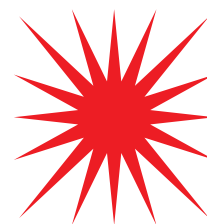


Public Administration Reform: The merit system remains a problem while the digitization of services progresses



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The merit system remains a problem while the digitization of services progresses

The monitoring of the reforms in the Public Administration (PA) in the Republic of North Macedonia (RNM) over the past year has shown that the reforms are active and that there is some progress. However, the reform process is slow, and although there are many justifiable reasons for this, the public does not perceive the effects from the reforms.

Authors Teofil Blaževski and Goran Rizaov

Most of the main problems we mentioned last year as recommendations¹, are still relevant. The two recommendations included in the title – the merit system and the process of digitization are still present. Some steps forward have been taken in both areas, particularly in preparing for the digitization of services, primarily in cataloging the services that will be offered electronically at the end of the process. However, several such e-services exist already.

□ *Progress has been made in the intention of achieving a functional merit system with a Draft-Law on Senior Management Officials, but in-depth analysis has revealed many vulnerable points in many other existing laws related to administration.*

The surplus of employees remains an issue to be resolved. While it is well known that in some departments of the public administration there is even a need for more skilled people, the fact is that no step can be taken unless the functional analysis is completed. The Regulatory Impact Assessment remains a weak point, although there has been some progress noted by the ministry itself. Transparency is well maintained by external measurements, and a Transparency Strategy was adopted at the end of 2019. This also implies the availability of public data, but the implementation of the new Law on Free Access to Public Information remains a weak point.

The financial discipline of municipalities remains the biggest problem in which, although it announced strong control, the Government itself loosened the legislation passed at the end of 2018².

These are the main findings from monitoring the reforms in this area during 2019. The findings will be cited in the brief summary of the survey which was greatly assisted by the experts we interviewed, as well as the transparently published data on the website of the Ministry of Information Society and Administration (MISA).

1 Metamorphosis Foundation – 2019- Research: Merit system and... (available at: https://metamorphosis.org.mk/izdanija_arhiva/istrazhvanje-merit-sistemot-i-digitalizacija-na-uslugite-formula-za-optimalna-i-kvalitetna-administracija/)



2 At the end of 2018, the Government said that it would allocate 50 million Euros to municipalities in 2019 in order to reduce the debt they currently had of about 95 million Euros. At the same time, the Law on financing ULSG was amended upon a Government proposal. The ULSG were not allowed to borrow more than 10 percent (they can plan their own revenues at a maximum of 10 percent more than the average they had in the last three years). A year later, in November 2019, this figure with a new amendment to the law increased to 30%.

Functional analyses are still being conducted

What certainly does not speak in favor of the speed with which public administration reforms are being carried out, are the so-called functional analyses, which are the first step that needs to be taken for the practical part of improving PA. Of course, this was also the first recommendation from last year's research on the same topic by the experts we talked to.

"There are no functional analyses. Such analyses, conducted in a professional way, only exist in a few institutions – 3, 4 maybe up to 10 institutions maximum," said one of the experts we interviewed. The professor as a bad example cited the functional analysis carried out at the oldest university in the country, the Faculty of Law at "Ss. Cyril and Methodius" University (UKIM), where the analysis consisted solely of an overview of the staff positions at the faculty. The same was confirmed by other experts with the firm recommendation: "Functional analysis of human resources in the public administration is necessary in order to perform optimization by number, skills, education and professional development."

The official data shows that there has been no progress from last year. The Annual Report on the Implementation of the Action Plan for the Public Administration Reform Strategy 2018-2022, in Priority Area 3 regarding Accountability and Responsibility, states that "a basis has been laid for conducting horizontal functional analysis... and reorganizing the central government agencies and inspection services." The report has been drafted as early as May 2019. At the end of 2019, at the session of the PA Reform Implementation Council chaired by the Prime Minister, there were still talks on "coordinating the process of implementing a horizontal functional analysis for the reorganization and optimization of public administration bodies, agencies and inspection services"³. But although the deadline for implementing the functional analysis of the institutions in October 2019 was one month, from the discussions with the experts and the monitoring of the public statements, it can be concluded that not much has been done in this area.

