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OLD HABITS VS. NEW DEMANDS: CHALLENGES IN REFORMING TOP MANAGERS IN THE MACEDONIAN PUBLIC ADMINISTRATION

Abstract

A significant factor in determining whether a country will thrive is the quality of its public administration. Citizens are far more likely to enjoy a higher quality of life if their country's public administration has the capacity to fulfill its duties effectively and perform optimally. The business sector is more likely to develop when the public administration operates smoothly and provides stability, as well as quick and accessible services. The civil sector, likewise, can rely on a capable and responsive partner if the public administration functions transparently and efficiently. In other words, the institutions falling under the umbrella term "public administration" are responsible for enforcing the law (while considering both individual rights and the public interest), implementing policies, supervising compliance with regulations by citizens and legal entities, delivering public services, and more. For that reason, they play a vital role in ensuring citizens' well-being, fostering a business-friendly environment, and contributing to the development and success of the civil sector. Given this, it is essential that these institutions are properly managed. This requires top public managers who are competent, informed, well-equipped, responsible, and sufficiently independent. In this context, the paper at hand examines top public managers in the Republic of North Macedonia. It explores not only the legal framework governing managers in the public administration (also referred to as top public managers, office holders, elected and appointed persons, or functionaries), but also the actual practices concerning their recruitment, performance evaluation, accountability, and dismissal. The suggestions the authors provide throughout the paper are envisaged as a remedy against the systemic weaknesses that have been identified and that are elaborated upon herein.

I. Introduction

If an internet user situated in the Republic of North Macedonia[1] uses a search engine to look up the words "Top Managers in Public Administration", "Top Public Management" or "Top Public Management Service" he or she will most likely end up with hundreds of results where reforms are mentioned. The explanation as to why this would be the case is simple. The reform of the legal

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[1] Both names of the country – Republic of North Macedonia and Republic of Macedonia – shall be used, depending on whether we are discussing about the period before or after the country's name change. The country's name was changed in accordance with the so-called Prespa Agreement and the Constitutional Amendments that came into force in 2019 (Official Gazette no. 6/2019).

framework related to top managers in the Macedonian public administration has been widely debated in recent years. Even though the phrases "Top Managers in Public Administration", "Top Public Managers" or "Top Public Management Service" are more widely used since 2018,[2] the attempts to ensure competent, well-equipped managers in the public administration (directors, commissioners, etc. within the institutions) go even further back. So do the discussions on this issue.

Yet, despite all efforts, it remains debatable whether any tangible progress has been achieved in this area in the Republic of North Macedonia to date. Therefore, we have decided to dedicate this paper to the improvement the management of public administration institutions in the Republic of North Macedonia. Our primary hypothesis is that institutions[3] within the Macedonian public administration are improperly managed due to having inadequate (top) managers. To prove this hypothesis, we will analyze the legal framework for recruitment and dismissal of top managers in the public administration of the Republic of North Macedonia. We are also going to pay attention to the established practices. As suggested in the title of the paper, we are going to shed light on the tensions between the old practices of recruiting top public managers and the new demands, as well as the tensions between the merit system and the spoils system. Our aim is to enhance current debates on public administration management through the identification of systemic weaknesses and the formulation of proposals for legal and cultural reform.

II. Who Are "top managers in public administration" and differences with similar terms

a. *Defining who the top managers in public administration are by determining which institutions fall under the term "public administration"*

Before we dive into the critical re-examination of the legal framework and practices for their recruitment and dismissal, we must first clarify who the top managers in public administration are. We must also explain the other terms and phrases who are used in a similar connotation, often as synonyms. The best approach in explaining which persons are considered top managers in public administration is to start off by explaining which institutions fall under the umbrella-term "public administration".

While defining public administration Woodrow Wilson states: "Administration is the most obvious part of government; it is government in action; it is the executive, the operative, the most visible side of government […]".[4] Although this definition tells us what the core functions of the public administration are, it does not clarify which institutions fall under it. Wilson's definition also does not take in consideration the public services, which we shall discuss shortly. Of course, the view that public services should be provided by the public administration arrived decades later. What is certain, nevertheless, is that public administration is a complex, multi-layered system.

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[2] At the 88th session held on September 11, 2018, the Government of the Republic of Macedonia adopted the Information on the Creation of a Top Public Management Service submitted by the former Ministry of Information Society and Administration and adopted a Conclusion that a draft of a new Law on a Top Management Service (in Macedonian: Закон за висока раководна служба) will be prepared. More information available at: https://vlada.mk/sednica/88 (visited on August 24, 2025).

[3] The term "institution" is used in the widest possible sense in this paper: as an "established organization or corporation especially of a public character" (Merriam-Webster). We might also refer to some institutions as authorities in the following text.

[4] Woodrow Wilson, "The Study of Administration" (1887) vol. 2. no. 2, Political Science Quarterly, 198, available at: https://www.jstor.org/stable/2139277?seq=1 (visited on August 26, 2025).

As pointed out in a recent study:[5]

> "[…] within public administrations, organization can take a number of forms. While categorization may vary from government to government, in general terms, five types of organization may be apparent. First, there are central agencies dedicated to coordinating and supporting government effort, responsible for areas such as financial and human resource management and management improvement. Second, there are departments charged with the responsibility for direct service provision to the public, across a broad range of policy fields. Third, there are government business enterprises (GBEs), which operate at a distance from government, in a more business-like way, usually providing some essential or commercial service. Fourth, there are the review and regulatory agencies, such as auditors-general, ombudsmen [*sic*], and anticorruption and whistle-blowing protection agencies. Fifth, there are the more peripheral boards and agencies, often semiautonomous entities that conduct other, sometimes more obscure, aspects of government business."

