

# STATUS OF INDEPENDENT REGULATORY AGENCIES IN THE REPUBLIC OF NORTH MACEDONIA

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## Abstract

The nineteenth and twentieth century determined a special connection and interdependence between political and economic branches, which set the right platform for presentation of the bodies or regulatory authorities. Macedonia was not overlooked by this connected determinism and interdependent. The formation of regulatory bodies by the Assembly in more diverse sectors in Macedonia began in 2002. The regulatory bodies have the status of legal entity by registration in court and their work is public.

The role of the market, politics / government and civil society as a regulator with economic and political mechanisms that operate in democratic societies with market economies is, in fact, an appropriate balance of their roles as regulators of public affairs.

*Keywords:* regulatory bodies, assembly, inspection, deputies, legislation.

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## 1. Introduction

Market regulator always requires something sacrificed to achieve the desired profit, while the regulator through political power requires a systematic effort and time. There should be a special audit, that can be a force of direct democracy and the conduct of a law which will necessarily apply to the regulatory bodies as a mean of adjustment, which play a major role in strengthening governance law and in support of a free market economy. Regulatory bodies, as independent agencies, play a key role in strengthening the rule of law and in support of a free market economy. In Macedonia, regulatory bodies, as well as independent agencies, represent relatively new types of institutions, the expansion of which is related to the onset of transition and the subsequent connection process to the European Union.

## 2. Conceptually and methodological determination

The methodology and the concept of scientific research give a positive result if they have scientific and objective support, because, on the contrary, they would be just fruitless ideas. The research is based on the descriptive, analytical and comparative methodology used to explore the topic and to achieve an effective outcome in this delicate matter.

### 3. Notion and status of independent regulatory agencies in the Republic of Macedonia

The political economist Adam Smith has never made any distinction between the political and economic analysis of institutions, interests, values, interactions or market themselves. Nineteenth and twentieth century witnessed a real separation: the economy focused on the analysis of economic relations, and political science in the analysis of political processes.<sup>1</sup>

This gap has slowly brought up to what economists and politicians to leave the reality which, according to Adam Smith, was routine: Relevance and political and economic

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<sup>1</sup> Public Policy in central and eastern Europe: theories, methods, practices. *The Network of Institutes and School of Public Administration in Central and Eastern Europe*. NISPAcee, 2003. Faq. 81.

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interdependence. A large part of politics by its nature is economical, while economies also largely political. At the same time, certain society distinguished by its concept of the regulatory function of the government and the market, but yet the mainstream of political science and economics major issue left unresolved, namely the issue of the role of government and market.<sup>2</sup>

From another point of view of public policy, mainly highlighted three regulators: the market, politics / government and civil sector. The role of the market, politics / government and civil sector as regulators of political-economic mechanisms that operate in democratic societies with market economies, consists of what appear appropriate balance their roles as regulators of public affairs.<sup>3</sup>

According to the authors Streck and Schmitter (1985), society, market and governance are key mechanisms for maintaining social order. But despite regulators identified by Streck and Schmitter it should not be overlooked, even a domain that is based on ethics and social philosophy, and it is socio-cultural values and deep political conscience.<sup>4</sup> The market is a self-regulation system in which the offer, requirements, gains and losses of defined allocate resources more effectively by any other known regulatory mechanism. The market mechanism is based on a voluntary agreement between buyers and sellers. From here, we can freely trade regulation underline that comes from the assumption that individuals are oriented to increase their profits maximized to the extent that enables the market, while system, respectively government follows its own egocentric interests.

According to the author Barry (1987), the effects caused by the operation of the market in cheap, unchecked by regulators, namely the state, unemployment and greater consumption.<sup>5</sup> Market depends on the government and political governance, laws guaranteeing personal freedoms and protect private property of citizens and the business community. Possession of law, supported by state and political control mechanism to regulatory bodies, is a prerequisite for effective economic development and democratic society.

According to the Encyclopædia Britannica (The Editors of Encyclopædia Britannica)<sup>6</sup>, the regulatory bodies are formed by legislative act, in order to set standards in the field of certain activities or operations, the private sector, and then apply these standards. Regulatory bodies function and carry out surveillance tools became famous for promoting fair-trade and consumer protection, since commercial and trade issues became more complex, especially in the 20th century. Regulatory bodies have been set for the implementation of safety standards, or to monitor the use of public goods and to perform market regulation.

Unlike traditional enforcement agencies working within the ministerial hierarchy, regulatory bodies are not subject to direct government control, respectively Ministry. Instead, under control tools are in the hands of the Parliament and they usually ask only limited opportunities, as it is the annual reviewing reports of the regulators.<sup>7</sup>

### **3. Regulatory bodies in the Republic of Macedonia**

Countries in transition, in the first decade of XXI century, were more consistent among the pioneers of reforms by the new leadership in the public sector based on the Republic of Macedonia, they are not exempt from this cognitive determinism, and interdependence. Establishment of regulatory bodies by the Assembly in more diverse sectors in Macedonia began in 2002. Regulatory bodies have the status of a legal person, with registration in the

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<sup>2</sup> Ibid, faq. 81.