At the beginning of January 2020 MISA instructed all ministries to oblige the institutions they manage to fill out a questionnaire in order to finally carry out the desired functional analysis and launch the reorganization process⁴.

3 Government of the RNM – 2019.27.12. – Announcement (available at <https://vlada.mk/node/19810>)

4 MISA – 2020.01.09 – Announcement (available at <http://www.mioa.gov.mk/?q=mk/node/2801>)

This process, whose ultimate goal is reorganization and optimization, is being implemented under a two-year IPA project, but there are some results already achieved, partially in the horizontal analysis, i.e. the number of inspection services that should be reduced by more than half.⁵

□ *The bottom line would be that the conduction of these functional analyzes, especially the horizontal one, would be very difficult, primarily because the vertical analysis was not fully conducted. “Some of the ministries have not carried out analyzes in their departments,” said the experts we interviewed. One expert’s estimate is that the completion of the overall process as a final result of the analysis will happen in two to three years.*

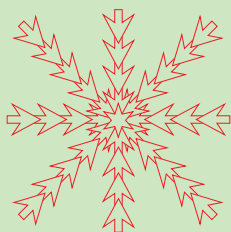
The merit system remains a wish

The main outcome of the reforms - a non-party, highly professional public administration that will serve the citizens and whose members are employed and promoted under the merit system, still remains a wish.

Some progress has been made on paper regarding the promotion of state administration employees. The amendments to the Law on Administrative Officers allow for promotion within the four groups of state servants, moving two job positions at once within each of the groups. “But if you go into the promotions in more detail, the impression is that the merit system is not always the main reason they happen,” says one of the experts. He adds that the same applies to the employment process.

When it comes to employment of state servants, due to the relatively strict criteria in the Law, the so-called “Other criteria” (party, nepotistic, etc.), things are relatively good, but the situation for public servants is different. It is even worse in the mixed-ownership state enterprises and public enterprises.

The main problems regarding party employment are also discussed in the Fourth Reform Monitoring Report prepared on the basis of four journalistic research articles selected through a competition within a project funded by the Foundation Open Society Macedonia. The first article highlights the problems with the laws, citing an example of



6 Foundation Open Society Macedonia/
Eurothink – 2019 – Fourth Report on the level
of implementation of the Public Administration
Reform Strategy (available at
[https://fosm.mk/wp-content/uploads/2019/09/
IV-Izveshtaj-SRJA1.pdf](https://fosm.mk/wp-content/uploads/2019/09/IV-Izveshtaj-SRJA1.pdf))

7 Makfax – 2019.03.06 - Blacklist of the SCPC:
SDSM employed 29 relatives...(available at
<https://bit.ly/37X9Mdu>)

8 SCPC – 2019.04.25 – Report on cases
with alleged nepotism... (available at
<https://bit.ly/36OTFhX>)

9 TI-M – 2019.10.24 – The system produces
corruption, the laws ... (available at
[https://www.transparency.mk/index.
php?option=com_content&task=view&id=1318
&Itemid=57](https://www.transparency.mk/index.php?option=com_content&task=view&id=1318&Itemid=57))

10 MISA – 2018 – Analysis of the Law on
Administrative Servants – (available at
[http://mioa.gov.mk/sites/default/files/
pbl_files/documents/analiza_na_zas_24092018.
pdf](http://mioa.gov.mk/sites/default/files/pbl_files/documents/analiza_na_zas_24092018.pdf))

11 MISA – 2018 – Analysis of the Law on
Public Sector Employees – (available at [http://
mioa.gov.mk/sites/default/files/pbl_files/
documents/analiza_na_zvjs_24092018.pdf](http://mioa.gov.mk/sites/default/files/pbl_files/documents/analiza_na_zvjs_24092018.pdf))

a competition for the recruitment of 26 young diplomats in the Ministry of Foreign Affairs. Over 900 candidates applied for the jobs, but over 700 were rejected because of inadequate and incomplete applications⁶.

One of the experts confirmed this. “The system does not recognize, say, previous work experience if it was not achieved through the Employment Agency. For example, if you indicate in the application that you have worked abroad, your application will be considered incomplete. This will not be regarded as an advantage.” says the expert.

But in addition to party employment, there are also cases of nepotistic and clientelistic employments, which were specifically targeted by the State Commission for Prevention of Corruption and Conflict of Interest (SCPC) in the first quarter of 2019. It was found that dozens and dozens of jobs were party-affiliated but also in accordance to these two lines (nepotism and clientelism)⁷. SCPC published a special report on this topic⁸.

The analysis of the laws showed many vulnerable points

One of the main reasons why the merit system cannot be implemented and why the party-affiliated, nepotistic or clientelistic employments and promotions are happening regularly, is the imperfection of legislation and by-laws. Last year, SCPC, along with the NGO Transparency International Macedonia (TI-M) began analyzing the documents.

The result of the first part of the analysis of 19 laws, by-laws and the Public Sector Employee Registry in 2018⁹, shows that a total of 46 weak and vulnerable points have been found in the laws. Among the analyzed regulations were two key administrative laws - the Law on Administrative Officers and the Law on Public Sector Employees. The main recommendations are that the category of “temporary employment”, permitted by the Law on Public Sector Employees, must be terminated, and also “the lack of transparency and accountability of the employment review committee” under the Law on Administrative Officers must stop. Weaknesses and vulnerabilities were also found in the Regulation on the Conduct of Employment Procedures for Administrative Officers, the Rulebook on Obligatory Elements of the Job Advertisement in the Public Sector, etc.

The competent Ministry itself, with the help of foreign partners, has conducted an analysis of the two key laws, the Law on Administrative Servants¹⁰ and the Law on Public Sector Employees¹¹ as early as 2018. In a report for that year, published in May 2019, progress has been noted in overcoming some of the weaknesses related to the merit system in the

processes of employment and promotion. However, the analysis of the SCPC and TI-M mentioned above and conducted after the ministry's analysis of the basic laws, shows that there is still room for improvement of the legislation. In May, SIGMA's abridged report was also published, which noted some changes to the two major laws and that, although the law provides merit-based employment, results were weak due to "poor ownership" of the process by the three bodies- the Agency of Administration, the Admission Committees and MISA¹².

Law on Senior Management Officials

The second major change, according to an expert we talked to, is that the Law on Senior Management Officials has finally been drafted, covering about 250 job positions from nearly 200 institutions out of 800. When asked why all managerial positions in all institutions have not been covered, the answer was that it was almost impossible to implement the Law in the intended way. .

□ *Although the writing process of the Law lasted for a year, The Law on Senior Management Officials was adopted by the Government on 10 December 2019 and was forwarded to the Assembly of the RNM. The Law is planned to be adopted in the time of the writing of this report, as the Assembly has a deadline until 12 February 2020 due to early elections scheduled for 12 April 2020.*

The essence of the Law¹³ is that the election of a senior official - to senior management positions in ministries and other state administration bodies, independent state bodies and other institutions established by and accountable to the Assembly of the RNM and public enterprises established by the Government - be conducted in a meritocratic and independent manner, through a procedure carried out by a Commission on Senior Management Officials appointed in the Assembly by very precise scoring procedures. After that, the Commission will nominate three first-ranked candidates. The competent authority or the supervisor, for example a minister, will then have to select one of the candidates within five days and give an explanation for their choice.

The proposer, the Government and the responsible ministry hope that in the meantime the principles of this law will reflect the principles and the election of the managers of lower sectors in the public administration and the public sector in general, and the elected managers

12 SIGMA – 2019 – Monitoring report: The Principles of Public Administration (available at <http://www.sigmaxweb.org/publications/Monitoring-Report-2019-North-Macedonia.pdf>)

13 Assembly of the RNM – Materials/ Draft-Law on Senior Management Officials- (available at <https://www.sobranie.mk/materialdetails.nsp?materialId=58bca389-4ba4-40f2-9694-b2c7a35926f7>)

themselves will be reassessed after one or two years. In addition, the Law on Senior Management Officials is tasked with creating a database of professionals from which to appoint future senior officials.

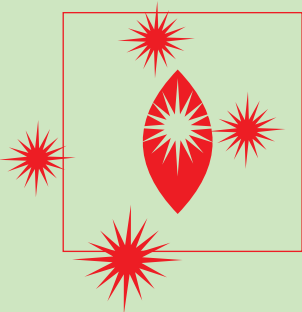
The digitization of services progresses

While on the one hand there is no visible progress in the merit system in the public administration, and the Law on Senior Management Officials expected to encourage such processes, the progress in the digitization of the public administration, and in particular in the digitization of services provided by the administration, is evident compared to the previous year.

□ *What was most important, the first step, the catalog of services provided by the public administration was completed in mid-2019. The catalog records about 1,300 services that can be provided electronically. The process of filtering out the services identified by experts, then continued through a filter in the relevant Ministry, and after that, about 800 services, out of 1,300 were accepted. The next step was to complete the preparations for a national portal, where information should be provided on all the services offered by the administration, as well as the electronic services that can be provided already. The portal is operational and according to the minister in charge of the portal, around 130 e-services are offered at the moment.*

The next process is full digitization, horizontally and vertically, of the institutions, i.e. completing the digital registers. In addition, interoperability should be established so that institutions can interconnect and identify data.

One of the problems that will arise is the price of the e- services, i.e. how much will be paid, a so-called token that will allow the electronic signature of the citizen to be enclosed. Then the processes of increasing the level of digital literacy and raising the public awareness follow.



14 Government of the RNM – 2019.12.16 – The launching of the portal E-Services... (available at <https://vlada.mk/node/19798>)

Another problem that emerged, which was not foreseeable, is the fact that the services prescribed by laws and bylaws and offered by an institution, do not always match with what is in reality required at the counter. This is especially true for some specific services related to personal documents, change of address of residence depending on whether the applicant is married or not, and other types of services.

However, the system was launched at the end of 2019¹⁴. From the central portal Uslugi.gov.mk, the government and citizens expect significant improvement in the speed and quality of services provided by the administration as one of the main reasons for its existence.

There is progress in the openness and accountability

Aside from advances in digitization, there has been progress in the openness and accountability of the administration. Progress was noted in the previous report, but in 2019 progress has been noted by both the expert public and journalists. One evidence of this is the National Transparency Strategy 2019-2021 with an Action Plan¹⁵, for which the EU provided help through its partners the Metamorphosis Foundation and the Foundation Open Society Macedonia. The Strategy is already part of the government's policies and is a continuation of the National Open Data Strategy 2018-2020.

In this regard, the Government at the end of 2019 introduced two very important digital tools for openness. The first was the National Open Finance Portal¹⁶ (open.finance.gov.mk), through which all transfers from the Budget can be tracked on a daily basis (Treasury operations), as well as the aggregated payments for ten years, by day, by institution, and by users of public money.

The second important tool was the new, upgraded Government Portal for Policy and Legislation - ENER¹⁷ (ener.gov.mk), with the focus on the inclusiveness of the process of passing laws and other regulations by citizens, NGOs or businesses.

