
THE PRESUMPTIONS FOR FORMATION OF ORGANS OF THE PUBLIC ADMINISTRATION AND PRINCIPLES OF ITS ORGANIZATION

Temelko Risteski

FON University, Skopje, Macedonia, temelko_mkd@yahoo.com

Sejdefa Dzavche

FON University, Skopje, Macedonia, gjsejdefa@yahoo.com

Vesna Sijic

vesnasijic@hotmail.com

Abstract: The presumptions for the formation of public administration organs encompass one or more conditions that need to be fulfilled in order for the body to be formed.

In order for one public administration organ to be formed, there should be three types of presumptions. They are: material presumptions, political presumptions and legal presumptions.

The material presumptions include the existence of a social need for the formation of the organ, the provision of people (staff) for the work of the organ, the provision of financial resources for its formation and the provision of spatial and technical conditions for its accommodation and work.

Political presumptions are the political will of the political executive (government) to form it and provide political consensus in parliament for the adoption of a law for its formation.

Legal presumptions encompass the existence of a constitutional basis for the establishment of the organ - the institution, the existence of a legal basis for the establishment of the organ and the existence of a bylaw on organizing and systematization of the body.

The principles of the public administration organization should ensure the efficient realization of the administrative function with minimal spending of money, material and technical means and human labor, in accordance with the laws, other regulations, general acts of the Parliament and the regulations and general acts of the government in accordance with the established politics. These principles are: the principle of the foundation on social needs, the principle of legality, the principle of organization's compatibility, the principle of unity of the organization, the principle of expediency, the principle of grouping things and principle of economy and rationality.

The paper elaborates, in detail, the presumptions of formation of the organs of public administration in the Republic of Macedonia and the principles of its organization.

Keywords: presumption, formation, organization, administration, principles.

INTRODUCTION

Public administration organs are an integral part of the executive. As part of the executive, they perform the administrative (state management) function. The administrative function encompasses the activities of administration in all areas of social life in which its organs are formed. The activities of the administration, all together, encompass numerous administrative matters. The execution of administrative works is carried out through the administration work (administrative operation). The work of the administration on the performance of matters covered by its activities is called as administrative function. The administrative function covers more activities. Each activity covers more administrative works and it is an element of the administrative function.

By performing the administrative work, the administrative organs service the citizens in the separate areas of social life (education, health, finance, interior, defense, etc.). Therefore, public administration is a service for the citizens. It, as part of the executive branch, emanates from the citizens and serves the citizens.

Everything that is formed and exists in nature has a certain purpose. Society is composed by people. People are beings of nature. Accordingly, human society is part of nature. All social organizations, institutions and organs are formed to achieve a certain social task. The social task of the administrative organs is servicing the citizens in the separate areas of social life. Servicing the citizens is a social need. This means that the administrative organs are formed to meet certain social needs, that is, the needs of the citizens who make up the society.

The existence of a social need is a basic material presumption for the establishment of an administration organ. Apart from the basic material presumption, there are other additional material presumptions for its formation.

Taking into account the material presumptions for the establishment of an administration organ, it is necessary to have political and legal (law's) presumptions.

The administration organs, together, constitute the administration system. This system includes ministries, other administrative bodies and administrative (state management) organizations.²³ They are all formed for servicing the citizens in certain areas of social life.

Citizens' servicing, legally speaking, encompasses the realization and protection of their rights in the society and the fulfillment of their obligations towards society. It must be effective, because it is in function of the life of the citizens. Their life as a set of natural and social activities, do not want inefficiency. Therefore, the administration as a system of administering (state-managing) social affairs and, at the same time, a subsystem of the executive power, must be effective. In order to be effective, it must be organized only as system of tightly-connected organs, hierarchically subordinated to the Government of the state as the main and basic bearer of the executive power in the state and coordinated by it. This organization of the public administration implies respecting the basic principles of the organization of the social (state) systems, i.e. the subsystems. These principles are: the principle of foundation on social needs, the principle of legality, the principle of the organization's compatibility, the principle of unity of the organization, the principle of expediency, the principle of grouping of works and the principle of economy and rationality.

Respecting these principles ensures firm unity of the organization and a high degree of compatibility and cooperation. This in turn, enables efficient execution of the tasks and duties of the administration organs in servicing the citizens. Effective performance of their works and tasks means an efficient public administration and thus, an efficient executive power of the state.

1. PRESUMPTIONS FOR THE FORMING OF ADMINISTRATION ORGANS

The presumptions for forming public administration organs encompass one or more conditions that need to be met in order to form an organ. In order for one public administration organ to be formed, there should be three types of presumptions. They are material presumptions, political presumptions, and legal presumptions.

The material presumptions include the existence of a social need for the formation of the organ, the provision of people (staff) for the work of the organ, the provision of financial resources for its formation and the provision of spatial and technical conditions for its accommodation and work.

The existence of a social need is the basic and unique teleological category for the establishment of an organ of administration. No need, no organ. The forming of an organ without the need for servicing the citizens would be irrational.

State organs, from the aspect of the theory of organization, are organized systems of people. They consist of several organizational units provided by the act on organization and systematization of workplaces. In organizational units, people (administrative officers) perform certain works that are, by nature, the same or similar. In order to be able to carry out these works, administrative officers should be professional and competent. Expertise and competence are constitutional categories.²⁴ They are necessary for participation in management and decision-making in public institutions and services. Works can only be performed by people who know how to carry them out. Setting up people who do not know how to do things in certain jobs is absurd. Such people are useless and harmful. They occupy certain jobs, receive salary, and do not work. Their work is done by others. Therefore, the provision of strings and competent administrative officers for working in the public administration is a *conditio sine qua non* - condition without which it is not possible to work.

Every work in the society is carried out by people with certain material assets.

The people, according to the Constitution, have the right to adequate earnings for their work. They work to live. Living means satisfying life's needs. They need money for that. Earnings are calculated in money.

Money is needed for the construction and arrangement of the facilities in which people (administrative officials) will work. It is needed to procure the means by which they will work. It is also required to provide healthy conditions for their work: lighting, heating, cooling, ventilation, etc. That is why the establishment and the existence of an administration organ cannot be imagined without the necessary financial means to finance its operations and existence.

Political presumptions are the political will of the political executive organ (government) to form administrative organ and to provide political consensus in parliament for the adoption of a law for its formation.

²³The state administration consists of the ministries and other organs of the administration and organizations determined by law (Article 95, paragraph 1 of the Constitution of the Republic of Macedonia). The Law is titled "Law on Organization and Work of State Administration Organs". It was published in the Official Gazette of the Republic of Macedonia No. 58/2000 with subsequent amendments and supplements. This law in Article 5 contains an identical provision such as the constitutional provision of Article 95, paragraph 1 of the Constitution.

²⁴ According to Article 58, paragraph 2 of the Constitution of the Republic of Macedonia, participation in the management and decision-making in public institutions and services is regulated by the Law and at the principles of expertise and competence.

Political consensus is particularly necessary for the adoption of a law requiring the adoption of a two-thirds majority of the votes of the total number of Members of Parliament (Assembly).²⁵

Legal presumptions include the existence of a constitutional basis for the establishment of the organ - the institution,²⁶ the existence of a legal basis for the establishment of the organ²⁷ and the existence of a by-law on organization and systematization of the organ.²⁸

The public administration organ cannot be established and organized without the adoption of a general act that clearly stipulates its organizational structure (the types and number of organizational units, their interrelations, number of workplaces in each organizational unit and the tasks of employees of each of those workplaces).

2. ORGANIZATION OF THE PUBLIC ADMINISTRATION

2.1. General review

Public administration is a subsystem of executive power in the state. It is in charge of performing the administrative - executive activities of the executive power, which, in turn constitute the administrative (state management) function.

The principles of the public administration organization should ensure the effective exercise of the administrative function with minimal spending of money, material and technical means and human labor, in accordance with the laws, other regulations, general acts of parliament and the regulations and general acts of the government, in accordance with the established policy. These principles are: the principle of existence social needs, the principle of legality, the principle of the organization's compatibility, the principle of unity of the organization, the principle of expediency, the principle of grouping of works and the principle of economy and rationality.

2.2. Principle of foundation on social needs

This principle was discussed above because the need is a material presumption for the establishment of an administration body. So here we will give only a brief review of it. According to him, in order for one public administration organ to be formed, there must be a social need for its establishment. Public administration organs are established for the servicing of social entities - individuals and legal entities in certain areas of social life (education, defense, interior, health, etc.). If there is no need for servicing, there is no need for the existence of an administration organ. The needs and the existence of things in nature and society make dialectical unity. Something exists if there is a need (necessity) for its existence. If the need - necessity is lost, the sense of its existence is lost.

2.3. Principle of legality

According the principle of legality, the public administration organs are established and their organization and work are regulated by law. This means that only legal regulations can be a normative basis for the establishment, organization and work of an administration organ. This is a determination of the Constitution of the Republic of Macedonia, as well as of the constitutions of other states. This determination of the creators of the constitution is motivated by the great significance of the administrative function as the main content of the executive power, which, on the other hand, is the most extensive by organs and staff and with the greatest extent of the manifestations in the society. Its social manifestations are expressed as deciding on the rights and obligations of citizens and protecting theirs rights. This latest, in the Republic of Macedonia, comes mostly to the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Labor and Social Policy and the Ministry of Environment and Physical Planning.

