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**Internal Control of the Public Administration
Bodies (Institutions) in the Republic of Macedonia**

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Abstract: The main objective of this paper is to address a significant segment of public administration which is in direct contact with citizens and more often seen as a main violator of human rights and citizens. By analyzing and observing the state of public administration, legal and political instruments which are known to exert internal control within the Administration, the paper attempts to increase accountability and legitimacy of the Administration and thus sets more efficient legal system of functioning of the Administration. The paper is focused to internal control of administration but the gained experiences in administrative bodies can be practiced in other institutions that perform work in the public interest. Public administration reform is an important segment of the overall reforms in the Republic of Macedonia and one of the preconditions defined by the European institutions for full membership of the Republic of Macedonia in the European Union.

Keywords: administration; control; observation; internal

1. Entry

The main role of the modern state in a democracy already established, where rules of market economy function, is to provide standards and rights equal for all the citizens and to build efficient institutional and legal frames for the performance of various state institutions.

Public administration must also ensure that the principles of national and European administrative law apply in the work of public administration institutions.

Compatibility of public administration in the Republic of Macedonia with the European administrative principles is a priority of developing administration in accordance with best practices and in conformity with EU law (acquis).

Republic of Macedonia as well as applicant countries for EU tend to apply best practices that refer to different manners "European standards" and the rule of law.

From the analyses that can be done to public administration reforms in different countries that are directly related to the EU laws (acquis), no standard solution can be found, that would be acceptable to all countries. Differences may be in the field of education policy, civil service, ecology, etc.

One of the functions of public administration, since the first form of appearance in the context of the development of state and law, is the power of administrative bodies to exercise control over the work and other acts of administrative bodies, or self control administration at different levels of vertical and horizontal organization.

In everyday language, with control we mean all forms of control, supervision and verification in general. However, referring to law, legislation and especially to the administrative law, with supervision we understand the meaning of entities or organized activities, exactly determined by the

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state (administrative and executive bodies - most often), which are authorized by the legislative body for this activity, to ascertain illegitimacy and the same may impose and enforce sanctions (Simeon, Naum, Borce, Ana, pg. 337).

Control over the administration bodies is required to make public administration accountable, to ensure that the administrative bodies use their powers under the law and follow established procedures. Institutions, through control and surveillance mechanisms monitor and observe the actions of public officials. Montesquieu in the famous work "The Spirit of Law"¹ emphasizes that "It is a life experience, that everyone who has power is prone to abuse, doing this until you encounter any obstacles."

The aims of supervision are to assess whether public administration bodies and officials perform their functions efficiently and on time, and abide the established principles and procedures. In other words, supervision aims to ensure the administrative principle - "administration through law", because in principle, it is essential protection of public interest, but above all is to protect the rights of citizens.

All these mechanisms and institutions aim to strengthen, in effective way the action of law, transparency, accountability, effectiveness and efficiency as key principles in public administration and civil service.

Control is the activity of supervision, how legal authorized entities perform their function toward administration, the manner of execution of authorities and acts, respectively, measures taken to implement these powers².³ Control is not an authoritative process, but it shows, provides help and advises the ones under control, virtually eliminating errors and defects rendered, and improves the work of state bodies.

2. Internal Control of Administration

Among the forms of control that apply to the administration of special importance is the internal control of the administration. The organization of this form of control, presents more detailed regulation of mutual relations within the administration and authority which as a rule have higher administrative organs toward lower administrative bodies. Internal administrative control sometimes is referred to as the hierarchical control, as derived from administrative systems that rely on pure principle of hierarchy, under whose administration the work is not primarily regulated by law (Stefan, Pavle, Marko, 2002, pg 396).

Internal control, as part of system of a wider audit has close relation with it, as his recommendations and assessments serve as the basis to make necessary improvements in procedures and rules proclaimed as a legal obligation.

This form of control means that the activity of public administration is subject to the constitution, laws and regulations and international standards and agreements ratified by the Republic of Macedonia.

The essence of internal control is seen as this type of control that does not come outside the frames of administrative organization, but remains within the administration implemented in a way how an administrative body is overseeing the work of other administrative bodies. Due to the specific relations that have prevailed in the past between the administration bodies, this form of control is seen as the most important on legal or technical terms (Ivo, 1997, p. 110).

Internal controls means the organization and the methods used to assist and ensure that program managers are achieving their expected results ,that resources used to implement these programs are consistent with the purposes of a public entity and that they are obtained by fraud, abuse, etc.. The main objective of internal control is to express the responsibility of the administration. The objective of internal control in the public sector is that by building systems, design and implementation of rules

¹ Charles de Secondat, Baron de Montesquieu (1748). The Spirit of Laws.

² SIGMA Papers No. 27: European Principles for Public Administration

and procedures to ensure continuous pace to managing bodies of public administration, so that management moves by objectives and that their resources are used effectively.

From the administrative theory, administrative control means exercising influence over the senior administrative pendant body organs, related to the successful performance of their official duties. Administrative control, which is exercised over the work of administrative bodies, is adjusted by legal norms and laws of the higher bodies.

There have been developed various forms of administrative control in order to ensure the operation and coordination between different administrative structures on vertical and horizontal line that ensure normal and lawful operation of state administration. Internal control is the kind of control that is exercised within a ministry, other central institutions, local government body, etc., And the control exerted by them on the bodies, public entities and institutions subordinate to their area¹.

Republican government exercises control and supervision over the work and acts of ministries, with the right of abrogation and annulment of administrative acts of ministries and administrative organizations which have public authority, whereas under conditions prescribed by law, ministries supervise the work of other administrative state bodies and local self-governance bodies under the authority provided by law. Internal control aims at improving the method of work of every employee to realize his duties, as well as activation of versatile and smooth operation of all levels within the body or institution.

Its objective is to increase the efficiency of the control and improvement of control rules, to prevent or detect violations of law in the field of public administration, to combat deviant phenomena (corruption, bribery), which are prevalent in public administration with negative consequences for society as a whole. These rules intend preservation and utilization of human resources, as well as finance to increase social welfare.

From comparative analysis of administrative systems in different countries, administrative control is done in two ways: a) Instancional control and b) hierarchical control or official supervision.

Instancional control - means control over administrative acts through unsatisfied parties with an administrative act in the first instance body, which means that without complaint there is no instancional control. The unsatisfied party could appeal an administrative decision which affects the body on the highest administrative level.

An appeal is a critical element of instancional control (*conditio sine qua non*). Appeal is a regular legal tool by which an aggrieved party with attacks on the administrative decision will realize any right or obligation, and it represents the main institution of administrative proceedings, where enables interested parties to be protected from unlawful or arbitrariness of state administration bodies.

In the political and legal system of the Republic of Macedonia, the right of appeal is the right of citizens guaranteed by the Constitution of the country. It guarantees the right to appeal against individual legal acts adopted in the first instance proceedings before courts, administrative bodies or other organizations and institutions exercising public authority².

In the instancional control, object of supervision is the concrete administrative act, namely the decision to be issued in administrative matters in the direct implementation of the provisions, which will decide the rights and obligations or the public interest to individuals, legal persons and other parties³.

So, instancional control takes place in the general administrative procedure, with the filing of an aggrieved party. In accordance with the Law on general administrative procedure against the decision of first instance, an aggrieved party may appeal through the appeal to the body of second instance.

¹ Ermir D, (2003), Administrative Law I, Tirana, p. 201.

² Constitution of Republic of Macedonia, 1991.

³ Law of internal control in the public sector, (official gazete of RM, nr.69/04)

Powers of bodies that decide on the basis of complaints consist in the cancellation or cancellation of administrative act.

The issue of administrative settlement (decisions) is one of the main issues of administrative reform. In developing the administrative procedures in the Republic of Macedonia, but also in other countries, European Union countries, apply administrative law principles (rule of law, transparency, equality before the law, etc.). Principles of administrative procedure apply to all levels of administrative decisions.

The effective functioning of the administrative procedures contributes to the legitimacy of administrative bodies in the exercise of its powers and ensures efficiency and legal certainty on providing of services to citizens.

Hierarchical control - as a form of internal administrative control is carried out *ex officio* (*ex officio*), respectively, higher administrative organs have the right and both are also obliged to exercise control over the work of lower administrative organs. In the context of administrative oversight, it is observed that higher administrative bodies exercise supervision over lower administrative bodies on the implementation of laws and other acts, as well as the legality of the work and procedures of public administration bodies, in accordance with the law (the body by a decision of its own can cancel the decision of the lower body). Hierarchical control or hierarchical supervision may be exercised in different ways and forms. Thus, the control may be from individual concrete acts of lower bodies and may even belong to the overall work of one or more lower bodies. Supervision is done by the inspectorate and auditing.

Important function of control is control by auditors. The purpose of audit is that to entity leaders it ensures objective evaluation, independent, with the aim of improving the performance of the entity and internal control effectiveness, respecting the principle of legality, independence, fairness, economy, effectiveness and efficiency etc. Control through audit is an independent and objective instrument, which verifies the data, gives advice in order to improve the work of the entity in achieving its objectives.

The internal auditor has the right to see all financial statements, books, records and other documents and may request all information which he or she needs to perform control.

3. Control within Municipal Institutions

The existence and functioning of control and supervision over the work of municipal authorities is evident, and it is usually carried out by the state government, administrative bodies and special bodies of local self-government.

The procedure for controlling and monitoring includes equally all acts and regulations of the municipal authorities and subject to assessment are in legal Basis of the act, the operative part and process of adoption. The system of control and supervision of municipalities is established to build an effective system of control and supervision, over the work of the bodies of local self-government.

The system of internal control and supervision is one of the basic preconditions for preventing certain irregularities in the functioning of all institutions. The data show that the system of internal control and supervision is not sufficiently established and accepted in the municipalities, which in itself speaks about the need for its establishment, in order to proactively influence regarding the elimination of certain irregularities.

Most municipalities today have not appointed an internal auditor. This indicates a violation of legal regulations in terms of establishing the system of internal controls and supervision in accordance with positive legal norms.

In the context of rights and duties of the municipality established by law, supervision can be performed by the council, the mayor and authorities, organizational forms of municipal administration and managed clerks.

The Municipal Council within their jurisdictions decides and adopts appropriate legislation primarily in the area of the municipal budget, establishment of public services, adopts programs, plans and other authorities under their jurisdiction.

In practice this can most vividly be presented with the possibility that the council has for rejecting certain decisions or solutions offered by the mayor or the relevant departments of the municipality, especially the most clear case is the absence of the municipal budget, the rejection of the final bill of municipality, etc.

Within the jurisdiction of the mayor, his power of supervision of the Council controls the legal regulations of the council, publishes regulations of the council in the official gazette of the municipality and ensures the implementation of Council decisions, and others.

4. Citizens as Supervisors of the Work of Public Administration Bodies

Citizens in any democratic society enjoy the right to participate in the institutions of public character and to be informed about the work of governmental institutions, parliamentary activity, courts, local self-government and all institutions of public character. Communication of public institutions with different groups of citizens, the media and citizen participation in policy making, decision making and control process, are important elements of each society build in a democratic way. Citizens have the right to directly participate in decision making processes in public institutions and it is their right which cannot come into question, it is also the right behind which stand and guarantee the international acts and those of the country (whether central or local). Freedom of information is one of the fundamental human rights of citizen specified in the Constitution of the Republic of Macedonia (Article 16) and citizens are guaranteed access to getting the right information and the receiving and transmission of information. One of the most important international documents that provided, fixed and guaranteed the right of citizens to directly participate in decision making processes in local authorities, is undoubtedly the European Convention on Local Self-Government of the Council of Europe¹.

Citizens' access to existing institutions to oversee the issues of their interest, it is considered relatively low with many aspects to improve citizens access to bodies of public administration and should provide easier and more appropriate access of citizens to the authorities of control and supervision. Without governance transparency there is no democratic society. The benefit is twofold because, citizens participate in setting priorities, and then the control during their realization; on the other hand the power verifies the correctness of its policy and strengthens the trust between citizens. Public assessment is the best way of control; yet it does not mean that supervision by competent authorities should be abandoned.

5. Conclusions – Recommendations

- Through the use of legal and political instruments of control is intended to preserve and advance the functioning of democratic institutions, democratic values and citizens in protecting the public and privat interests.
- The purpose of exercising administrative control and taking measures is to apply legitimacy, to determine the responsibility of administrative bodies and officials who have violated the law.
- Internal control aims to ensure that final decisions will be legal and administrative bodies in exercising their activities respected already established legal rules.

¹ European Convention on Local Self-Government of the Council of Europe
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- The main objective of internal control is to increase the efficiency of the control and improvement of control rules, to prevent or detect violations of law in the field of public administration, to fight deviant phenomena that are prevalent in public administration with negative consequences for the society in general.
- Administration bodies which develop administrative procedures should strengthen internal control system, including supervision of administrative decision-making process in the first instance and under the grievance procedure.
- The managing bodies of public administration bodies in all levels of administration should receive reports and information for developing supervision of administrative procedures and this will be the basis for improving the quality of work of administrative bodies.
- Administrative control of the Government towards the administration should be perceived only on sound and professional basis and not based on the political-party.

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