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**POLITICAL RESPONSIBILITY OF THE PUBLIC
ADMINISTRATION BODIES IN THE REPUBLIC OF MACEDONIA**



Abstract: Initially, I would like to give a general explanation on the notion of responsibility, then about the political responsibility in particular and in the end I will focus mainly in the political responsibility of the senior officials in various high positions within the state public administration in Macedonia.

Political responsibility, within the political relationship between the political mandate and the mandatory, primarily refers to officials, bodies, forums and institutions in general which are elected, appointed or constituted for the exercise of political functions, as debtors, facing voter denominators and constituents as their creditors.

Political responsibility in this country includes the highest officials of the state administration bodies politically designated and they are all a subject to it.

Political responsibility is characterized by the relationship built through trust, hence this responsibility indicates responsibility for the work they do, and cannot be seen as an opportunity for illegal work. Legal regulation of political responsibility in the Republic of Macedonia is regulated by specific laws of this country where political responsibility of ministers may be threefold - for their work, the work of the institution in charge of which they are and for the work of the Government.

Ministers in the Republic of Macedonia are primarily responsible to the Government of the Republic of Macedonia and then to the Parliament of the Republic of Macedonia for their personal decisions and policies, as well for the efficient management of their departments within the Ministry.

Regarding the political responsibility of the state administration in the Republic of Macedonia, provided under the laws in force, resignation as an act by which public official express their decision to leave the position from whom such an act is required. The public official decides to resign, as a means of resolving a current internal conflict. The resignation represents a different situation compared

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to the institution of revocation or dismissal of a public official. The resignation therefore represents an act through which a bearer of a public position expresses his/her decision to break the relationship with the forum or institution in which he/she operated due to non-exercise of duty, as requested from him/her by the forum or institution managed by him/her.

The President of the Republic of Macedonia can be dismissed for serious violations of the Constitution and for committing a serious crime, according to the procedure provided in Article 87.310 The procedure for verification of the responsibility of the President of the Republic can be initiated by the Assembly through a majority of two thirds of the votes of the total number of MP's. The responsibility of the President of the Republic of Macedonia is decided by the Constitutional Court of the country with a majority of two thirds of the total number of judges. If the Constitutional Court verifies the responsibility of the President of the Republic, his function ceases to exist by the power of the Constitution.

In the Republic of Macedonia it is not easy to raise the question of political responsibility, while it is previously not fully regulated in the legal acts of political parties, and as such, sanctioned correspondingly. Consequently, there should have been better and clearer norms for the procedure of implementing the political accountability at all levels. Because of this, through the Law on Political Responsibility (which we don't have yet) we should have tasked the highest authorities of the state administration to regulate this issue better.

Then, in terms of good and sufficient political will, we could rely in ensuring the concrete application of political responsibility, depending on the concrete circumstances, starting from a reprimand, public reprimand, revocation and dismissal from the position of political and public office.

Key words: government, courts, , political liability, collective responsibility, individual responsibility, interpellation, resignation, dismissal

Introduction

Initially, I would like to give a general explanation on the notion of responsibility, then about the political responsibility in particular and in the end I will focus mainly in the political responsibility of the senior officials in various high positions within the state public administration in Macedonia.

Responsibility represents one of the fundamental relationships between man and authority, respectively the society.

Political responsibility: Albanian: "Përgjegjësia politike", French: "Responsabilité Politique", German: "Politische Verantwortung," is the specific

310 See: R.M. Constitution of 1991, Article 87.

rapport between the officials elected or appointed, political bodies and institutions, and the voters and their constituents, on the other hand.

Political responsibility, within the political relationship between the political mandate and the mandatory, primarily refers to officials, bodies, forums and institutions in general which are elected, appointed or constituted for the exercise of political functions, as debtors, facing voter denominators and constituents as their creditors.

The legal responsibility system is heterogeneous. Every political system has its own system of responsibility which should ensure the effectiveness of that system. The Republic of Macedonia, i.e. its political system, has built such a system of accountability, which regulates this matter.

In the exercise of political power in the Republic of Macedonia, any official enjoys powers established by law that has been entrusted to exercise certain public functions in this country. The body that has elected the public official has the right to examine his work and even ask from him accountability, if the official is not acting in accordance with the political responsibilities he/she has. Thus, political responsibility in this country includes the highest officials of the state administration bodies politically designated and they are all a subject to it.