2.4. Principle of compatibility

The principle of compatibility in the organization of public administration implies the establishment of organs and institutions of the administration with an organizational structure that will basically be similar, if not identical.²⁹ Differences in the organization should spring up and rely on differences in the nature of things in various areas of social life. For example, each public administration organ must have an organizational unit for

²⁵ According to Article 95 of the Constitution of the Republic of Macedonia, the organization and the work of the state administration organs are regulated by a law adopted by a two-thirds majority vote of the total number of Representatives.

²⁶ See: Article 95 of the Constitution of the Republic of Macedonia.

²⁷ See: Law on Organization and Work of the State Administration Organs (Official Gazette of the Republic of Macedonia No. 58/2000) with later amendments and web site of the Ministry of Information Society and Administration.

²⁸ Regarding this, see the Decree on the Internal Organization of the State Administration Organs (web site of the Ministry of Information Society and Administration). The internal organization of the state administration organs is regulated by the Rulebooks for Organization and Systematization of the Workplaces.

²⁹ The similarity in the organization of the state administration organs of the Republic of Macedonia is ensured by the Decree on the Internal Organization of the State Administration Organs (see: Web site of the Ministry of Information Society and Administration).

staffing, an organizational unit for legal matters, an organizational unit for finance, and so on. But, each organ of the administration cannot have organizational units for primary or secondary education. Such an organizational unit should and must exist in the organizational structure of the Ministry of Education. Of course, organizational units for fruit growing, crop production or forestry can only be available at the Ministry of Agriculture, Forestry and Water Economy, and so on. According to the principle of compatibility of the organization, the organizational units in all administrative organs should have the same general names: departments, units, project units. It is unacceptable that the names in one organ are to be sectors, or departments, and in other units, sections and so on.

2.5. Principle of unity of the organization

The principle of the unity of the organization presupposes the establishment and existence of a single system of public administration that will act with compliance harmony within the system of the executive power in meeting the rights and interests of the citizens and other social subjects. According to this principle, a high degree of integration of the public administration system should be established. The basis of that integration ensures the responsibility of the administrative bodies for the execution of the administrative function before the Parliament (Assembly) and the Government, i.e. for carrying out the activities that constitute the elements of that function according to the principles and methods determined by the single regulations for the administration.

In addition, the integration of the public administration system is achieved through intensive mutual cooperation, bargaining and reporting on issues of common interest. Cooperation strengthens unity. Therefore, it should be understood as an inevitable imperative.

2.6. Principle of expediency

The principle of expediency implies full compliance of the administrative organs with the social goals that need to be achieved by the exercise of the administrative function. These goals should be defined so as to be in the function of meeting the needs and interests of citizens in the given area of social life. Being in their position, the goals of the administrative function are, at the same time, the goals of the citizens who, with their sum as micro goals, contribute to the realization of the macro goals defined by the Preamble of the Constitution of the Republic of Macedonia. They are: establishing and strengthening the rule of law, guaranteeing human rights and civil liberties, securing peace and coexistence, social justice, economic well-being and the advancement of personal and community life.

Since the objectives of the administrative function are determined, it is necessary to determine the elements from which it consists. This means determining the activities of the administration in the relevant area of social life. Determining the activities implies establishing the standards for their execution, as well as determining the priorities of the execution. Such a procedure will provide us with the basic settings for the organization of the administration in the relevant area, the type of organ, the type and scope of the work it will perform, the degree of its independence, its internal organization and the manner of the management with it.

2.7. Principle of grouping works

The principle of grouping works is closely related to the previous principle. In accordance with this principle, the works of the administration are grouped according to their type, similarity and interconnectedness, and with the need to harmonize the work of the organs, the need for efficient management of their work and ensuring independence and responsibility in the work.³⁰ Grouping of works should be done according to their type and similarity. The type and the similarity of the works in turn, are conditioned by their nature.

The nature of things stems from their inner characteristics which with their totality determine the content of their inner being, that is, their essence. According to these characteristics, the names of the works - works on defense, works on state and public security, work on spatial and urban planning, works on construction, works on education and education, etc. are determined. Such an understanding of the nature of things will enable us to correctly determine their kind and the similarity between them, which is the basic condition for their proper grouping.

The Macedonian administration (state management) is organized according to the domestic and world experiences and standards. Therefore, regarding the application of the principle of grouping works, we could not put other remarks, except those that are objectively conditioned by the previously established constitutional framework that serve as a constitutional and legal basis for the legal regulation of the organization and the scope of the administrative organs.

In this connection, starting from the principle of grouping things according to the similarity, it is possible to unify the Ministry of Education and Science with the Ministry of Culture in a tri partial ministry. It is also possible unite between the Ministry of Finance and the Ministry of Economy.

2.8. Principle of economy and rationality

³⁰ See: Article 3 of the Law on Organization and Work of the State Administration Organs (Official Gazette of the Republic of Macedonia No. 58/2000).

According to the principle of economy and rationality, the administration should be rationally organized - with so many organs as necessary for successful and efficient execution of the administrative function - nothing more and nothing less. On the principle of economy does not suitable bulky administration, with numerous organs, and on it does not suitable bulky organs of administration. The dimensioning of the administration organs should be such as to provide the highest degree of efficiency in the performance of the administrative function under their competence.

Furthermore, the principle of economy does not tolerate overlapping the works of the administration organs. The organizational gaps are contrary to him as the conflicts of competence. This requires that all elements of the administrative function and all the works that constitute them be "covered" with an appropriate organ or organizational unit of an administrative organ, and only with one. Overlapping of the work of several organs or organizational units leads to positive or negative conflicts of competence³¹ and by that to inefficiency in the work.

This principle is foreign to all organizational incompatibility and fragmentation in the system of state administration. This implies a high level of mutual cooperation between the administrative bodies, which will not depend on the will of the officials who manage them, but will arise from the specific needs of the works and as such, it will be prescribed by imperative norms.

This principle is contrary to the irrational spending of money, material and technical means, human labor and time. In accordance with this principle, the state administration system should be organized so as with minimal spending to give maximum results. With minimum - maximum.³²

CONCLUSION

The main presumption of forming an administration organ is the existence of a social need for it. On the State-level, society is an organization of citizens organized within the state. From this it follows that the state is an organization of citizens living in a certain territory confined to the state borders. According to the theory of separation of power, the state power is divided into legislative, executive and judicial power. In a democratic society, the power stems from the citizens and belongs to the citizens. This includes the essence of the principle of citizens' sovereignty. In accordance with this principle, the government is a service of the citizens. Administration organs are part of the executive branch. They constitute the executive-management subsystem of that power. Their work is organized, coordinated and controlled by the Government and its organs, as the executive-political subsystem of the executive power.

As part of the executive authority, the administrative organs decide on the rights of the citizens, protect their rights and enable the fulfillment of their legal obligations. These basic duties of the administrative organs constitute the framework of the administrative (state management) function of the executive power. This function encompasses several activities in the areas of social life for which administration organs have been established. The activities consist of numerous administrative works for servicing the citizens.

Citizens' servicing by the organs of the administration must be effective and efficient.

Efficient and effective administrative servicing of citizens can provide only the unique, harmoniously organized and, on the needs and interests of citizens, adapted system of administration. That system will be such if its organs, in addition to the existence of a social need for formation, fulfill other material, political and legal presumptions for their formation, such as the provision of human resources, then the establishment of political consensus in the Parliament, and through it, an appropriate legal framework for the establishment of the administration organs. The next phase in the establishment of such a system of public administration is the establishment of the administrative organs with consistent adherence to the principles of public administration organization, such as: the principle of social need, the principle of legality, the principle of compatibility of the organization, the principle the unity of the organization, the principle of expediency, the principle of grouping works and the principle of economy and rationality.

REFERENCES

- [1] Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 52/91).
- [2] Decree on the Internal Organization of the State Administration Organs (Web site of the Ministry of Information Society and Administration).
- [3] Grizo N., Davitkovski B., Administration Problems, University "St. Cyril and Methodius", Faculty of Law, Skopje, 2001.

³¹ According to our findings there are collisions of competences between the Ministry of Agriculture, Forestry and Water Economy and the Ministry of Environment and Physical Planning. See: Miovska M. Risteski T. "Collisions between Law on Forests and Environmental Legislation Related to the Public Administration in Macedonia", 13th International Symposium on Legal Actions for European Forest Sustainable Development, Kaunas, Lithuania, May 18-20 2011, Proceedings p. 97-106.

³² For more details, see Pusic E., The Science on Administration, Faculty of Law, Zagreb, 1986, p. 151 and 270 to 274.

[4] Ilic M., Administrative Law and other Works, Public Enterprise, Official Gazette of the Republic of Serbia, Belgrade, 1998.

[5] Law on Organization and Work of State Administration Organs (Official Gazette of the Republic of Macedonia No. 58/2000).

[6] Miovska M, Risteski T. Collisions between Law on Forests and Environmental Legislation Related to the Public Administration in Macedonia, 13th International Symposium on Legal Actions for European Forest Sustainable Development, Kaunas, Lithuania, May 18-20, 2011.

[7] Pusic E., The Science on Administration, Faculty of Law, Zagreb, 1986.

[8] Risteski T., Public Administration, Concepts for Lectures, University FON, Skopje, 2010.

[9] Spektorsky E., State and its Life, Serbian National Cooperative Society, Belgrade, 1933.