Although this organizational definition is a good starting point, the widely accepted depictions in the Republic of North Macedonia are slightly different.

Firstly, the Ombudsman, the State Commission for Prevention of Corruption (the anticorruption and whistle-blowing protection authority), the State Audit Office (the auditor general), as well as few other (regulatory)[6] institutions are not considered part of the public administration in North Macedonia. The public administration is under executive supervision. These institutions, on the other hand, need to operate with a degree of autonomy from the executive branch of power, for which reason they answer directly to Parliament and are outside the scope of the public administration. Of course, this does not mean that these institutions do not comply with certain rules when performing administrative tasks and duties.[7] These institutions in North Macedonia are often called independent state authorities (as opposed to state administrative authorities).

Secondly, aside from the central administrative authorities – which in North Macedonia are called state administrative authorities – (local) policies are created and administrative services are also provided by the units of local self-government. For that reason, we consider the units of local self-government (municipalities) as part of the public administration.[8] The term public

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[5] Judy Johnston, "Public Administration: Organizational Aspects", in James D. Wright (ed), *Intenational Encyclopedia of the Social & Behavioral Sciences* (Second Edition, Elsevier 2015), p. 523.

[6] It might be difficult to determine which institutions we are referring to when talking about the regulatory authorities. If we judge from the names of the institutions, the only regulators are the Energy Regulatory Commission and the Housing Regulatory Commission. However, if we do a deeper dive, we shall notice that there are about ten other institutions which are regulators judging by their legal powers: the Postal Agency, the Agency for Electronic Communications, the Agency for Audio and Audiovisual Media Services, The Securities Commission of the Republic of North Macedonia, the Agency for Regulating Rail Transport, etc. So, the better approach in determining which institutions are regulators is to judge by their legal powers, not their names.

[7] E.g. if they issue licenses, if they perform administrative supervision, if they issue individual legal acts with which they prohibit certain behavior, they need to respect the general administrative procedure rules.

[8] The mayor is the executive body within the municipality, while the municipal council is the representative body. The mayor and the municipal administration under him issue licenses, permits, other individual administrative acts, carry out inspections, etc. The municipal council adopts secondary legislation, i.e. general acts such as plans, rulebooks, and other bylaws. The municipalities also provide public services (waste management, park management, water management) and maintain public spaces within their territory. They do this either directly or through other entities they have founded

administration also covers funds which are specialized institutions which gather means and make payments to their users (e.g. pension fund, disability fund, healthcare fund).

Thirdly, the definition above may cause confusion among laypersons regarding the types of services public administration provides to citizens and businesses. It is not always clear what is meant by "departments charged with the responsibility for direct service provision to the public," nor which "essential or commercial service(s)" are provided by government business enterprises (GBEs). Therefore, it is important to distinguish between the two main types of services delivered within the public administration: administrative services and public services. Administrative services encompass the issuance of licenses, permits, permissions, and other individual and real administrative acts, all of which must be rendered in compliance with procedural administrative law.[9] These services are most often provided by state administrative authorities and units of local self-government, though they may also be performed by other institutions.[10] Public services, on the other hand, are of an entirely different nature. Building on the concept developed by Léon Duguit, public services may be understood as "every activity of general interest which is of such an importance to the entire collectivity that those in authority are under a duty to ensure its accomplishment in an absolutely continuous manner, even by the use of force."[11] In practice, this category includes education, health care, culture, science, public transport, water management, waste management, electricity distribution, and the management of railroads and roads, among others. There is no exhaustive list, as the scope of public services expands alongside societal development; however, what remains certain is that, due to their significance, they must either be provided directly by the public administration or at least supervised by institutions within it.

In North Macedonia the institutions providing public services are considered part of the public administration in the broader sense. Public services are provided by several: public enterprises, publicly owned trade companies and public establishments. Public enterprises are specific types of enterprises, founded by the state (with a law adopted by Parliament or an act adopted by the Government) or the units of local self-government. They exist to serve the public interest. In reality, they work in the areas of communal services, waste management, water distribution, park management, city public transport, railroad transport, etc. They are regulated with a specific Law on Public Enterprises. Publicly owned trade companies are quite similar. They are also founded by the state or by the municipalities. The sole or the dominant shareholder is always the state or the municipality.[12] They should be formed to serve the public interest. They function not in accordance with the Law on Public Enterprises but in accordance with the Law on Trade Companies. They also work in specific important areas such as distribution of electricity, postal services, civil air navigation services, etc. In fact, speaking of public enterprises and publicly owned trade companies, a question may arise whether there are any substantial differences between these two. The fact is that both types are quite similar and there is no reasonable answer as to why public

[9] As provided by SIGMA: "Besides traditional public services, such as health care or education, there are administrative services, such as delivery of licenses and permissions, which are subject to regulation of administrative proceedings": Service delivery and digitalisation | SIGMA (visited on August 24, 2025).

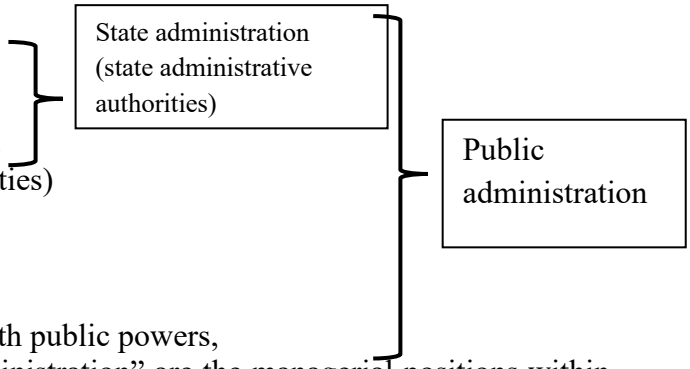
[10] E.g. some individual administrative acts and/or real acts might be issued by hospitals, schools, universities, etc. In those cases, the respective institutions act as an authority, deciding on their users' rights and obligations (students, patients, etc.).

[11] Léon Duguit, "The Concept of Public Service" (1923) vol XXXII, no. 5, Yale Law Journal, 431, available at: https://openyls.law.yale.edu/entities/publication/9ede9533-194e-466f-93c2-1f1aa96b3427 (visited on August 25, 2025).

[12] Such a company is, for instance, ESM Macedonia, which is a joint stock company where all the shares are held by the Government of the Republic of North Macedonia.

enterprises are founded in some cases and publicly owned trade companies in other cases. Finally, public establishments are a specific type of institution. According to the Law on Public Establishments they work in the areas of education, science, culture, healthcare, social protection, child protection, protection of people with disabilities and other areas which are by law dedicated as areas in which public establishments work.

Finally, part of the public administration in North Macedonia are also the NGOs (chambers, professional associations, etc.) with public powers as well as the private companies with public powers. NGOs with public powers are the doctors' chamber, the bar chamber, the expert witnesses chamber, etc., which issue licenses for performing regulated professions, control their members, etc. Private companies with public powers are those who hold delegated powers (e.g. technical inspection stations, companies with concession agreements for telecommunication services, etc.). To conclude, the public administration in the Republic of North Macedonia is comprised of:



- ministries
- bodies within the ministries
- independent bodies of state administration
- units of local self-government (municipalities)
- public enterprises
- public establishments
- publicly owned companies
- private entities (NGOs and companies) with public powers,

This means that "top managers in public administration" are the managerial positions within these institutions. Yet, there is another characteristic of top managers in public administration: their positions are not political, i.e. they are (or should not be) politicians. The reason is simple. Politicians – even though they might be the head of an institution within the public administration (e.g. ministers) – are responsible for setting political priorities and providing direction based on electoral mandates. Top managers, on the other hand, are tasked with implementing policies, per the directions provided by the politicians. Top managers need to ensure continuity in the work of public administration institutions, as well as to ensure public service providing. Unlike politicians who are responsible before the electorate, top managers are accountable within the administrative system, and they need to uphold impartiality. This distinction between politicians and top managers in public administration has its roots in the Weberian ideas for bureaucracy.

Therefore, the top managers in North Macedonia's public administration are: (*) state secretaries within the ministries;[13] (*) directors of bodies within the ministries; (*) directors of independent bodies of state administration; (*) secretaries within the municipalities; (*) directors of public enterprises; (*) directors and other managers in the public establishments; (*) directors of publicly owned companies and (*) directors and/or presidents or other managers of private entities with public powers.

These people are neither politicians nor civil servants or employees in the public sector per the civil service system.

In the following text we shall pay attention to the rules and established practices for recruiting and dismissing of these managers in North Macedonia. We shall also speak of the standards for their recruitment and dismissal that are slowly developing at the European level. However, we will not

[13] State secretaries are considered top managements in public administration due to the fact that they have managerial powers by law (they manage the human resources and the day-to-day tasks within the ministries).

focus on the managers of the private entities with public powers since, in this respect, they fall outside the public law scope.

Before we continue, we will briefly explain the similarities and differences between the terms "top managers in public administration" and the terms "top public managers", "elected and appointed persons", "office holders", "functionaries", etc.

b. *Similarities and differences with other terms*

The reason why we paid so much attention to determining who the top managers in the Macedonian public administration are is that this term does not exist in the legislation. There are no laws or bylaws which mention top managers. For that reason, we will additionally try to clarify who the top managers in the Macedonian public administration are by distinguishing the term "top managers in public administration" and the other similar terms.

The term "top managers in public administration" is quite like the term "top public managers". The term "top public managers" is nevertheless broader than the term "top managers in public administration", as it covers managers within regulatory bodies, the judiciary, etc.

The term "top managers in public administration" is different from the term "top managers in state administration" as well. The term top managers in state administration is narrower (since the term state administration is narrower than the term public administration).

In North Macedonia the term "elected and appointed officials" is also often used in the public discourse. It is important to note that this term is quite broader than the term "top managers in public administration". Even though all top managers in the public administration in North Macedonia are appointed, not all appointed (or elected) persons are top public managers in the public administration. Members of Parliament, ministers, mayors, members of the municipal councils etc., are not top managers in the public administration.

Finally, top managers in the public administration in North Macedonia also fall under the term functionaries, since they are appointed and are holders of public functions. Also, sometimes they can be considered office holders (if we consider their offices – as directors, managers, presidents – as public offices).

III. Spoils vs. Merit Recruitment Systems: what do they mean

Before moving to the analysis, it is useful to briefly explain the two main systems for recruiting staff in public administration: the spoils system and the merit system.

The spoils system means filling administrative positions with supporters of the winning political party. Its motto is "to the victors belong the spoils". In theory, this would allow every new government (i.e. political party that won elections) to replace the entire administration with its loyal followers. The same goes on local level too. In theory, the application of the spoils system would mean the mayor can fill all positions in the municipal administration, as well as the institutions formed by the municipalities with his/her loyal supporters. In practice, such a system functioned mainly in the United States until the mid-1800s, but only to a certain extent. With the Pendleton Civil Service Act of 1883, the U.S. began shifting toward a merit-based model.

The merit system, on the other hand, is based on open competition, testing, and professional qualifications. Recruitment depends on knowledge, skills, and performance—not political affiliation. Today, this is the dominant system in democratic states, where laws require transparent job postings, standardized tests, and public interviews to ensure fairness.

In reality, many countries apply a mixed system:

- some positions are filled utilizing the spoils system, e.g. positions of politicians such as ministers and deputy ministers
- other positions are filled utilizing the merit system, e.g. the positions of civil servants who are employed on a relatively temporary basis to perform certain tasks as professionals in their field (legal, administrative, HR, research, service providing, etc.)
- certain positions are filled by applying rules where both the spoils and the merit systems are reflected, e.g. positions where the person needs to be knowledgeable, skillful, but also close to the governmental policies and views.

IV. How top managers in public administration should be recruited: general remarks and developing standards

For starters, there are no universally accepted rules and procedures for recruiting top managers in public administration. A recent study "Top Public Managers in Europe: Management and Employment in Central Public Administrations" showed the differences between countries in terms of recruitment of top managers in public administration.[14]

What is certain is that at least some positions which are considered to be positions of top managers in public administration should be filled through a balanced approach which aims for political responsiveness and administrative neutrality. Especially when speaking of state administrative authorities who are directly below the Government or the ministries. As Kuperus and Rode state when speaking of the top managers in central administration (i.e. state administrative authorities):

> "When talking about the appointment of top managers in public administration, one of the most discussed elements is top managers' link with politicians. As they work directly together, it is important to find a way to maintain the neutrality of TPM while also achieving acceptance and confidence from the politicians."[15]

Additionally, it is important for top managers in the public administration – particularly those within the state administration – to share, at least to some extent, the policy orientations of the political leadership. The rationale is simple: while ministers and governments design policies, it is the directors i.e. the top managers of administrative bodies who are tasked with their implementation. Since no professional is entirely disinterested in the outcome of their work, the most effective way to ensure that top managers are genuinely committed to executing government policies is to appoint individuals who consider those policies reasonable and prudent. At the same time, these managers must be competent and well-equipped with knowledge and skills to optimally perform their tasks. They need knowledge in the area the state authority works in, managerial skills, as well as integrity. Once appointed these managers must act with neutrality toward citizens. They must refrain from favoritism, cronyism, or any display of political bias, particularly toward individuals or groups linked to the government. The challenge, therefore, lies in striking a balance between political responsiveness (ensuring that managers are willing to enforce the elected government's policies) and neutrality, which protects fairness and equality in service delivery.

Having that said, it becomes vivid that the rules for recruitment of top managers in public administration – at least in the state administration – must reflect the spoils and the merit principles.

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[14] Herma Kuperus and Anita Rode, *Top Public Managers in Europe: Management and Employment in Central Public Administrations* (Ministry of the Interior and Kingdom Relations of the Netherlands 2016), available at: https://digital.gob.es/content/dam/sgad/sefp/portalsefp/funcion-publica/organos-colaboracion/relaciones-internacionales/union-europea/eupan/Top_Public_Managers_Europe.pdf (visited on August 24, 2025).

[15] *Ibid*, p. 23.

In practical terms, this means that the government or responsible ministers should issue an open call, conduct a transparent review of candidates' qualifications, and rank applicants based on objective merit indicators (education, professional experience, policy vision, and interview performance). Only after producing a shortlist of highly competent candidates should considerations of political compatibility come into play, ensuring that the final choice combines both administrative excellence and responsiveness to democratic mandates.

The recognition of the need to balance spoils and merit principles, as well as the equally important balance between political responsiveness, professional skills, knowledge, and neutrality, is a relatively recent development. Historically – especially in the post-Yugoslav states – top managers in public administration were regarded primarily as political actors. Their recruitment was almost exclusively governed by the spoils system, with little or no emphasis placed on professional qualifications or impartiality. Unfortunately, this legacy continues to shape current practices, where political loyalty is often valued more highly than managerial competence, despite growing pressure from European integration processes and international standards to introduce merit-based elements into top managers' recruitment. We will explain this tension between the old habits and the new needs in North Macedonia soon. Yet, before we move on to that, we need to make one more vital point.

What we spoke about so far (about the balance between the spoils and merit principles) is applicable only to some of the top managers positions in public administration. There are certain positions (which fall under the category top managers in public administration) that should be filled using merit approach only. This goes especially for directors and other managers in public service providers. They have no need to have such communication with the government and the ministers as the directors of state administrative authorities. They do not implement policies in the way directors of state administrative authorities do. Their primary task is to provide high-quality public services and ensure efficient work of their institutions (e.g. public enterprises).[16] For that reason, the merit system should be much prevalent vis-à-vis the spoils system when recruiting them.

Finally, it is important that what has been said so far about recruitment is also applied to the dismissal of top managers in public administration, as a reverse process.

[16] For instance, the director of a local public enterprise for water management has no need to have such a communication with the mayor as the directors of state administrative authorities have with the ministers. The director of the local public enterprise for water management should only mind the work of the public enterprise: he/she needs to ensure proper maintenance of the water distribution network, efficiency when spending the funds, responsiveness to citizens' complaints, and continuity. There is no political aspect here.

V. Recruitment and dismissal of top managers in the public administration in the Republic of North Macedonia

a. Bodies within ministries

In North Macedonia there are about 45 bodies within the ministries:[17] inspectorates, bureaus, administrations,[18] and others. These bodies operate under the management of directors who are, as a rule, appointed and dismissed by the Government unless sectoral legislation provides otherwise. This rule is set out in the systemic Law on Organization and Operation of State Administrative Authorities.[19] This law does not set out any criteria for selection of directors, nor are there procedural rules the Government needs to respect to select the best candidate. There is no obligation to publish a call for candidates either.

Certain sectoral laws[20] stipulate basic eligibility conditions for the directors of some bodies within the ministries – such as a university degree, a minimum of five years' professional experience, and proficiency in a foreign language. There are cases where the sectoral laws provide that professional experience of minimum 5 years should be gained in a certain line of work (e.g. legal experience, public procurement experience, etc.) In some laws it is not stipulated that the person who is a director should have experience in a certain area. Obviously, these requirements remain largely formal.

In practice, the selection process is rarely genuinely competitive. Even when the Government publishes calls, there are no rules as to the procedure for selection between the candidates. Citizens or observers can never find out why a certain candidate was the one who was selected. It is generally perceived that the Government has a discretionary power to select one of the candidates on the call. The decisions for appointment do not contain an reasoning (justification). They have a simple format: introductory remarks (legal basis) and decision (statement who is the appointed persons).

As a result, the system functions as a hybrid but one where the spoils system is prevalt: merit-based provisions exist on paper but are frequently overshadowed by political discretion. This creates a significant risk of appointing directors who lack the necessary expertise or managerial capacity, thereby compromising both the neutrality and the effectiveness of the institutions they lead.

In terms of accountability, there are practically no rules on the duties of directors *vis-à-vis* the Government, except some minor formal tasks like submitting an annual report. It is rarely the case that the law contains provisions when the directors' term may be taken away prematurely. Observations show that there is no unified approach in terms of accountability: it might be the case

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[17] Константин Битраков, *Превенција корупције у јавној управи са посебним посвртом на Републику Северну Македонију - докторска дисертација* (Правни факултет у Београду 2025), available at: https://www.researchgate.net/publication/390301984_PREVENCIJA_KORUPCIJE_U_JAVNOJ_UPRAVI_SA_POSEBNIM_OSVRTOM_NA_REPUBLIKU_SEVERNU_MAKEDONIJU_PREVENTION_OF_CORRUPTION_THE_PUBLIC_ADMINISTRATION_WITH_SPECIAL_EMPHASIS_OF_THE_REPUBLIC_OF_NORTH_MACEDONIA (visited on August 30, 2025).

[18] Some authorities are called "administrations". There should not be confusion with the generic term public administration. E.g. Public Revenue Administration, Customs Administration, etc.

[19] Article 47 of the Law on Organization and Operation of State Administrative Authorities (Official Gazette no. 58/2000 … 121/2024).

[20] In addition to the Law on the Organization and Operation of State Administrative Authorities, the functioning and establishment of certain bodies within ministries are further regulated by approximately forty sectoral laws.

that bodies within the ministries perform quite badly, but the directors are still not held accountable.[21]

b. Independent bodies of state administration

The situation is practically the same as with the bodies within ministries. There are about 35 independent bodies of state administration. Per the general legislation, such bodies need to be established when specific sectors require autonomy from ministries (but not autonomy from the executive branch of power, i.e. the Government). Just as the bodies within the ministries, independent bodies of state administration are led by directors appointed by the Government. In some cases, two-tier governance structures exist, combining a director with a management board. Yet the rules for the appointment, qualifications, and mandates of board members and directors are vague, just as in the case with bodies within the ministries.

An additional confusion arises since in some of these institutions, the Government directly appoints both the board and the director, creating conflicts of accountability. In other ones, the Government appoints the board members, and they appoint the director. These arrangements weaken the independence and professional integrity of institutions that should serve as impartial regulators or guardians of specialized expertise.

As for the state funds, the weaknesses in relation to the directors' appointments are more or less the same with the ones we spoke of in terms of the independent bodies of state administration.

c. Public enterprises

The situation with public enterprises, in the sense of their management, is a bit more difficult to explain.

Per the Law on Public Enterprises,[22] public enterprises are governed by three main bodies: the management board, the supervisory board and the director. The director is the primary executive authority (which is why we consider only the director part of the top managers in public administration), however the management board does carry significant decision-making powers. The supervisory board supervises financials.

The management board is comprised of 7 members in enterprises founded by the Government, the City of Skopje or large municipalities (with over 50.000 inhabitants), and 5 members in smaller municipalities. Members are appointed by the founder (Government or municipal council) for a four-year term (which can be once renewed). The law contains provisions on conditions (citizenship, higher education, no ban on professional activity, and at least one member must have finance experience, and one must have legal experience). The 2022 amendments of the Law on Public Enterprises[23] introduced detailed appointment procedures through public calls and ranking of candidates, overseen by selection commissions. However, the 2024 amendments simplified the process again.

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[21] E.g. In 2019, the State Audit Office of North Macedonia conducted an audit of the Administration for Keeping Registry Books (in Macedonian: Управа за водење матични книги) and presented a report highlighting serious deficiencies. The audit revealed that out of 98,381 documents issued in that year, 21,967 contained technical or substantive errors. In other words, more than one quarter of all acts issued by the Administration in 2019 were flawed. This finding carries significant implications – not only for the budget of the Administration and the central state budget more broadly, but also for citizens, who were forced to spend additional time and resources to communicate with authorities and request corrections.

[22] Official Gazette no. 38/1996 … 208/2024.

[23] Official Gazette no. 89/2022.

Nowadays, it can be concluded that, statutory-wise, the management board is well regulated in terms of appointment and dismissal of its members.

The rules for appointments of the supervisory board members (composed of 3 members) are same as the ones for the management board members. Therefore, in terms of regulation, the rules are solid.

Finally, the rules for the directors are the following:

- He/she is either appointed by the management board (if the public enterprise is founded by the Government) or by the mayor (if the public enterprise is founded by the municipality)
- There are some conditions, although they are not really difficult to accomplish, as the law does not require sector-specific or managerial experience, meaning that individuals with unrelated backgrounds can be appointed. The conditions are: citizenship; higher education; minimum 5 years working experience, knowledge of the English language.

As for the appointment procedure, the rules are less precise than the ones for the management board members. A public call must be announced so that all interested individuals may apply, but the evaluation procedures are vaguer. A three-member commission conducts only basic administrative checks, leaving final discretion with the management board or mayor.

As for the dismissal of directors of public enterprises, the law provides that they should be dismissed if they violate statutes, fail to execute board decisions, cause financial damage, or neglect reporting obligations. In practice, however, there is weak enforcement of these provisions. In fact, empirical evidence exists that many directors do not comply with legal obligations and deadlines and are still not dismissed. For example, the law provides that directors must submit six-month reports and publish financial data (i.e. quartal financial reports) on the public enterprise's website. In early 2023, only 27 out of 43 enterprises had published obligatory financial data (i.e. the quartal financial reports) on their website;[24] yet, their directors were not dismissed. A 2020 study found that the average level of transparency among state-owned enterprises (including public enterprises) was only 41% of the required standards.[25]

Therefore, we might conclude that the legal framework for public enterprises is a bit better than the one related to state administrative authorities. However, there are still multiple weaknesses: directors' qualifications are still minimal; the rules for dismissal are not duly implemented; appointment procedures for directors are not as well regulated as possible; there is poor reporting practice.

d. Public establishments

Public establishments (such as schools, hospitals, cultural institutions, and social protection services) display considerable diversity in their governance structures, as each sector is regulated by special laws. A general principle, nevertheless, is that managerial positions in establishments should be filled according to the merit system. As it was noted above – unlike with the state administrative authorities – there is almost no room for the spoils system when speaking about public establishments' managers.

[24] Македонски медиа сервис, „ Граѓаните немаат каде да ја извршат контролната улога врз работата на јавните претпријатија " (2023), available at: https://mms.mk/324223/ (visited on August 26, 2025).

[25] Центар за граѓански комуникации, „Транспарентност и отчетност на претпријатијата во државна сопственост" (2020), available at: https://opendata.mk/Home/TekstualniDetails/104?Category=1 (visited on August 30, 2025).

The Law on Establishments[26] regulates the main governance organs: the management body (e.g. management board or similar), the director(s), and an internal financial oversight body. Where relevant, a professional or expert body may also exist (lat. *collegium*). Typically, the management body is composed of representatives of the founder (state, municipality) and at least one-third representatives of the professional staff. Members are appointed following a public call, and basic conditions include higher education, no professional ban, and relevant work experience (at least one with expertise in the field of specific public establishment, one in finance, and one in law).

The directors are central management figures. They may be appointed either by the management body or directly by the founder, depending on sectoral legislation and the founding act. In cases where no management body exists, the founder appoints the director after a public call.

However, sectoral laws often derogate the general provisions of the Law on Establishments. This leads to significant variation, for instance:

- Health sector: directors of public health institutions are appointed by the Minister of Health through public competition. They must hold relevant education (medical, pharmaceutical, economic, legal, or public health management), have adequate experience of 5 years, and a valid English certificate. Candidates must also submit a work program. Despite these detailed requirements, the Minister enjoys wide discretion in the final selection, which raises concern.
- Education sector: In primary schools, the school board manages the institution. It consists of teachers, parents, and a representative of the founder. Directors are appointed by the mayor (for municipal schools) or by the Minister of Education (for state schools), based on proposals from the school board. The process is more structured than in health, but still leaves room for discretion. Similar arrangements exist for secondary schools and kindergartens. Universities are outside the scope of this article and generally excluded from all discussions on these topics since they have their autonomy.

As for accountability, the Law on Establishments requires directors to sign managerial contracts, which should, in principle, regulate performance monitoring. Sectoral laws provide additional grounds for dismissal, including failure to follow laws, statutes, or board decisions; mismanagement of finances; or failure to submit required reports. Yet, accountability is uneven in practice. The effectiveness of oversight largely depends on the diligence of the appointing body (e.g. the Ministry, municipal council, or mayor). Without systematic monitoring, accountability risks being formal rather than substantive. Importantly, while the laws provide for dismissal in cases of mismanagement, there is limited evidence of consistent enforcement. Research gaps remain: there are no comprehensive studies on how often directors are dismissed or evaluated for poor performance.

To conclude, the legal framework and the practices related to public establishments illustrate both progress and limitations in professionalizing top management. On one hand, requirements for education, experience, and public calls represent clear steps towards meritocracy. On the other hand, the persistence of broad discretion, particularly for ministers and mayors, weakens neutrality and increases risks of politicization. Health institutions highlight the danger of wide ministerial discretion, while education reforms show improvements by reducing the unilateral power of mayors in director appointments.

[26] Official Gazette no. 120/2005 ... 99/2022.

Ultimately, public establishments should be firmly rooted in the merit system, with political discretion minimized. Where service delivery in education, health, and culture is at stake, professionalism and competence must take precedence over all other criteria.

e. State-owned companies

These companies, although fully or predominantly owned by the state, are fully regulated by the Law on Trade Companies.[27] The law has certain provisions on the conditions that must be met by board members in companies with dominance or fully owned by the state, as well as for the director. The standard criticism could be that the conditions are too broadly set out, and the selection procedure is not regulated. These companies are characterized by low transparency, which is why there is not much data that can be analyzed herein.

f. *Secretaries within ministries and units of local self-government*

Secretaries within ministries and units of local self-government are, as it was noted above, considered part of the top managers in public administration since they have managerial duties within their institutions. Yet, they are also considered administrative or civil servants, not office holders. In fact, they are the highest ranking administrative servants per the legislation regulating administrative servants.

At the moment, two Laws on Administrative Servants are important in North Macedonia: the one from 2014[28] and the one from 2025.[29]

The Law on Administrative Servants from 2014 is still into force and is being applied. The Law on Administrative Servants from 2025 was adopted recently but will enter into force in January 2027.

The Law on Administrative Servants from 2014 stipulates that secretaries were to be appointed by the minister or mayor, who could select candidates from among the institution's highly ranked administrative servants (such as heads of sectors or departments). However, this provision proved inadequate: an individual could be employed as a head of sector and immediately (e.g. after a month from his/her employment) appointed as secretary of a ministry or municipality. This undermined the very purpose of the rule, since the role of secretary requires thorough knowledge of the institution in which the duty is performed.

The Law on Administrative Servants from 2025 introduced a modest improvement. While ministers and mayors still appoint secretaries from among the institution's senior administrative servants (heads of sectors or departments), they may now only select candidates who have served in the institution for more than two years.

g. Acting directors

Speaking of top managers in public administration, one of the most problematic aspects in North Macedonia has been the appointment of acting directors of institutions.

From a normative perspective, the function of an acting director is clear and limited: an acting director may be appointed only in cases where an institution is left without a director. These are the cases when, for instance, the current director has been suddenly dismissed or has left the post due to personal reasons. In those cases, immediate appointments may not be feasible, especially if there are legal requirements for a public call which should last for several weeks. In this sense, the

[27] Official Gazette no. 28/2004 … 272/2024.
[28] Official Gazette no. 27/2014 … 208/2024.
[29] Official Gazette no. 144/2025.

role of an acting director is conceived as an interim solution, intended to preserve the functionality of the institution for a short period, typically not exceeding a few months

In reality, however, the institute has been subject to systemic abuse. Acting directors are frequently appointed in situations where no genuine obstacle exists to launching a public call, and many remain in this provisional role for years, sometimes through successive reappointments. This practice effectively transforms a temporary mechanism into a parallel appointment system, circumventing merit-based recruitment and undermining legal certainty.

Oversight bodies have consistently highlighted these deficiencies. The State Commission for the Prevention of Corruption (SCPC) has on several occasions warned that the institute is misused not as a measure of necessity but as a routine method of filling management posts. In a 2020 statement, the Commission stressed that the role of acting director is intended to last six months until a permanent appointment is made, yet cases were identified where individuals had been reappointed up to seven times consecutively.[30] Similarly, the State Audit Office, in its 2023 Performance Audit on Public Administration Reform,[31] reported that in the period 2018–2021, 52% of all Government-appointed managers were acting directors or deputy acting directors, demonstrating the systemic scope of the phenomenon.

Another problematic dimension concerns the absence of reasoning in appointment decisions. Analyses of decisions appointing acting directors reveal that they typically contain only formal dispositive provisions without any explanation of necessity or criteria for selection. The lack of reasoning precludes external oversight of whether the appointment is in line with legal conditions (e.g. restrictions on duration or eligibility) and whether it serves its legitimate purpose of ensuring continuity of administration rather than political convenience.

The persistence of this practice (one can see that it is repetitive by analyzing decisions available in the Official Gazette going back decades) illustrates a deeper governance challenge. The institute of the acting director, originally designed as a technical safeguard, has been transformed into a structural instrument of political discretion. As such, it not only undermines principles of meritocracy and professionalization in the civil service but also raises questions of compliance with broader European standards on good administration, legality, and accountability.

VI. Attempts for reform so far: Drafts of Law on Top Management Service

What we elaborated upon so far has been also discussed in the public discourse in North Macedonia for the past several years. In fact, the worries related to the prevalence of the spoils system in light of the recruitment of top managers in the public administration, as well as top public managers in general, lead to the development of the idea(s) for adopting the so-called Law on Top Management Service.

Two drafts of this law have been published so far, but they were never adopted.

The first draft was published in 2019.[32] If one analyses this draft, he/she will notice that, although a noble idea, the adoption of this could have created problems in practice. Firstly, the scope of this law was too broad. It was too ambitious to regulate all top managers in public administration (i.e.

[30] Мери Јордановска, „Антикорупциска: Се злоупотребува именувањето на в.д. директори во институциите“ (2020), available at: https://a1on.mk/macedonia/antikorupciska-se-zloupotrebuva-imenuvanjeto-na-v-d-direktori-vo-instituciite/ (visited on August 30, 2025).

[31] Full report available at: https://dzr.mk/sites/default/files/2023-03/176_RU_Reforma_javna_administracija_KOMPLET_2022.pdf (visited on August 30, 2025).

[32] Available at: https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=51541 (visited on August 30, 2025).

the directors of bodies within the ministries, independent bodies of state administration, directs of public enterprises and directors of public health establishments, as well as secretaries within the Government, ministries, other central institutions as well as municipalities) in a single piece of legislation (law). In addition, there were concerns that the draft law, as written, was a going to blur the separation of powers: provisions envisaged that Parliament would appoint or approve top managers in executive bodies that are part of the public administration.[33]

The second draft was adopted in 2021. Even though the blurring of the separation of powers was no longer an issue, this law was still, perhaps, a bit broad.

Aside from the explained reasons, it is reasonable to assume that both laws were not adopted due to other factors as well: primarily political resistance. One might assume, although they cannot claim so, that political elites perceive such a law as direct limitation on their discretionary powers to appoint loyal individuals to leadership positions. Of course, this cannot be academically analyzed, nor proven. However, observers can make such assumptions.

Pro futuro it might be reasonable to change the approach: instead of one Law on Top Management Service, authorities in North Macedonia should draft and adopt legal amendments in several existing laws (for public enterprises, public establishments, etc.) and a new law which would regulate the appointment, the dismissal, and the monitoring of directors within state administrative authorities.

The law which shall regulate the appointment, the dismissal, and the monitoring of directors within state administrative authorities can be called Law on Function Holders in Bodies within Ministries and Independent Bodies of State Administration. Its provisions would set the minimum conditions all directors must fulfill. Of course, additional conditions can further on be set out in sectoral laws. Moreover, the law can set out the main rules on the procedure for appointment of directors: public call, principle of competitiveness, access to all, and, finally, legal protection[34] against the individual acts for appointment and/or dismissal of directors. The law can also reduce the possibilities for appointing acting directors.

That is how the existing issues shall be resolved in each sector separately. In addition, this approach might receive less political resistance, as it involves multiple steps, so it is easier to accept by political elites who have been functioning in certain ways for decades.

VII. Conclusions and recommendations

The analysis presented in this paper confirms that the legal governing top managers in North Macedonia's public administration remains inadequate. Despite several attempts at reform, including the drafting of a Law on Top Management Service, systemic weaknesses persist. The most significant problems include:

- **Legal rules are not sufficient**: Appointment and dismissal procedures are not sufficiently regulated, just as the conditions for appointing directors in the institutions.
- **Dominance of political discretion**: Formal merit-based provisions exist but are vague and refer only to minimum standards. These provisions are also often overshadowed by political considerations.

[33] More info at: https://www.sobranie.mk/2016-2020-srm-ns_article-javna-rasprava-po-predlog-zakonot-za-visoka-rakovodna-sluzba.nspx (visited on August 30, 2025).

[34] Legal protection exists nowadays, as individual legal acts on appointments and dismissals are a subject matter of administrative disputes, per the corresponding legislation regulating administrative disputes. However, it might be prudent to include such provisions in the law we are discussing *pro futuro* just so that individuals are aware they have the right to initiate administrative disputes.

- **Abuse of the acting director institute**: Instead of serving as a short-term safeguard, acting appointments have become a substitute for regular recruitment, sometimes extended for years, thereby weakening legality and accountability.
- **Weak accountability mechanisms**: Performance monitoring of directors and other top managers remains underdeveloped, while dismissals for mismanagement are rare despite clear legal grounds.

Against this backdrop, several recommendations can be put forward:

1. **Adopt a specialized legal framework**: Instead of one comprehensive Law on Top Management Service, a more feasible approach is to amend sectoral laws (on public enterprises, public establishments, etc.) while simultaneously adopting a new Law on Function Holders in Bodies within Ministries and Independent Bodies of State Administration. This law should regulate appointment, dismissal, mandates, performance monitoring, and the institute of acting directors.
2. **Strengthen merit-based recruitment**: All appointments should be preceded by public calls, transparent ranking procedures, and objective criteria such as education, professional experience, and integrity. Political considerations should be limited to ensuring policy responsiveness in state administration bodies, without undermining neutrality.
3. **Limit and regulate acting directors**: Acting directors should only be appointed in exceptional cases, for a maximum of six months, and only from within the institution. Reappointments and external appointments should be prohibited.
4. **Introduce performance monitoring and accountability**: Directors should be subject to regular evaluation against measurable objectives. Non-performance should trigger legal consequences, including dismissal. Decisions on appointment and dismissal must contain reasoning to enable judicial review.
5. **Ensure legal protection and transparency**: Candidates should have access to legal remedies against arbitrary appointments or dismissals. All decisions should be publicly available, with justification.
6. **Foster gradual reform acceptance**: Given political resistance, reform should proceed step by step, starting with the most problematic areas (e.g. bodies within ministries, independent bodies of state administration) before expanding to other sectors.

Altogether, the reform of top management in North Macedonia's public administration requires a combination of legal, institutional, and cultural changes. Only by reducing political discretion, strengthening merit-based criteria, and ensuring accountability can a stable, professional, and impartial managerial system be established. Such reforms are not only necessary for the effective functioning of the administration, but also for restoring public trust and advancing compliance with European principles of good governance.

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