Political responsibility is characterized by the relationship built through trust, hence this responsibility indicates responsibility for the work they do, and cannot be seen as an opportunity for illegal work. Legal regulation of political responsibility in the Republic of Macedonia is regulated by specific laws of this country where political responsibility of ministers may be threefold - for their work, the work of the institution in charge of which they are and for the work of the Government.

The work of the ministers as members of the Government recognizes three types of acts and actions. Acts and actions undertaken by the Minister which require the consent of the Government; Acts and actions by ministers in accordance with the decisions from the previous Government, or in accordance with the general policy of the Government through the participation of ministers in the Government and in setting its policies and decision-making. The political responsibility of ministers is extended also to the work of the respective domain which they manage. They are also responsible for the work of the government, individual and collective responsibility of ministers. It is also possible in practice to convert individual responsibility to collective responsibility of the government.³¹¹

The meaning and the doctrine of collective responsibility was determined and set as an institution from the time of Lord Salisbury, the prime minister of Great Britain in 1878, "For all that passes in Cabinet every member of it who does not resign is absolutely and irretrievably responsible and has no right afterwards to say that he agreed in one case to a compromise, while in another he was persuaded by his colleagues...It is only on the principle that absolute responsibility is

³¹¹ See: Law on the Government of Republic of Macedonia.

undertaken by every member of the Cabinet who after a decision is arrived at, remains a member of it, that the joint responsibility of Ministers to Parliament can be upheld and one of the most essential principles of parliamentary responsibility established.”

In 2005 Prime Minister Tony Blair, in a statement of his gave this doctrine a new form, “Collective responsibility requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This in turn requires that the privacy of opinions expressed in Cabinet and Ministerial Committees, including in correspondence, should be maintained.”

The general limitation that the Government faces in the exercise of this function relates and is conditioned upon the necessity to respect the law. This obligation relates to respect for the Constitution and further the respect of laws.

In the British parliamentary practice today, the collective responsibility carries in itself a number of aspects intertwined to one another:

1. The Prime Minister and other Ministers are collectively responsible towards the Parliament for the positions they hold in regard to national matters. In fact, as long as the governing party retains a majority in Parliament, the Prime Minister should not be forced to resign, or be required dissolution of Parliament.

2. When a prime minister dies or resigns from office, even when the same party continues to govern in power, all ministerial offices are made available to the new prime minister, to be replaced in accordance with the concept he/she gives to the new prime minister’s cabinet.

3. Although Ministers are individually responsible to Parliament for the acts of their department, in case the parliament members call upon a particular minister’s resignation the Government will generally stand in his defense. Hence, collective responsibility is a tool to defend an incompetent and unpopular minister. However, such a case cannot be successful when there is an intensive media campaign to remove a particular minister.

Ministers while in office, share a collective responsibility. However, a cabinet member may request not to approve a cabinet’s decision and in this case the disapproval is held private in the minutes of the Cabinet. But the minister, although has not agreed, is still expected to vote in support of the cabinet in Parliament at the time of voting this very issue.

Minister's responsibility as individual responsibility

Ministers in the Republic of Macedonia are primarily responsible to the Government of the Republic of Macedonia and then to the Parliament of the Republic of Macedonia for their personal decisions and policies, as well for the efficient management of their departments within the Ministry. The Prime Minister of the Republic of Macedonia, besides the authority he holds given by the Constitution of this country, can also perform control over the work of his cabinet

ministers, exercising the right to ask from them explanations, clarifications and administrative verifications for issues for which they are competent and which they cover according to the Law. The Prime Minister of the Republic of Macedonia can also, in accordance with the law, take the initiative to suspend or implement acts of ministers, or managers of the highest bodies of state administration, who are under his supervision or of the ministers of his government. This competence of the Prime Minister comes pursuant to Article 35³¹² which regulates the issue of power and the relationship between the Prime Minister and his government ministers that conflicts of competence for different ministries are resolved by the Prime Minister.

However, the issue of responsibility in regard to the rapport between ministers and their subordinates within the Administrative employees goes further to the point of relying on international practice of the functioning of responsibility. Based on this, the literature of the English public law, one of the interior ministers of Britain, Sir David Maxwell Fule explain the issue of responsibility in a categorized way as shown in the following:

1. A minister must protect a civil servant who has carried out an explicit order by the minister.

2. A minister must protect and defend a civil servant who acts properly in accordance with the policy laid down by the minister.

3. Where an official makes a mistake or causes some delay, but not on an important issue of policy and not where a claim to individual rights is seriously involved, the minister acknowledges the mistake and accepts the responsibility, although he is not personally involved, and states that he will take appropriate corrective action in the department. The minister would not expose the official to public criticism.

4. Where action has been taken by a civil servant of which the minister disapproves and has no prior knowledge, and the conduct of the official is reprehensible, there is no obligation on the part of the minister to endorse what he believes is wrong or to defend what are clearly shown to be errors of his officials. But the minister remains constitutionally responsible to Parliament for the fact that something has gone wrong, and the minister alone can tell Parliament what has occurred.

In the four above mentioned points we have an attempt to identify situations in which the minister must "accept responsibility" for the actions committed by the employee of the civil service. This analysis does not mean that the duty of the minister to accept responsibility carries along with this, the duty to resign. Therefore, we need to confirm that we are not dealing with an obligation over another obligation for a minister to resign when mismanagement occurs within his department. Whether a minister should resign or not, depends on the

³¹² See: Law on the Government of R.M., Article 8, published in Official Gazette No.59 / 2000.

various political factors, including the position of the Prime Minister, the party's internal situation, the minister's temperament and other political factors.

Clarification of the phenomenon of responsibility in the British practice and its applicability in the Macedonian case is an issue which will also depend on how much can be achieved in terms of our circumstances, the degree of political consciousness within state officials and civil servants and other factors that directly affect the governing in our country.

The resignation

Regarding the political responsibility of the state administration in the Republic of Macedonia, provided under the laws in force, resignation as an act by which public official express their decision to leave the position from whom such an act is required. The public official decides to resign, as a means of resolving a current internal conflict. The resignation represents a different situation compared to the institution of revocation or dismissal of a public official. The resignation therefore represents an act through which a bearer of a public position expresses his/her decision to break the relationship with the forum or institution in which he/she operated due to non-exercise of duty, as requested from him/her by the forum or institution managed by him/her. The resignation also represents a sanction for political liability by the official in case of non fulfillment of the given trust which may be, self-willing (because of views, concepts and attitudes of the head with the forum or body in charge of which he/she is), if imposed by the body itself (as a dictated action before the forum or body to fired, replaced or revoked him/her from position).

The resignation is not and cannot be a means to avoid responsibility.

The resignation does not exclude other forms of legal, moral and social responsibility. In the Republic of Macedonia voluntary resignations by public officials are not sufficiently affirmed. We must distinguish voluntary resignation from imposed resignation. As in other contemporary countries, our country has also come to the knowledge that all the ways mentioned earlier to control the work of the administrative officials have failed in their entirety to ensure legality and legal protection of individuals and other parties in the administrative procedure like the control over the competent state bodies and over the high officials of state administration.

The Dismissal

The dismissal similar to resignation is an act (action) of the authoritative governmental organs, through which a holder of a public office detaches his/her rapport from the forum or institution which he managed due to lack to perform

his/her duties, as requested by the respective forum or institution in charge of which he/she was. The dismissal also represents a means of resolving internal conflict between the head of the forum or institution he/she had managed.

Furthermore, the dismissal presents a sanction for the political liability of the holder in case of non fulfillment of the trust he/she was given, be it self-willing (because of views, concepts and attitudes of the holder with the forum or institution he/she had managed), if enforceable by the institution itself (to dictated action before this forum or institution to dismiss, replace or revoke from position.³¹³ In administrative constitutional right this category, to high officials of state administration, means being accountable to the legislature, executive, respectively to the judiciary. For misuse of powers which were granted by the Constitution and law, dismissal represents the relationship between the high official and the state as a powerful legal-political organization.

The dismissal in itself is traversed by the political responsibility of the high official in the state administration towards the government on one side and accountability to Parliament, which in itself depicts the loss of confidence, on the other.

The basis of dismissal - impeachment for the high state administration official includes or represents the inopportune and illegal work in relation to the parliament which may also be inconsistent with the position held towards other governmental authorized bodies.

Although resignation, dismissal, replacement, etc. in itself do not exclude responsibility, i.e. although these political sanctions for the responsibility of the head of the state administration, may continue to appear in the practices of different countries with different state modulations, however, these cannot be a means to avoid responsibility. There are two other reasons for dismissal according to the Constitution, ("committing a crime" and "mental incapacity "). These are such that cannot be verified directly by the Assembly, as they seek to primarily be established and verified by the competent authorities.

Unworthy acts and behavior that they commit must be serious to the point of obloquy and discrediting the dignity of the institution entitled to represent, as to engage the competent body for the precautionary removal from office. Thus, all these do not exclude other forms of accountability and responsibility in a legal context. However, as a conclusion in regard to the Republic of Macedonia which implements a parliamentary political and legal system, the responsibility of the high official of state administration is presented through the introduction of impeachment, which by the Government is submitted as a proposal to Parliament for retrieval of confidence, respectively dismissal. If we actually cover the

³¹³ See: Esat Stavileci, *Hyrje në shkenca administrative*, Institute of Textbooks and Teaching Means of Kosovo, Prishtina, 1997

president's institute of responsibility in the Republic of Macedonia, respectively the institute to dismiss, the Constitution of Macedonia assigns the president only legal responsibility and does not burden him with this kind of responsibility. Thus, the Constitution of this country, mainly foresees only legal liability, primarily criminal, for the acts of the president.

The President of the Republic of Macedonia can be dismissed for serious violations of the Constitution and for committing a serious crime, according to the procedure provided in Article 87.³¹⁴ The procedure for verification of the responsibility of the President of the Republic can be initiated by the Assembly through a majority of two thirds of the votes of the total number of MP's. The responsibility of the President of the Republic of Macedonia is decided by the Constitutional Court of the country with a majority of two thirds of the total number of judges. If the Constitutional Court verifies the responsibility of the President of the Republic, his function ceases to exist by the power of the Constitution.

The definition and implementation of political responsibility depends on the political and constitutional system, and the legal order of the state. Also, in any state contemporary democratic state, the political responsibility is determined normatively and accomplished practically in the context of its type, as democratic or autocratic, as monocratic or republican, as one-party or multiparty and generally, by the (non) existence of the rule of law (not the "legal state", because such a country can be autocratic and antidemocrat ...), with full harmonized legal order, having effective institutions for its implementation consequently and consistently.
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In the Republic of Macedonia it is not easy to raise the question of political responsibility, while it is previously not fully regulated in the legal acts of political parties, and as such, sanctioned correspondingly. Consequently, there should have been better and clearer norms for the procedure of implementing the political accountability at all levels. Because of this, through the Law on Political Responsibility (which we don't have yet) we should have tasked the highest authorities of the state administration to regulate this issue better.

Then, in terms of good and sufficient political will, we could rely in ensuring the concrete application of political responsibility, depending on the concrete circumstances, starting from a reprimand, public reprimand, revocation and dismissal from the position of political and public office.

When it comes to political responsibility in the Republic of Macedonia, in particular we should watch the created conscience to exercise the function of a public official in this country, especially with the recent cases that occurred

³¹⁴ See: R.M. Constitution of 1991, Article 87.

³¹⁵ See: Riza Smaka, The Portal.

regarding the political situation in the country, and as a result of political responsibility given ministers resigned the Government of this country and other senior officials, even initiated the procedure of criminal liability against them filed by the special prosecutor authorized under “Perzhino Agreement.”³¹⁶

Conclusion

In this process of deep political crisis of institutions in which the Republic of Macedonia is being put through, above all, it is important to restore the functioning of the legal state in the country, to restore the confidence in the most important institutions of this country, primarily in the courts, prosecution, the president, the government and other institutions and to once and for all separate the state from the political party.

These are considered the main factors in order to organize the electoral process in Macedonia in a democratic way. Holders of public office should act in accordance with constitutional provisions, giving the first positive example of the application of the laws in force, giving account for all misuses and abuses, and the government to implement in practice the vision of a state of law with stronger legal and constitutional foundation.

Recent developments in the political and institutional arena in Macedonia clearly showed that our political parties and their leaders are far from political and institutional culture. Recent actions showed that political parties with state’s high officials of this country must be accountable to the Constitution and the implementation of laws with the purpose of consolidation of proper democracy and rule of law.

Intra political party problems in this country have become generators of institutional problems, because they have put party and individual interests before national interests.

What has become much more alarming and a determinant of this institutional crisis, especially in recent times, is the lack of integrity of highest state officials participating in the highest governing bodies in the country for the lack of responsibility in putting the country in the deepest institutional crisis since its existence until today, in post communist democracy. Democracy in Macedonia has been replaced with the cult of the individual, authoritarianism.

The relations between political parties and state institutions, which are built on the basis of respect for the Constitution and the law, are now being replaced by direct individual and group interests, addressed on the basis of narrow party and clan interests. Lack of accountability for respecting the democratic rules of the Constitution, laws, and refusal towards those who elected

³¹⁶ See in Details “Perzhino Agreement” 15/07/2015 and cases initiated by the special prosecutor in Macedonia.

them, has created an institutional crisis and a bad image for the country which in fact is difficult to be restored again.

Recenzent

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