<sup>3</sup> Ibid, faq. 83.

<sup>4</sup> Streck, W, Schmitter, P.C. Private Interest Government. Beyond Market and State. London: Sage, 1985, p. 81.

<sup>5</sup> Ibid., p. 83.

<sup>6</sup> The Editors of Encyclopædia Britannica, <http://www.britannica.com/topic/regulatory-agency> 15.04.2016.

<sup>7</sup> Tomiq Slobodan, ... etj. Транспарентност и отчетност на агенциите: Компаративна анализа на пет регулирани сектори во Србија и во Македонија. Транспаренсн Интернешнл – Македонија. Скопје, 2015, p.8.

court and their work is public in as a fundamental restructuring process of the public sector.<sup>8</sup> Republic of Macedonia, as a country in transition, went through a comprehensive process and accelerate the creation of regulatory bodies. The formation of the regulatory bodies provided for in the law applicable to the European Union as a condition for progress in the accession process to the European Union.

Republic of Macedonia and the region represent the new so-called democratic countries that aspire to join the European Union, and in this regard, may be appointed as "a delayed europeization".

Ongoing, Macedonia passes through the "second transition" and faced with many challenges, such as rule of law, the judiciary and public administration reforms, the independence of the media, the name dispute, etc.

Strengthening the work of regulatory bodies and improving regulations are part of the priorities in the following period, which is also provided in the application of European Union law, as a condition for progress of the enlargement process in the European Union.

In the process of reforms, the legislation was relatively successful, in terms of forming independent agencies and regulators in many different sectors, but law enforcement practice, however, showed many weaknesses. The most significant obstacles raised: firstly, highly politicized environment that does not devote enough attention to the role and position of independent agencies and, second, inadequate chronic resource insurance for the agencies.<sup>9</sup>

At the same time, the widespread perception of independent agencies in the region is very negative. In public discourse, they often appear as damaging and unnecessary institutions similar to what happened in Croatia, working for political elites and big business, instead of making a positive contribution to the citizens.<sup>10</sup>

Regulatory bodies, established by the Assembly of the Republic of Macedonia, are:

- Agency for regulation of the railway sector, 2012 ([www.arpz.mk](http://www.arpz.mk));
- Funding Agency for Supervision of Pension Insurance - MAPAS, 2002 ([www.mapas.mk](http://www.mapas.mk))
- Agency for Insurance Supervision - ACO, 2002 ([www.aso.mk](http://www.aso.mk))
- Agency for audio and audiovisual media services, 2013 ([www.avmu.mk](http://www.avmu.mk));
- Commission for Securities, 2005 ([www.sec.gov.mk](http://www.sec.gov.mk));
- Agency for the post, 2010 ([www.ap.mk](http://www.ap.mk));
- Civil Aviation Agency, 2006 ([www.caa.gov.mk](http://www.caa.gov.mk));
- The Energy Regulatory Commission, 2011 ([www.erc.org.mk](http://www.erc.org.mk));
- Regulatory Commission on Housing, 2009 ([www.rkd.gov.mk](http://www.rkd.gov.mk));
- Agency for electronic communications - AEK, 2008 ([www.aek.mk](http://www.aek.mk))

In accordance with legal regulations and the public, which established regulatory bodies, the Republic of Macedonia is the founder of the regulatory bodies, and the Assembly of the Republic of Macedonia has the rights of the founder. Regulatory bodies are established as autonomous bodies and have non-profit status of a legal person with public authority established by law. It is also important to note that regulatory authorities manage the property themselves and their assets.

In this part, there should be a distinction between regulatory bodies and independent agencies. According to relevant legislative, the committees of regulatory bodies appoint director of the regulatory body, through public competition, for a term of five years, with an option for a continuous term. However, independent agencies elect a President from among the members with four-year term with the right of a next appointment.

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<sup>8</sup> Ibid., p. 18.

<sup>9</sup> Ibid., p. 18.

<sup>10</sup> Ibid., p. 19.

#### **4. The role of the Assembly of the Republic of Macedonia to the regulatory bodies**

Finance and Budget Committee has an important role in monitoring the work of regulatory bodies that are outside its competence and it continuously works on bringing legal decisions in terms of harmonizing national laws with the European Union in this field.

Competence of the Finance and Budget Committee of the Parliament of the Republic of Macedonia is the control work of the State Audit Office, the Securities Commission of the Republic of Macedonia, the Agency for Insurance Supervision and the State Commission for complaints against public procurement.<sup>11</sup>

According to the list of reforms urgent priorities and recommendations of the European Commission<sup>12</sup>, which are submitted to the Parliament of the Republic of Macedonia, in the B belonging to independent regulators, troops controller and supervisor stated that it is necessary to ensure the level of pleasing the autonomy of independent regulators, controller and supervisory bodies, not only theoretically, but in practice, they can operate with the same efficiency and without political pressure. Also, it notes that it is necessary to ensure that the membership of independent regulatory bodies based on skill and professional experience.

Even in the public debate on the topic: "Urgent reform priorities for the Republic of Macedonia, de-politicization of public administration", organized by the European Affairs Committee in the Parliament of the Republic of Macedonia, at the 29th meeting held on 14.03.2016, the discussants concluded that regulatory bodies should have greater autonomy without political pressure on members and employees.<sup>13</sup>

Regulatory bodies in their work, in accordance with the law to which they are established, give commissions assembly who answers through the preparation of annual reports and programs. The annual report for the previous year's performance, regulatory bodies shall submit to the Parliament of the Republic of Macedonia until March 31 of the following year. Annual reports are a strong weapon in the hands of committees for control of the regulatory bodies work. Also, information is carried through annual reports to the public about the condition and performance of the regulatory bodies. Assembly committees, within its powers, take measures in accordance with condition marked by the report and the annual program, including: suggest, provide feedback etc.

#### **5. Conclusion**

In Macedonia, the period of formation of regulatory bodies begins in 2002. But, from our actual experience, we face open issues concerning the election of the current authorities or whether existing regulatory bodies cover all sectors or should be established other regulatory bodies.

Institutionalization and functioning of regulatory bodies is essential for any democracy, especially where the flow of transformation and reform process. Only a strong and respected parliament can move in a country reforms and actually carry out control over the executive and other institutions founded by the Assembly. While checking role of parliaments is of vital importance and it cannot be done adequately without the existence of independent regulatory bodies for the protection of civil rights and the legality control over the work of public authorities. Building democratic institutions is a process that never can be definitively completed, while the role of independent regulatory bodies in that process is growing

<sup>11</sup> Report of the Finance and Budget Committee of the Parliament of the Republic of Macedonia in fifty-four meeting held on July 9, 2015: <http://www.sobranie.mk/materialdetails.aspx?materialId=383e16fe-dea4-41eb-9c86-f4b43b9f83f8>, 05.03.2016

<sup>12</sup> List of urgent reform of priorities and recommendations from the European Commission that was submitted to the Parliament of the Republic of Macedonia: <http://www.sobranie.mk/materialdetails.aspx?materialId=383e16fe-dea4-41eb-9c86-f4b43b9f83f8>, 05.03.2016.

<sup>13</sup> Assembly of the Republic of Macedonia: [http://www.sobranie.mk/2014-002cea30-a5b8-435e-ad55-147ff64cbfa2-ns\\_article-javna-rasprava-na-tema-itni-reformski-prioriteti-za-republika-makedonija-depolitizacija-na-javnata-a.nsp](http://www.sobranie.mk/2014-002cea30-a5b8-435e-ad55-147ff64cbfa2-ns_article-javna-rasprava-na-tema-itni-reformski-prioriteti-za-republika-makedonija-depolitizacija-na-javnata-a.nsp), 15.03.2016

increasingly. The functioning of independent regulatory bodies for the South East European countries is also important in terms of implementation of European standards. In this regard, the legislative must redirect European achievements in this field, so that in the future not face even more serious obligations.

Exchange of experience on a regional basis also contributes to increasing the transparency of the regulatory bodies in relation to the media and public opinion. In this regard, it should be continued the regional cooperation that will contribute to improving the relationship between parliaments, regulatory bodies and civil society. It is necessary to support civil and parliamentary ongoing regulatory bodies in implementing their operations. Regulatory bodies and civil society are natural allies. This is a great importance to the promotion of democratic processes and the rule of law in countries of the Cooperation Process in Southeastern Europe. Annual reports are a powerful weapon in the hands of parliamentarians committees to control the regulatory bodies work. Also, through annual reports, which are submitted in accordance with the law finally on March 31 of each year, shall inform the public about the situation and the work of regulatory bodies. Councilors commissions, within their power, take action in accordance with the situation registered with the report and the annual program, including: suggests, remarks etc.

Regulatory bodies that operate independently and professionally are indicators for a stable, pluralistic, in which respect its responsibility to citizens. They must act in a safe distance from all potential sources of influence - the executive authorities, politicians, business and other interest groups. Assembly of the Republic of Macedonia, as a true presenter of the people's will, is an institution that strengthens the role and operation of independent regulatory bodies. Also, it is necessary the introduction and implementation of several new mechanisms that will improve control over the process of regulatory bodies through the involvement of the public, the media, NGOs and the academic community.

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