Во овој дел би можеле да се набројат и други елементи, како што е реализацијата на Акцискиот план за Стратегијата за отворено владино партнерство, каде што во проценти од година во година се бележат подобри резултати. Но, сепак постојат и слабости. На

15 Government of the RNM – 2019 – National strategies/ Transparency Strategy ... (available at <https://vlada.mk/nacionalni-strategii>)

16 Government of the RNM – 2019.11.20 – The Open Finance Portal launched ... (Available at <https://vlada.mk/node/19555>)

17 Government of the RNM – 2019.12.23 – MISA launched the upgraded ENER Portal – (Available at <https://vlada.mk/node/19871>)

18 Open Data 2020 – (Available at: <http://data.gov.mk/>)

19 Government of the RNM - Accountability Tool for expenditures of officials – (Available at <https://vlada.mk/otchetnost-troshoci>)

20 Foundation Metamorphosis – 2019.12 – Action SEE, North Macedonia, results – (available at <https://opennessindex.actionsee.org/country/north-macedonia>)

21 Foundation Metamorphosis – 2019 – Media Observatorium – (available at <http://mediaobservatorium.mk/se-ushte-ne-e-formirana-a-novata-agentsija-za-informatsii-od-javen-karakter-ja-cheekat-680-pretstavki/>)

22 MISA – 2019.05 – Annual report on the implementation of... (available at <https://bit.ly/2Rn2kmO>)

23 MISA – 2019 – Annual report on the implementation of RIA in 2018 (available at <http://www.mioa.gov.mk/?q=mk/node/1484>)

Other elements could be listed in this section, such as the implementation of the Action Plan for the Open Government Partnership Strategy, where percentages are improving every year. But there are still weaknesses. For example, the users of the government's Open Data Portal, data.gov.mk¹⁸, complain that some datasets are not regularly updated by institutions or that they are not given in an electronic language suitable for further use or processing. Another example is the Accountability Tool for Expenditures of Officials¹⁹, which, at the time of the writing of this report, had not been updated since May 2019.

□ *As a general conclusion it can be emphasized that the transparency of the administration has improved compared to last year, but the fact remains - it has been declining vertically from central to local government²⁰. However, a very important moment is that the competent body for protection of the right to public information is still not functioning, although the deadline was 30 November 2019. According to available data by mid-November 2019, the new Agency had about 700 cases pending for resolution²¹.*

RIA remains a weakness

Out of the numerous indicators for evaluation of public administration reforms, two more important issues have been selected in this report. The first is the Regulatory Impact Assessment (RIA) - a very important tool in adopting laws and regulations, and the second is the eternal dilemma of whether the administration is a burden on society, i.e. whether there is a surplus of employees or not.

According to a formal view on matters by the competent ministry, progress has been made in the respect of the RIA instrument in the recent period. In the Annual Report on Implementation of the Administration Reform Action Plan 2018-2022, it is estimated that the number of draft RIA reports that meet the minimum criteria increased by 20%²² in 2018 compared to 2017. If some data are taken into account, the laws that are being proposed by the Government have a draft RIA in as much as 80% of the cases²³.

But all the experts we talked to emphasized that RIA remains a weak point in legislation and policy making in general. The primary reasons for this are the insufficient capacities in the ministries that create regulations, the reasons why a legally proposed solution does not have to be subject to RIA (e.g. laws adopted with emergency procedures) and ultimately unprincipled proposing and adopting laws by lawmakers in parliament.

24 MISA – 2013 – RIA Guide – (available at http://www.mioa.gov.mk/sites/default/files/pbl_files/documents/Priracnik%20za%20PVR2_mk.pdf)

Namely, according to the existing bylaws that impose the RIA obligation, if a draft law comes from MPs, then it does not have to contain RIA, which some of the experts we talked to described as “shocking”.

□ *The RIA Guide issued by MISA in 2013 contains the interpretation that, although the Constitution allows for several entities to propose laws, “in practice, the need to adopt most of the regulations and laws usually stems from the government’s four-year program...”²⁴ and thus, practically amnesty other participants in the regulation’s adoption and of the need to produce RIA. This, according to experts, allows RIA not to be produced at all, whether intentionally or because of short time, which could lead to wrong legal decisions that would have a different impact in policy making.*

The number of employees is not a problem until proved otherwise

The issue of overemployment in the public administration is very questionable if perceived only through numbers. The official registers have been in existence since 2016 and are published once a year. The latest registry for 2018²⁵ states that RNM has a total of 132,000 employees in the public sector, out of which only 14%, or about 18,400 people, are employed in what is called the administration, while directly in state government bodies, there are around 16,500 employees.

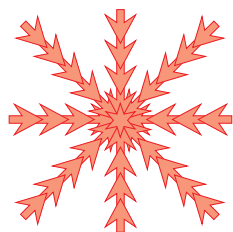
These figures do not include about 11,000 people employed in the state-owned joint stock companies and the temporary employees.

Both experts and the government believe that the overall figure is not well above the EU average (in RNM it is between 18 and 19% of all employees, the EU average according to the Minister in charge, Damjan Manchevski, is 16%, and the OECD average for 2017, for example, is 17.7%). Moreover, looking only at the state government the number of employees is somewhat below average. The competent minister has pointed out the problem of shortage of people several times, especially the lack of high-quality staff in senior government positions.

For months, however, there has been talk of a potential downsizing of the administration in a way that would not result in laid off employees. An innovative proposal that is already under discussion with all stakeholders is the employment of public administration officers in the private sector, whereby the process would be assisted by state subsidies²⁶.

25 МИОА – 2019 – Годишен извештај од регистрот на вработени во јавен сектор за 2018 г. (достапно на http://www.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestajreg2018.pdf)

26 MISA – 2020.01.17 – Manchevski: The consultations on the transfer of... (Available at http://www.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestajreg2018.pdf)



- *But the main problem remains to be the unfinished functional analysis of the institutions in the RNM, so the Government at this moment cannot tell where is this overemployment in the administration and how many employees are surplus.*

Methodology

This research by the Metamorphosis Foundation, within the project implemented by the Center for Democratic Transition in Montenegro (CDT), covers five areas: elections, judiciary, fight against corruption and organized crime, media and public administration reform, with each area covered in a separate document. This policy paper covers the area of public administration reform.

- *The areas consist of a number of sub-areas related to the regulation of the strategic and legal framework, institutional, administrative and material capacity, as well as the practically achieved results..*

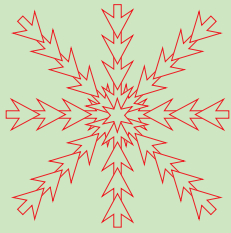
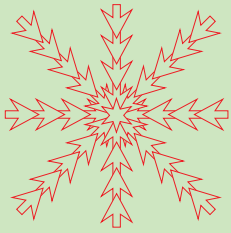
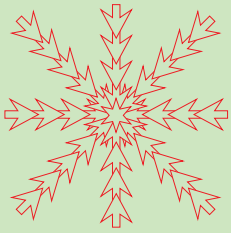
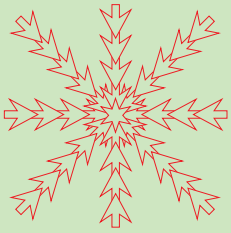
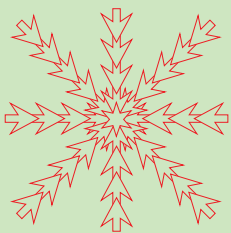
The analysis is based on the fulfillment of the criteria created by collecting the assessment of the indicators and the issues related to them by experts monitoring the implementation of EU standards, as well as on the basis of an analysis of normative and institutional reforms and their practical results. We wish to express gratitude to experts Professor Dragan Gocevski, PhD, from the Faculty of Law “Iustinianus Primus” at “Ss. Cyril and Methodius” University, Iskra Belčeva - Ristovska, Program Coordinator in the NGO Center for Change Management, Zorica Strezoska, Researcher at Eurotink - Center for European Strategies and several public sector employees consulted on specific issues, who wished to remain anonymous.

The CDT made an assessment of the progress made in meeting political criteria for the first time in 2017. