which does not assess the specific competencies of candidates according to the requirements of the position). There is an open opportunity for abuse and subjectivity, particularly in the interview procedure, and the unjustified termination of procedures further opens the door to potential abuses. The manner in which interviews are conducted is another problematic aspect of the employment procedure, as the presence of only the candidate and the members of the Selection Committee is completely non-transparent, and there is no possibility of verifying the objectivity of the scoring. According to the Report, establishing the principle of merit in employment procedures in public sector institutions is one of the key prerequisites for overcoming the weaknesses of the existing system, leading to the professionalization and depoliticization of the entire public sector.

All these reports ascertain that there are serious challenges in managing employment in public sector institutions, considering not only the employment of administrative servants but also the use of the "temporary employment" instrument.

²⁴ <https://cup.org.mk/publication/report-from-monitoring-of-employment-allocation-and-implementation-of-budgets-in-public-institutions>
[D0%B2%D0%BD%D0%B8%D0%BE%D1%82%20%D1%81%D0%B5%D0%BA%D1%82%D0%BE%D1%80%203%20%D1%84%D0%B8%D0%BD%D0%B0%D0%BB%D0%BD%D0%BE.pdf](https://cup.org.mk/publication/report-from-monitoring-of-employment-allocation-and-implementation-of-budgets-in-public-institutions)

Some of the challenges, which simultaneously represent a serious risk of potential corruption, are related to shortcomings or ambiguities in the regulations, while others are linked to practices, specifically the "circumvention" of certain regulatory ambiguities through which the system is "exploited." These conditions not only contribute to the creation of a system susceptible to corruption but also present an open door to a range of potential abuses that could have far-reaching consequences for the entire public sector. Addressing these challenges is an essential condition for establishing a merit-based system where professionalism and adherence to the law are fundamental requirements.

4. ANALYSIS OF DATA OBTAINED BASED ON REQUESTS FOR ACCESS TO PUBLIC INFORMATION

As part of the conducted research, requests for free access to public information were submitted to several institutions, including the Agency for Administration, the Office of the Ombudsman, and the State Commission for Protection against Discrimination. The requested data pertain to the years 2021, 2022, and 2023 and cover the following:

- The number of complaints submitted in procedures for employment and promotion of administrative servants, as well as the decisions made in these cases. The data provided by the Agency for Administration are presented in the table.

Table 1: Submitted Appeals against Decisions Made in Procedures for Employment of Administrative Servants with the Agency for Administration

Year	Total No. of received appeals	Gender structure of the total No. of received appeals		Total No. of resolved cases	No. of upheld appeals	Gender Structure of the No. of upheld appeals		No. of rejected appeals	No. of dismissed appeals	No. of decisions in cases considered on their merits	Not mandated to decide upon the appeal	Appeal withdrawn by the applicant
		Men	Women			Men	Women					
2021	73	30	43	73	0	0	0	40	3	0	3	1
2022	97	44	53	97	7	3	4	53	34	3	0	0
2023	86	48	38	86	4	2	2	52	29	0	1	0

The number of complaints submitted in 2022 and 2023 is significantly higher (20-30%) compared to 2021, but the number of upheld complaints is very small. Specifically, in 2021, not a single complaint was upheld, in 2022, seven complaints were upheld, and in 2023, only four complaints were upheld. However, the decisions on **complaints** made by the Agency for Administration are not publicly disclosed, which prevents any insight into the reasoning behind the rejection of submitted complaints. The high percentage of rejected complaints and the lack of transparency in the second instance procedure indicate the need for further examination of the objectivity in decision-making.

A request for free access to public information was also submitted to the Commission for Protection against Discrimination (CPD). The data obtained regarding the number of discrimination complaints in employment procedures in state bodies indicate the following:

- Unlike in 2021, when only one complaint was submitted, the number of complaints alleging discrimination in employment procedures has continuously

increased in the following two years, rising to 5 in 2022 and 9 in 2023. While the number may not be large, it is important to consider the fact that the Commission, in its current form and composition, has existed only since 2021, and each year the number of complaints has been steadily increasing.

- Regarding the grounds for which the complaints in employment procedures are submitted, the data indicate that they vary: in 2023, the majority of complaints cited education as the basis for discrimination—4 complaints, four complaints were classified under "other grounds," and two complaints were submitted alleging discrimination based on political belief. In 2022, most complaints—3—were submitted for discrimination based on national or ethnic affiliation. Continuously monitoring the number of discrimination complaints in employment procedures, as well as the grounds on which they are submitted, is another way to identify certain problematic aspects of employment procedures.

5. LEGAL FRAMEWORK ANALYSIS

An analysis of the existing legal framework includes an examination of the regulation on labor relations in the public sector, encompassing the Law on Public Sector Employees and the Law on Administrative Servants, as well as the relevant secondary legislation. This Analysis focuses on reviewing and interpreting applicable legal provisions and norms that define the rights and responsibilities of public sector employees, the procedures for their selection and employment, as well as the procedures for career management and other labor rights. This part of the analysis identifies potential gaps, inconsistencies, or problematic aspects within the legal framework and provides recommendations for amendments or improvements to safeguard the rights and interests of public sector employees, particularly the group of administrative servants employed in public sector institutions.

In North Macedonia, the public sector employment system is organized according to the principle of job positions and is classified as a merit-based system. This means that employment in public sector institutions should be conducted through an open, transparent, and fair selection procedure, typically accompanied by the announcement of the need for new employment and the publication of the vacancy under a public announcement. In such systems, employment is based on a precise job description that outlines the specific goals and tasks the administrative servant is expected to achieve, as well as a clear description of the general and specific conditions and competencies that the candidate must meet or possess to qualify for the advertised position.

The subject of the legal framework analysis is the legislation and secondary legislation that regulate the procedures for the employment of administrative servants²⁵ and temporary employment²⁶ (fixed-term employment, service contracts, and copyright agreements). Through the analysis of the legal framework, the weaknesses in the existing legal solutions are identified, and appropriate proposals for their resolution are provided.

²⁵ <https://www.mioa.gov.mk/documents-legislation0.nspix>

²⁶ Law on Transformation into Permanent Employment, https://finance.gov.mk/wp-content/uploads/2009/02/Zakon_za_transformacija_vo_redoven_raboten_odnos_20_12022015.pdf

3.1 PROCEDURES FOR EMPLOYMENT OF ADMINISTRATIVE SERVANTS IN PUBLIC SECTOR INSTITUTIONS

This chapter contains an analysis of the legal framework that regulates the procedures for the employment of administrative servants in public sector institutions. The analysis encompasses the Law on Public Sector Employees, the Law on Administrative Servants, and secondary legislation derived from these laws that are relevant to the procedures for the employment of administrative servants.

3.1.1 LAW ON PUBLIC SECTOR EMPLOYEES

According to the Law, the job positions in public sector institutions are grouped as follows:

Group I - Positions of administrative servants, i.e., individuals who have established employment in public sector institutions for the purpose of performing administrative duties;

Group II - Positions of official persons with special authorizations, i.e., individuals who have established employment in public sector institutions in the fields of security, defense, and intelligence for the purpose of exercising special authorizations;

Group III - Positions of public service providers, i.e., individuals who have established employment in public sector institutions to perform tasks related to activities of public interest in accordance with the law, which are not of an administrative nature (e.g., doctors, teachers, educators, social workers, curators, librarians, actors, etc.); and

Group IV - Positions of auxiliary-technical personnel, i.e., individuals who have established employment in public sector institutions for the purpose of maintenance, security, transportation, and other auxiliary and technical tasks that ensure the smooth functioning of the institutions.

The analysis of relevant laws and secondary legislation has determined that the general principles, definitions, and organization of employees in public sector institutions, specifically administrative servants, are determined through several segments contained in relevant laws and secondary legislation, as follows:

Administrative servants, as a distinct group of public sector employees, are regulated in the **Classification of Job Positions**—under the Law on Public Sector Employees—Chapter III: CLASSIFICATION OF JOB POSITIONS IN THE PUBLIC SECTOR, where the groups of employees in public sector institutions are defined, including the group of administrative servants, i.e., "Group I – job positions of administrative servants, meaning individuals who have established employment in public sector institutions for the purpose of performing administrative duties." The specifics of the group of administrative servants are further detailed in the Law on Administrative Servants.

The **Catalogue of Job Positions**, which constitutes a systematized list of job positions in the public sector, also includes the positions of administrative servants. The job positions in the public sector within the Catalogue are organized into groups, subgroups, categories, and levels. The Catalogue is kept by the Ministry of Public Administration, a newly established institution in accordance with the amendments to the Law on the Organization and Operation of State Administration Bodies,²⁷ whereas it was previously under the jurisdiction of the former Ministry of Information Society and Administration. It serves as an electronic register of job positions in the public sector, where each position is designated by a code that represents a unique alphanumeric identifier of the data for each job position at institutions. Job positions in the Catalogue can be deleted or new ones added according to the needs of the institutions, and this procedure is thoroughly regulated by the Rulebook governing the manner of keeping the Catalogue, as well as the procedures for adding and deleting job positions from the Catalogue.

The documents on the internal organization and job systematization regulate the organization of the institution, specifically the forms of organizational units within the institution, their competencies and functions, as well as the lines of responsibility within the institution's hierarchy. The documents on the systematization of jobs determines the organizational unit to which each job position belongs, as well as the group, subgroup, category, and level of each individual job position according to the job classification and the Catalogue of Job Positions in the public sector. This document also specifies the general and specific requirements for each job position, as well as the description of duties and tasks for each individual job position within the institution. The job systematization document is adopted in accordance with the document on the internal organization, following the established organizational structure and hierarchy, as well as the scope of work of organizational units within the institution. The document on the internal organization and the job systematization document are adopted after conducting a functional analysis. The established scope of work of the institution, along with the job systematization required for carrying out the institution's competencies, forms the basis for the employment, promotion, and mobility of employees.

Paragraph 2 of Article 17 of the Law on Public Sector Employees stipulates that "The job systematization document shall determine, for each job position in the public sector institution, the group, subgroup, category, and level to which the job position belongs, as well as the general and specific requirements and the description of duties and tasks for each job position." Additionally, Article 17 of the Rulebook on the Content and Method of Preparing Documents on the Internal Organization and Job Systematization provides that "The specific requirements shall include: the necessary professional qualifications, the required work experience in the profession (work experience), the necessary general and specific job competencies (knowledge, skills, and abilities required for performing the job), and other criteria necessary for performing the duties of the specific job position" and that "In determining the necessary professional qualifications, the type and level of

²⁷ <https://praksis.mk/Document/Index/?Id=174491&type=1>

education should be specified." **The type of education** constitutes a specific requirement for employment and is defined in the job description for each position in the job systematization document of each institution. According to Article 17 of the Rulebook, the type of higher education is determined by specifying at least one and no more than five scientific fields that correspond to the job description, as contained in the international Frascati classification.²⁸ The procedure for the employment of administrative servants is detailed in the Regulation on the Implementation of the Procedure for Employment of Administrative Servants,²⁹ which derives from the Law on Administrative Servants and is analyzed in the following chapter.

An important part of the employment system in public sector institutions is the planning of employment. The planning of employment for administrative servants and the use of the "**Balancer**" tool is regulated in Chapter IV-a of the Law on Public Sector Employees (LPSE), where it is emphasized that in the employment procedures for administrative servants, the constitutional principle equitable representation is applied to ensure that all ethnic communities are adequately represented in public sector institutions. This principle, as stipulated in the Law on Public Sector Employees, is practically implemented through the Methodology for Planning Employment in the Public Sector in accordance with the principle of equitable representation. The Methodology is applied to new employees for which the online calculator (Balancer) allocates job positions based on the planned employment. One of the criteria used to calculate the allocation of employment for persons belonging to communities is the data from the most recent population census in the Republic of North Macedonia, in relation to the number of currently employed individuals at the institution, according to community affiliation. The "Balancer" is a tool designed to ensure appropriate, equitable, and balanced representation of ethnic communities. In this regard, the "Balancer" calculates the number of individuals belonging to a specific ethnic community who need to be employed at an institution to achieve the required threshold for equitable representation at the institution that plans to carry out new employments. The calculation is based on data for all employees in the institution, regardless of the employment group to which they belong; however, the results are applied exclusively to employment procedures for administrative servants and not to the employment of authorized official persons, service providers, or auxiliary-technical personnel.

In public sector institutions established by the central or local government, which operate at the local or regional level, the data from the most recent population census of the Republic of North Macedonia for the local self-government unit in which the institution is located are used as the basis for allocating the number of planned new employments according to community affiliation. In this context, the Ministry of Information Society and Administration, referring to the 2021 population census, made changes to the "Balancer" tool so that the percentage of the total registered population,

²⁸https://mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/pravilnik_za_sodrzhinata_i_nachinot_na_podgotovkata_na_aktite_za_vnatreshna_organizacija_i_sistematizacija_na_rabotnite_mesta.pdf

²⁹ Regulation on the Implementation of the Procedure for Employment of Administrative Servants, https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/zas_uredba_postapka_za_vrabotuvanje_09022018.pdf

including both resident and non-resident populations,³⁰ would be considered when preparing annual plans and electronically allocating the number of planned new employments by community affiliation. However, this approach contradicts the provisions of the Law on Public Sector Employees (LPSE), which stipulates that the data from the most recent population census of the Republic of North Macedonia for the entire territory of the state should be used as the basis for allocating the number of planned new employments by community affiliation. Upon the assumption of office by the new government, the digital tool was once again modified, and the number of resident population³¹ from the 2021 census was taken into account as the basis for allocating the number of planned new employments by community affiliation.

KEY FINDINGS

Regarding the group of administrative servants, the analysis identifies that there is no significant difficulty in defining job positions for administrative servants, nor is there any ambiguity concerning the institutions that employ administrative servants. However, a situation is identified that could pose a potential risk for corruption and that is the ability to add to or remove certain job positions from the Catalogue. Nevertheless, considering that the job positions, along with the categories and levels of administrative servants, are precisely defined in the Law on Administrative Servants, there is no possibility for them to be altered. However, concerning other groups of job positions in public sector institutions (authorized official persons, public service providers, and auxiliary-technical personnel), institutions have the freedom to add or remove certain positions in the Catalogue. Although institutions are required to provide the Ministry of Information Society and Administration (MIOA) with a justification of the reason they request changes to the Catalogue, there is no control mechanism or method to determine whether and to what extent the deletion or addition of a particular type of job position in the institution is justified and truly necessary.

The analysis of the regulations also reveals that **there is no limitation on the number of amendments and supplements to the documents on the internal organization and job systematization.** A review of the websites of several ministries

³⁰ <https://www.mioa.gov.mk/mk-MK/news/mioa-napravena-promena-vo-veb-alatkata-balanser-soglasno-rezultatite-od-sprovedeniot-popis-vo-2021-godina-4157.nsp>

³¹ <https://emagazin.mk/%D0%B1%D0%B0%D0%BB%D0%B0%D0%BD%D1%81%D0%B5%D1%80%D0%BE%D1%82-%D0%B7%D0%B0-%D0%B2%D1%80%D0%B0%D0%B1%D0%BE%D1%82%D1%83%D0%B2%D0%B0%D1%9A%D0%B0-%D0%B5-%D0%BF%D1%80%D0%BE%D1%87%D0%B8%D1%81%D1%82%D0%B5/>

indicates that institutions frequently amend the rulebook on job systematization³² to change the required educational qualifications for a particular job position, often just before announcing a public vacancy for that position. This practice raises concerns that such changes in the required educational qualifications are made intentionally, with prior knowledge of the candidate to be selected, and the qualification specified aligns with the education that the preselected candidate possesses. The inconsistencies in job announcements regarding the required educational qualifications are often criticized, suggesting that the most qualified candidates are not always selected. As part of the analysis, public job announcements from several institutions were reviewed to assess the appropriateness of the educational qualifications required for advertised job positions³³ in relation to the type of job and the associated tasks and responsibilities. Additionally, **it is not clearly defined which type of formal education will be considered appropriate for the job description, nor is it specified how to determine the most suitable candidate profile** (in terms of profession or educational qualifications) for performing the duties and tasks of a specific job position.

Another type of inconsistency that allows significant potential for abuse is **the absence of a provision referring to the specific type of education** required for performing the duties of a particular job position. For the majority of job positions in public sector institutions, the regulations do not establish a specific type of formal education. This means that, according to the job descriptions and objectives for most job positions in administration, no specific theoretical and practical knowledge in a particular field is required. Instead, the candidate or administrative servant should possess a certain set of general and specific (professional) work competencies to effectively perform the duties and tasks outlined in the job description, and to be capable of achieving the desired goals and outcomes in their work.

Regarding the application of the principle of equitable representation, the analysis concludes that the implementation of equitable representation is understood exclusively in quantitative terms, meaning that the representation of ethnic communities is viewed solely through the lens of percentage representation, without consideration of the competencies and expertise of candidates. However, in practice, irregularities are observed in employment procedures, particularly concerning employment according to the Balancer. Abuses often occur with regard to candidates' declarations of affiliation with a particular ethnic community, which are altered based on the calculations of the Balancer. Specifically, there is a practice where candidates for administrative servant job

³² https://mtsp.gov.mk/dokumenti-ns_article-sistematizacija-na-rabotnite-mesta-vo-ministerstvo-za-trud-i-socijalna-politika-nova-tabela.nsp;x; <https://vlada.mk/organizacija>;
<https://www.moep.gov.mk/%D0%BC%D0%B8%D0%BD%D0%B8%D1%81%D1%82%D0%B5%D1%80%D1%81%D1%82%D0%B2%D0%BE/%D1%98%D0%B0%D0%B2%D0%BD%D0%BE-%D0%B4%D0%BE%D1%81%D1%82%D0%B0%D0%BF%D0%BD%D0%B8-%D0%B4%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D0%B8-%D0%BD%D0%B0-%D0%BC%D0%B6%D1%81%D0%BF%D0%BF/>

³³ <https://www.fakulteti.mk/news/12022024/drzhaven-arhiv-vrabotuva-18-sluzhbenici?ref=vraboti.se>
<https://www.fakulteti.mk/news/02022024/oglas-za-vrabotuvanje-vo-agencija-za-zadolzheni-nafteni-rezervi?ref=vraboti.se>
<https://www.fakulteti.mk/news/25012024/ministerstvo-za-ekonomija-vrabotuva-18-sluzhbenici?ref=vraboti.se>
<https://www.fakulteti.mk/news/18012024/agencija-za-finansiska-poddrshka-vo-zemjodelstvoto-i-ruralniot-razvoj-vrabotuva-3-sluzhbenici?ref=vraboti.se>

positions declare different ethnic affiliations, even when applying for multiple positions within the same employment procedure in one institution, depending on the ethnicity required for the specific job position. Given that the determination of affiliation with a particular community is a personal sentiment and that it is impossible to prove someone's ethnic affiliation, the system is often exploited. As a result, the same candidate may simultaneously declare themselves as Macedonian, Albanian, Roma, Serbian, etc. Mobility is also used to circumvent the "Balancer"; if an institution cannot employ a person belonging to a certain community due to the annual plan, that person is employed in another institution where job positions for that community are planned and is then transferred through reassignment to the institution that could not directly employ them due to the "Balancer." These practices highlight the need for changes to the established system for applying the principle of equitable representation in public sector employment. The Center for Change Management's research on the application of the principle of equitable representation in the public sector³⁴ provides a detailed overview of the shortcomings in the employment procedures for administrative servants and the weaknesses of the "Balancer" tool.

³⁴

https://cup.org.mk/publication/NED%20%D0%98%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%204_final.pdf

RECOMMENDATIONS

Limit the number of amendments to documents on job systematization, particularly those related to changes in educational requirements, to prevent abuses during employment procedures.

Establish **clear guidelines for determining the necessary educational qualifications** (type of education) for each job position in the administration to avoid it being defined based on the institution's discretion.

Adopt a **Framework for Specific Job Competencies** in accordance with the Law on Administrative Servants (LAS), which will be required for performing duties at certain job positions, especially for horizontal professions in the administration.

It is recommended that measures be taken **to limit the abuse of community affiliation solely** for the purpose of obtaining certain benefits, such as introducing fixed content in the field related to ethnic affiliation in the electronic form (Candidate Profile on the website of the Agency for Administration) for candidates applying for job positions in the administration. The content of the "Community Affiliation" field would be time-restricted (e.g., for 5 years), and any changes to the content in this specific field should not take effect immediately but after a certain period (e.g., one year from the declaration) to prevent abuses related to changing community affiliation for a specific job position that is currently advertised.

It is recommended that **equitable representation in institutions be monitored according to a standardized methodology**, with institutions aligning their methods for collecting and analyzing data on an annual and multi-year basis. Employment plans should be based on precise data, including an assessment of staff turnover throughout the year, not solely on planned retirements.

Prohibit newly employed staff from being transferred to another institution through the mobility procedure for a period of at least two years.

3.1.2 LAW ON ADMINISTRATIVE SERVANTS

The analysis of the Law on Administrative Servants covers several key aspects that impact the selection, employment, and performance of administrative servants in the public sector. First, the analysis focused on the conditions for the employment of administrative servants, examining the requirements and criteria that candidates must meet to be employed. The next section of the analysis is dedicated to the employment procedure, where the steps and procedures that must be followed in the selection of administrative servants were explored. Particular attention was given to the formation and regulation of the selection and employment committees for administrative servants, where their role, composition, and functions were analyzed. Additionally, the analysis includes the formation and role of the commission for the review of employment procedures, which plays an important role in ensuring fair and transparent conduct of employment procedures for administrative servants.

Article 17 of the Rulebook on the Content and Manner of Preparation of Documents for Internal Organization and Systematization of Jobs regulates **the conditions for the employment of an administrative servant**, as follows:

General conditions

- being a national of the Republic of Macedonia, actively using the Macedonian language,
- being of legal age, having general health suitability for the job position, and not being subjected to a final court judgment prohibiting the exercise of a profession, activity, or duty; and

“Specific conditions

- the required professional qualifications, the necessary work experience in the profession (work experience), the necessary general and specific job competencies (knowledge, skills, and abilities for performing the job), and other criteria necessary for performing duties at the specific job position.” It is also stipulated that “when determining the required professional qualifications, the type and level of education must be specified”, which, along with other specific competencies, are established in the document on the job systematization of the institution as specific requirements for the job position.

General work competencies are established in the Rulebook on the Framework of General Work Competencies for Administrative Servants,³⁵ while specific work competencies and other criteria relevant to the job position are determined by the institution, in relation to the level and requirements of the specific job position.

³⁵ Rulebook on the Framework of General Work Competencies for Administrative Servants, https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/pravilnik_za_ramkata_na_opsti_rabotni_kompetenci_i_sl142_26092014.pdf

The employment procedure begins with the publication of a public announcement on the website of the Agency for Administration, as well as in at least three daily newspapers, one of which is published in the language spoken by at least 20% of the citizens who speak an official language different from the Macedonian language. The application period for candidates in the public announcement cannot be shorter than 15 days or longer than 20 days from the date of its publication in the daily newspapers. The selection procedure for the employment of an administrative servant consists of three phases: (1) administrative selection, (2) examination for administrative servants, and (3) verification of the authenticity of documents and an interview.

1. The administrative selection involves verifying the information provided in the employment application against the requirements specified in the public announcement, as well as assessing the attached documents and scoring them accordingly. During the administrative selection, the committee reviews and verifies the information provided in the employment application against the conditions set forth in the public announcement and the attached documents to determine whether all provided information is supported by appropriate evidence and whether the information corresponds to the attached documents. This phase involves checking the fulfillment of the general and specific requirements for the position (proof of nationality of the Republic of North Macedonia, proof of general health suitability, proof of the appropriate level and type of education, certificate of proficiency in office software programs, proof of a passed professional exam/license/certificate if required as a specific condition for the job position, as well as proof of the required work experience depending on the level of the position). Upon completion of the verification, for candidates who have provided accurate information, attached the required documents, and met the conditions specified in the public announcement, the committee calculates the number of points in the administrative selection. The maximum number of points for professional qualifications that a candidate for administrative servant can achieve is 33 points, which is obtained as the sum of points from formal education—up to 30 points—and points from non-formal education—up to 3 points. Formal education (for categories C and B) is evaluated based on academic performance in all study cycles and the ranking of the university according to the ranking list of domestic universities in accordance with the Law on Higher Education and for foreign universities according to the Shanghai Ranking - ARWU (Academic Ranking of World Universities), Times Higher Education - World University Rankings, and QS World University Rankings. Non-formal education is evaluated in such a way that each certificate or internationally recognized professional certification related to a relevant field for the job position is awarded 1 point, with a maximum of 3 points for non-formal education. Work experience is valued at up to 5 points, and proficiency in office software programs is valued at 2 points. Up to ten times the number of candidates as the number of vacancies for which the procedure is conducted, and who are ranked highest on the list, will proceed to the next phase of the selection procedure. If a candidate does not meet any of the general or specific requirements for the position or fails to provide proof in the application, they will be rejected during the administrative selection procedure and will not be able to continue to the subsequent phases of the selection procedure.

2. The examination for administrative servants consists of two parts: a professional section and a section for testing proficiency in one of the three most commonly used languages in the EU (English, French, German). The professional section of the examination includes questions about the constitutional order, the local self-government system, administrative law, administrative procedure and administrative disputes, general questions about the Law on Public Sector Employees (LPSE) and the Law on Administrative Servants (LAS), and the code of conduct for administrative servants. The questions in the professional section of the examination for administrative servants are of three levels of complexity and carry different point values. The questions in the language proficiency section, which tests knowledge of one of the three most commonly used languages in the European Union (English, French, German), are also of three levels of complexity, depending on the category of the job position for administrative servant, and each question carries the same point value (0.5 points per question). The examination for administrative servants is conducted on a computer and is organized and administered by the Agency for Administration. Candidates can earn a maximum of 40 points on the examination, with up to 25 points from the professional section and up to 15 points from the language proficiency section. Up to five times the number of candidates as the number of advertised job positions will advance to the next phase of the selection procedure.

3. The verification of the authenticity of documents and the interview is the third phase of the selection procedure for the employment of an administrative servant. It involves the verification of documents by the selection committee at least three hours before the start of the interview, during which candidates are required to present for inspection all the documents listed in their application for the public announcement, either in original form or as a certified copy. For candidates who fail to provide the necessary documents or do not pass the verification check, the selection procedure ends. Candidates who successfully pass the document verification are entitled to proceed to the interview (oral or written). The interview consists of:

- General questions – assessing the candidate’s interest and motivation for the job position, previous work experience (if any), and the candidate’s expectations from the employment, among others;
- Situational questions – evaluating general work competencies relevant to the category of the job position;
- Professional questions or practical tasks – assessing specific work competencies related to the job position; and
- Evaluation of the candidate’s ability to express/write in the standard Macedonian literary language.

Within three days after the interview, the committee compiles a ranking list (based on the points after all three phases of the selection procedure) of successful candidates (minimum 60% of the total points). The selection committee, from the final ranking lists by job positions, selects the highest-ranking candidates from the communities for which

new employment is planned according to the institution's annual plan, corresponding to the number of positions available, and within three days submits their recommendations to the institution. The Secretary, or the head of the institution where a Secretary is not appointed, is obliged to make a decision on the selection within five days of receiving the committee's recommendation. A dissatisfied candidate has the right to file an appeal with the Second Instance Commission for Appeals at the Agency for Administration within eight days. The selection decision is then communicated to the selected candidate and published on the website and notice board of the Agency.

Pursuant to Article 37 of the Law on Administrative Servants, a **Selection and Employment Committee for Administrative Servants** is established for each public announcement published to fill a job position at the institution. The Committee is composed of: an administrative servant from the Sector for Candidate Selection at the Agency, who serves as the President of the Committee, along with their deputy; the head of the organizational unit for human resources management, or the administrative servant responsible for human resources management if there is no organizational unit at the employing institution, along with their deputy; the heads of the organizational units in which the job positions are being filled, or the immediate supervisors if there are no heads, as well as their deputies; and/or an administrative servant from the Ministry of Political System and Inter-Community Relations, along with their deputy, if the procedure is conducted for state administration bodies.

Article 19 of the Law regulates the formation, composition, and operation of the **Commission for the Review of Employment Procedures**. This Commission serves as a control mechanism ensuring the legality of the procedures for the employment of administrative servants. The Commission consists of a President and their deputy, nominated by the Minister of Information Society and Administration; one member and their deputy from among the employees of the Agency; and one member and their deputy from the professional and academic community. This Commission conducts a review of at least twenty randomly selected selection procedures each quarter, and if deficiencies are identified, it is obliged to immediately submit a report on the deficiencies to the Director of the Agency, the State Administrative Inspectorate, and the employing institution. Deficiencies in the selection procedure are grounds for the annulment of the public announcement for the employment of an administrative servant.

KEY FINDINGS

For the majority of job positions at public sector institutions, the regulations do not stipulate a specific type of formal education, which **grants institutions the discretion to systematize any type of education they deem appropriate based on their judgment**. This implies that, according to the description of work objectives and tasks for most job positions at the administration, no specific theoretical and practical knowledge in a particular field is required. Instead, the candidate or administrative servant is expected to possess a certain set of general and specific (professional) work competencies to effectively perform the duties and tasks outlined in the job description, thereby ensuring the achievement of desired goals and outcomes in their work.

Furthermore, given that the phases of the employment procedure are eliminatory, any candidate who does not possess the type of education deemed appropriate by the institution for a particular job position **cannot proceed further in the selection procedure and demonstrate whether and to what extent they possess the general and specific work competencies** necessary for performing the job tasks.

The scoring method for the selection of candidates for administrative servants, as defined in the Regulation on the Implementation of the Procedure for the Employment of Administrative Servants, stipulates that a candidate for an administrative servant may receive up to 30 points for formal education, while for possessing the specific competencies required for performing the tasks and duties outlined in the job description of a particular position, they may receive a maximum of 6 points.

The professional qualifications of a candidate for an administrative servant in the selection procedure for employment are calculated as the sum of points awarded for formal and informal education. The maximum number of points that a candidate for an administrative servant can earn for professional qualifications is 33, derived from the sum of points for formal education—up to 30 points—and points for informal education—up to 3 points. The points for formal education for candidates for administrative servants are calculated as the sum of the products of the points for the candidate's average academic performance and the points from the ranking of the higher education institution for the respective cycle of studies, for all cycles of studies completed by the candidate. However, given the fact that the minimum required education for categories B and C is higher education, it is very rare, almost never, that job positions under the documents for the internal organization require a degree from the second or third cycle of studies. A challenge in the selection procedure for an administrative servant arises when the type of education from the second or third degree differs from that of the first degree. In such cases, and in practice, the possibility of cumulatively calculating the points from the candidate's formal education obtained in the first, second, and third cycles of studies is called into question, meaning that the second and third cycles of education are not considered if they are in a different field from the first cycle. This approach **does not recognize interdisciplinarity in education as an advantage**,

considering it instead as a disadvantage in the procedure for employment of administrative servants.

The procedure of verifying the possession of general and/or specific competencies required for performing duties and tasks of a particular job position, and the weighting of elements from different phases of selection, specifically Phase 1—administrative selection, can be problematic. The criteria outlined in paragraph 1, item 2 of Article 21 of the Law on Administrative Servants ("The required professional qualifications, work experience in the field, general and specific job competencies, and other criteria relevant to the job position") in the job description under the job systematization documents at institutions are almost always left blank, **meaning that specific job competencies are not predefined. This leaves it to the discretion of the selection committee to determine what will be considered a desirable specific job competency**, raising concerns about whether these specific job competencies will even be assessed in the absence of clear definitions or a framework for evaluating the extent to which they are possessed.

According to findings by the State Audit Office,³⁶ there is a significant risk of corruption and **system abuse noted in the second phase of the selection procedure, specifically the test phase for administrative servant**. The weakness in the protection of the information system used for administering the test opens the door for external interventions in the candidates' results.³⁷

Additionally, the distribution of points across each phase of the selection procedure is problematic. After the first phase—administrative selection, up to ten times more candidates than the number of positions available proceed to the second phase, based on their rankings in this phase. In the second phase—the administrative servant test, up to five times more candidates than the number of positions available move on to the subsequent phase, based on cumulative rankings from the two previous phases. However, in the third phase—verification of evidence and interview, the difference in points between the highest and lowest-ranked candidates from the previous phases is smaller than the potential points awarded in the third phase. This means that in the interview phase, as the final phase, the committee's scoring **can completely overturn the rankings, allowing the last-ranked candidate to become the top-ranked** if they receive the highest scores compared with other candidates. Therefore, **the objectivity of the interview scoring is questionable**.

The composition of the Selection Committee is also one of the most significant deficiencies of the applicable legal framework and presents an open door for external influences in the procedure. Specifically, given that the members of the committee are drawn from among the employees of the institution for which the public announcement is made, **they are under constant pressure from the highest management to favor the desired candidate for the position**, effectively ensuring that the candidate is ranked at the top and subsequently employed. This is particularly feasible because the scoring

³⁶ [https://dzt.mk/sites/default/files/2022-](https://dzt.mk/sites/default/files/2022-07/72_FINALE_RU_Informaciski_sistem_za_prijavuvanje_polaganje_vrabotuvanje_Agencija_administracija_2021.pdf)

[07/72_FINALE_RU_Informaciski_sistem_za_prijavuvanje_polaganje_vrabotuvanje_Agencija_administracija_2021.pdf](https://dzt.mk/sites/default/files/2022-07/72_FINALE_RU_Informaciski_sistem_za_prijavuvanje_polaganje_vrabotuvanje_Agencija_administracija_2021.pdf)

³⁷ You can read more about the next section of this Analysis

conducted during the third phase of the procedure—the phase of evidence verification and interview—can entirely alter the outcome of the procedure if the desired candidate has passed the first two phases of the procedure.

Regarding the **Commission for the Review of Employment Procedures**, significant shortcomings have also been noted. Namely, the law does not specify how the members of the Commission are appointed (e.g., senior administrative servants, minimum work experience, etc.). The Commission's reports are not publicly disclosed, and the public has no insight into how many and which procedures have been subject to review, in which institutions, and whether any irregularities were identified. There is no data available on which the efficiency and effectiveness of the Commission's work can be assessed. There is no communication or report on the work of the Commission for the Review of Employment Procedures, **which raises questions about its existence and functioning. Furthermore, there has never been a recorded case of a public announcement being annulled due to irregularities identified by this Commission.**

RECOMMENDATIONS

It is recommended to consider the possibility of amending the Law on Public Sector Employees (LPSE) to enable **the creation of open systematizations** (without specifying a particular type of education for certain positions), supported by defined professional competencies required to achieve the objectives and tasks outlined in the job description. This approach would allow access to employment at the public administration for all educational profiles, while simultaneously contributing to a qualitatively more efficient system for selecting and employing skilled personnel at public sector institutions. In this way, the type of education would not be an eliminatory factor in the employment procedure; rather, competencies and/or work experience of the candidates would take precedence.

It is also recommended to amend the Law on Administrative Servants (LAS) to enable **cumulative evaluation of different levels of education** among candidates, with a greater emphasis on non-formal education as a tool for developing professional competencies. Such an amendment would not only improve the quality of candidates in the selection procedure but could also be particularly significant in career advancement procedures. Furthermore, it is recommended to explore the possibility of a non-unified approach to evaluating candidates depending on the job level. This means that if the position is at a lower level (junior associate or associate), the academic average may carry more weight, but if the position is at a higher level (advisor, manager, etc.), the key criteria should be experience and specific professional competencies.

It is recommended to revise the procedure for employment of administrative servants in order **to equate the value of professional qualifications obtained through formal education with the possession of appropriate work competencies (both general and specific)** necessary for performing tasks at specific positions at the administration.

It is also advised to develop a system for defining a **Framework of specific (professional) competencies**, modeled after the Framework of general work competencies. This process could begin by developing a framework of professional competencies for horizontal professions at the administration, which could serve as an example for each institution to individually develop professional competencies for positions specific to its scope of responsibilities.

It is recommended to enable **verification within the electronic system for administering the test for administrative servants**, to prevent anyone other than the candidate from answering the questions on the administrative servant exam. The Agency for Administration should draft and approve IT policies and procedures to define the rules and responsibilities of the users of the Agency's information system, ensuring their proper implementation.

It is further recommended that all evidence of verification of candidates' general and specific work competencies be recorded in the minutes of this phase of the procedure, thereby enhancing transparency and facilitating a more effective selection of the best candidate for the position. Additionally, it is recommended to consider the possibility of **conducting the interview in the presence of all candidates, in an open, fair, and transparent procedure**.

The **professionalization of a Committee for the Selection and Employment of Administrative Servants** is also advised. Instead of forming separate selection committees for each employment procedure, **a single, expert, independent selection and employment committee** should be established, comprising external members who would rotate every six months.

Finally, it is recommended to establish **criteria for appointing members of the Commission Reviewing Employment Procedures** or to introduce another more appropriate control mechanism of procedures for employment.

3.2. TEMPORARY EMPLOYMENT

Within the framework of the analysis of the legal framework governing temporary employment in the public sector, the research encompassed several key aspects of the legislation that define conditions and procedures for temporary employment. First, the provisions of the Law on Public Sector Employees were analyzed, specifically Article 22, paragraph (1), which precisely stipulates the circumstances under which institutions are entitled to fill a position through a fixed-term employment contract.

Article 22, paragraph (1) of the **Law on Public Sector Employees** clearly outlines the instances in which institutions may fill a position through a fixed-term employment contract, namely:

- Replacement of an employee who is temporarily absent for more than one month;
- Temporary increase in the volume of work;
- Seasonal work;

- Unpredictable short-term activities that arise in the performance of the employer's primary activities;
- Project work; or
- Filling positions for cabinet officers, that is, special advisors.

The Law stipulates the duration for which contracts may be concluded for each of these cases. However, the Law on Public Sector Employees (LPSE) does not specify the types of tasks that these individuals may perform, whether such provisions may be applied to managerial positions, or whether such employees may carry out tasks typically performed by employees who have obtained the status of administrative servants (with a passed examination), or service providers.

Regarding fixed-term employment, the Law provides for the possibility of engaging employees in two ways: either through a public announcement or through Temporary Employment Agencies. The State Commission for the Prevention of Corruption, in the National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025,³⁸ in horizontal area 4.2. Employment in the Public Sector has identified as a first measure **the elimination of the possibility of temporary employment through Temporary Employment Agencies**. This is because, when using Temporary Employment Agencies, based on public procurement, a contract is concluded with an agency for temporary employment, which then assigns individuals employed by the agency to perform work at public institutions. In this scenario, institutions have no employment contract with the assigned workers, nor can they hold these workers accountable for failing to perform their duties. These individuals are employed by the Temporary Employment Agencies but only perform tasks at institutions. The institutions pay the agencies a fee for using these individuals, from which agencies pay salaries and retain a portion as commission. Furthermore, the use of Temporary Employment Agencies does not involve a public announcement, and no attention is given to the qualifications of the employees, or whether they possess the necessary competencies for the positions. Additionally, the use of Temporary Employment Agencies affects the accurate reporting of the actual number of employees in the public sector, as these individuals are not recorded as employees of state institutions. Therefore, a much more acceptable option, in cases of urgent need for temporary employment, is to use public announcements, ensuring an open, fair, and transparent procedure similar to that for permanent employment, making the positions accessible to all interested parties, and selecting the best candidates through the procedure.

The provision in Article 22, paragraph 15 of the Law on Public Sector Employees (LPSE) is particularly contentious, as it allows for the possibility that an individual temporarily employed **to replace an absent employee**, if the absent employee does not return to work even after two years, may have their **employment contract transformed from a fixed term to a permanent position**. This transformation requires prior approval from the authority responsible for approving the institution's annual employment plan in relation to the budget. Such a legal provision creates the opportunity to bypass the regular employment procedure, effectively allowing the transformation of

³⁸ <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

a fixed-term employment contract into a permanent one without following the proper employment procedures.

Furthermore, the analysis also focused on the **Law on the Transformation into Permanent Employment, enacted in 2015**. This Law plays a significant role in regulating the transitional procedures and rights of individuals temporarily employed in the public sector. The analysis of this Law provided a detailed understanding of the procedures and rights available to individuals transitioning from temporary to permanent employees in the public sector.

The Law on Transformation into Permanent Employment was intended for one-time use. Specifically, Article 2, paragraph 1 of the Law stipulates that "The transformation into permanent employment shall apply exclusively to individuals referred to in Article 1 of this Law, who have been performing work based on a contract for at least three months up to November 30, 2014, and who also have valid contracts at the time of the transformation of the employment relation." Article 8 further envisages that "Institutions are not permitted to engage individuals for the performance of physical and/or intellectual work based on a service contract for more than 1% of the total number of employees at the end of the previous year, or more than three individuals in institutions where the total number of employees is less than 300." The Law also prescribes that "Institutions are not permitted to engage individuals for the performance of physical and/or intellectual work based on a service contract for a period longer than 24 months." However, Article 9 provides an exception allowing "institutions to engage individuals beyond the stipulated percentage and for a longer duration than prescribed, subject to prior approval from the Ministry of Finance." This means that if the institution's budget allows for the engagement of more individuals than what is legally prescribed, it can do so, provided prior approval is obtained from the Ministry of Finance, effectively removing any limitation on the number of individuals engaged, as long as the institution's budget permits it.

KEY FINDINGS

The Law on Public Sector Employees **does not define specific requirements for job positions that apply to temporary employment** (such as experience, professional qualifications, job tasks, and responsibilities). This leaves room for any candidate to be engaged in any position within the institution, regardless of their educational or professional qualifications and work experience. This means that as a temporary employee at a position within the administration, the institution can engage a candidate who only meets the minimum requirements for the category of administrative servants to which that position belongs.

The provision in Article 22, paragraph 15 of the Law on Public Sector Employees creates the potential for bypassing the regular employment procedure, specifically by allowing for the **automatic transformation of a temporary employment into**

permanent employment after two years of temporary engagement in place of an absent employee.

There is no clear specification of the cases in which services from external individuals can be utilized based on service contracts (for example, for performing tasks for which the institution currently has no employed personnel), nor are there criteria for obtaining financial approval for such engagements.

The Law on Transformation into Permanent Employment continues to be applied, meaning that **transformations from temporary to permanent employment in public sector institutions are still being carried out**, subject to prior approval from the Ministry of Finance, **without any limitation on the number** of temporary employees, provided that funds are secured under the institution's budget for this purpose. The application of the provisions of the Law on Transformation into Permanent Employment allows for the **circumvention of the legal employment procedure and the principle of merit-based employment**. Under this Law, transformations from temporary employment in state institutions and public sector institutions are conducted without the publication of a public job announcement. Individuals employed in this manner are in a more advantageous position compared to those candidates who apply through a public job announcement and go through all the phases of the procedure, **which contradicts the principle of equal access to employment** as prescribed in Article 5 of the Law on Public Sector Employees.

RECOMMENDATIONS

To minimize opportunities for corruption, it is recommended that **a precise procedure be established for fixed-term employment**. This procedure should define when, how, under what circumstances, for how long, and for which positions it is permissible to engage a worker on a fixed-term basis in accordance with the law.

It is recommended to revise the provision of Article 22, paragraph (15), as the Labor Relations Law already contains provisions **under which conditions a fixed-term contract may be transformed into a permanent one**.

It is further recommended that **service contracts be used only in exceptional cases and according to precise criteria** (which profiles can be engaged, under what conditions, for what specific tasks and responsibilities, the duration of the engagement, and so forth).

ANNEX 1 - ACTION PLAN FOR THE IMPLEMENTATION OF RECOMMENDATIONS

FINDING	RECOMMENDATIONS	ACTIVITIES	INDICATORS	INLINE INSTITUTIONS	DEADLINE FOR IMPLEMENTATION
PROCEDURES FOR THE EMPLOYMENT OF ADMINISTRATIVE SERVANTS					
There is no limitation on the number of amendments to the job systematization documents, which allows the type of education required to be altered according to preferences for a specific candidate prior to announcing a vacancy, as well as during procedures for promotion or for internal mobility	The number of amendments to documents on systematization of jobs should be limited, particularly concerning amendments to the type of education required, to prevent abuses in employment procedures	1. Amendments and supplements to the Law on Public Sector Employees (LPSE)	1. Adopted amendments and supplements to the Law on Public Sector Employees (LPSE)	Ministry of Public Administration	April – May 2025
	The type of education should not be an eliminatory factor in the employment procedure. Instead, a framework and standards	1. Amendments to the Law on Administrative Servants (LAS)	Adopted amendments to the Law on Administrative Servants (LAS)	Ministry of Public Administration	April – May 2025

<p>There are no clear guidelines for determining the necessary educational qualifications for each job position in the administration, allowing institutions to define the required type of education at their discretion</p>	<p>for professions for specific job positions should be established, defining a competency framework, with work experience being one of the conditions for filling job positions— applying the principle of merit</p>				
		<p>2. Development of a framework and standards for professions for certain job positions at the administration</p>	<p>2. Framework and standards for professions for certain job positions at the administration developed and adopted</p>	<p>Ministry of Public Administration</p>	<p>November 2024 – May 2025</p>
		<p>3. Development of a framework of professional competencies for horizontal professions at the administration, which will serve as a model for inline ministries to develop a framework of professional competencies for specific activities under their mandate</p>	<p>3. Framework for professional competencies for horizontal professions at the administration developed and adopted, which will serve as a model for inline ministries to develop a framework of professional competencies for specific activities under their mandate</p>	<p>Ministry of Public Administration</p>	<p>November 2024 – April 2025</p>

		2. Development of secondary legislation on the procedure for employment in state administration bodies	Adopted secondary legislation on the procedure for employment at state administration bodies	Ministry of Public Administration Government of the Republic of North Macedonia and Agency for Administration	November 2024 – May 2025
The disproportionate allocation of ratio of points in each phase of the employment procedure enables manipulation of the number of points in the final phase of the procedure, leading to shifts in the ranking of candidates. The lack of transparency in the interview procedure further allows for significant changes in	1. Objective and equitable distribution of points in each phase of the employment procedure for administrative servants	1. Amendments and supplements to the Law on Administrative Servants	1. Adopted amendments and supplements to the Law on Administrative Servants (LAS)	Ministry of Public Administration and Agency for Administration	April – May 2025
	2. The interview should be conducted in the presence of all candidates to ensure greater transparency of the procedure	2. Amendments and supplements to the Regulation on the Implementation of the Procedure for Employment of Administrative Servants, specifically provisions	2. Adopted amendments and supplements to the Regulation	Government of the Republic of North Macedonia Ministry of Public Administration	October – December 2024

candidate rankings after this phase		governing the scoring method in each phase			
		3. Development of a manual for conducting interviews in the employment procedure for administrative servants	3. Manual for conducting interviews in the employment procedure for administrative servants developed and adopted	Ministry of Public Administration Agency for Administration	October – November 2024
		4. Manual and training for a fair, transparent, and open employment procedure	4. Manual and training for a fair, transparent, and open employment procedure developed and adopted	Ministry of Public Administration Agency for Administration	October – November 2024
			5. Training on employment procedures conducted	Ministry of Public Administration Agency for Administration	December 2024 – April 2025
Instead of forming separate selection committees for each employment procedure, a single professional independent commission should be established, with	1. Amendments and supplements to the Law on Administrative Servants	Adopted amendments and supplements to the Law on Administrative Servants (LAS)	Ministry of Public Administration	April – May 2025	
	2. Centralization and professionalization of the committees through	Adopted amendments to the secondary legislation	Ministry of Public Administration	October – November 2024	

<p>There are no criteria for appointing members of selection committees</p>	<p>external members rotating every six months</p>	<p>interventions in the secondary legislation and training for committee members</p>		<p>Agency for Administration</p>	
		<p>3. Training for the practical implementation of the documents (conducting interviews, etc.)</p>	<p>Training conducted</p>	<p>Ministry of Public Administration Agency for Administration</p>	<p>December 2024 April 2025</p>
<p>There are no criteria for appointing members of the Commission for the Review of Employment Procedures for Administrative Servants. There is no publicly available report on the audit conducted by the Commission, nor is there a record of any annulled employment procedure based on its report. The Commission does not function effectively in practice, raising questions about the necessity of its existence.</p>	<p>A different, more appropriate control mechanism for employment procedures should be established, as the current approach does not achieve the desired effects in terms of oversight</p>	<p>1. Amendments and supplements to the Law on Administrative Servants</p>	<p>Adopted amendments and supplements to the Law on Administrative Servants (LAS)</p>	<p>Ministry of Public Administration Agency for Administration</p>	<p>April – May 2025</p>
		<p>2. Adoption of secondary legislation establishing a procedure for controlling the legality of employment procedures (Adoption of Rules of Procedure and internal procedures for the work of the Employment Procedures Review Commission)</p>	<p>Adopted secondary legislation</p>	<p>Ministry of Public Administration Agency for Administration</p>	<p>October - December 2024</p>

<p>There is no written procedure for IT security of the information system at the Agency for Administration. Consequently, there is no ability to monitor and record system access, control access to the Agency's premises, or track log ins in the IT systems. This creates an opportunity for unauthorized entry in the computer system and manipulation during the examination for administrative servants</p>	<p>Verification of the data in the electronic examination system should be enabled to prevent anyone other than the candidate from answering the questions at the administrative servant examination</p>	<p>Establishment of a written IT procedure for the security of the information system of the Agency for Administration (AA)</p>	<p>Procedure for the security of the information system of the Agency for Administration (AA) adopted</p>	<p>Agency for Administration</p>	<p>October – December 2024</p>
<p>BALANCER</p>					
<p>Abuse of the Balancer in employment procedures through frequent changes to the Declaration of Ethnic Affiliation</p>	<p>To restrict abuses related to affiliation with a specific community solely for the purpose of obtaining certain benefits, by making the content of the field concerning ethnic affiliation in the electronic application fixed and not subject to change for a specified period</p>	<p>1. Amendments and supplements to the Law on Public Sector Employees (LPSE)</p>	<p>Adopted amendments and supplements to the Law on Public Sector Employees</p>	<p>Ministry of Public Administration</p>	<p>April – May 2025</p>
		<p>2. Amendments and supplements to the Employment Regulation</p>	<p>Adopted amendments and supplements to the Regulation</p>	<p>Government of the Republic of North Macedonia, Ministry of</p>	<p>October – December 2024</p>

				Public Administration	
The "Balancer" is being circumvented through mobility (transfer of administrative servants)	A prohibition should be introduced preventing a newly employed individual from being transferred from another institution through the mobility procedure for a period of at least two years	Amendments and supplements to the Law on Public Sector Employees (LPSE)		Ministry of Public Administration	April – May 2025
TEMPORARY EMPLOYMENT					
The specific conditions for temporary employment (experience, professional qualifications, work tasks, and responsibilities) are not defined, and the use of temporary employment agencies entirely circumvents the transparent employment procedure in the case of fixed-term employment	1. The possibility of using temporary employment agencies should be abolished, a precise procedure for fixed-term employment should be established, and specific conditions that candidates for fixed-term employment must meet should be prescribed.	1. Abolition of the possibility of using temporary employment agencies, regulation of the procedure and conditions for temporary employment through amendments to the Law on Public Sector Employees (LPSE)	1. Adopted amendments and supplements to the Law on Public Sector Employees	Ministry of Public Administration	April – May 2025
		2. Adoption of a Manual, Guidelines for the conditions and methods of utilizing the		2. Developed Manual for the conditions and methods of utilizing opportunities for fixed-term employment	Ministry of Public Administration

		opportunities for fixed-term employment			
The provision in Article 22, paragraph (15) of the Law on Public Sector Employees allows for the bypassing of the regular employment procedure, enabling the transformation of fixed-term employment into permanent employment without following the appropriate procedure	The legal provision in Article 22, paragraph (15) should be reconsidered in terms of the necessity of its existence, given that the Law on Labor Relations already contains provisions for the transformation into permanent employment	Abolition of the possibility of transforming temporary employment into permanent employment outside the framework of the Law on Labor Relations, i.e., through amendments and supplements to the LPSE	Adopted amendments and supplements to the Law on Public Sector Employees	Ministry of Public Administration	April – May 2025
It is not specified under which circumstances external services based on service contracts (e.g., for performing tasks for which the institution currently has no employed personnel) may be used as a criterion for obtaining financial consent	Service contracts should be used only in exceptional cases and according to precise criteria (which profile of professionals will be engaged, under what conditions, the amount of remuneration, clearly defined tasks and responsibilities, and the duration of the engagement)	1. Amendments and Supplements to the Law on Public Sector Employees	Adopted amendments and supplements to the Law on Public Sector Employees	Ministry of Public Administration	April – May 2025
		2. On an annual basis, the Ministry of Finance is to limit the possibilities for use of service contracts through the Law on the Budget Execution (LBE)	Adopted amendments to the Law on the Execution of the Budget	Ministry of Finance	2025
		3. The Government is to adopt a Regulation on the criteria and conditions	Adopted Regulation on the criteria and conditions	Government of the Republic of North	October – December 2024

		under which service contracts may be concluded	under which service contracts may be concluded	Macedonia, Ministry of Public Administration	
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ANNEX 2 – REVIEW OF DOCUMENTS

REVIEWED DOCUMENTS
1. Law on the Organization and Operation of State Administration Bodies
2. Regulation on the Principles of Internal Organization of State Administration Bodies
3. Law on Administrative Servants
4. Regulation on the Implementation of the Procedure for Employment of Administrative Servants
5. Regulation on the Description of Categories and Levels of Job Positions of Administrative Servants
6. Law on Public Sector Employees
7. Rulebook on the Content and Manner of Preparation of Documents for Internal Organization and Systematization of Jobs, as well as on the Content of the Functional Analysis of Public Sector Institutions
8. Rulebook on the Form, Content, and Manner of Keeping the Catalogue of Job Positions at the Public Sector, on the Method for Assigning Job Position Codes, as well as on the Procedure for Entering and Deleting Job Positions from the Catalogue
9. Methodology for Planning Employment in the Public Sector in Accordance with the Principle of Equitable Representation, as well as for the Form, Content, and Template of the Annual Employment Plan and for the Report on the Implementation of the Annual Employment Plan
10. Law on Transformation into Permanent Employment
11. Law on Labor Relations
12. Law on the Ombudsman
13. National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025
14. 2023 Annual Report on the Implementation of the National Strategy for the Prevention of Corruption and Conflict of Interest 2021-2025
15. 2021, 2022 and 2023 Annual Reports of the State Commission for the Prevention of Corruption
16. 2022 and 2023 Annual Reports of the Ombudsman
17. 2022 Annual Report of the Commission for Prevention and Protection against Discrimination

18. Public Administration Reform Strategy 2023-2030
19. 2022 Annual Report of the Agency for Administration
20. Data Obtained Based on Requests for Free Access to Public Information
21. Report on Monitoring Employment, Allocation, and Implementation of Budgets in Public Sector Institutions (Center for Change Management)
22. 2021, 2022, 2023 and 2024 Annual Reports on Anti-Corruption Legislative Review
23. 2021, 2022 and 2023 Audit Reports of the State Audit Office on Audits Conducted in Public Sector Institutions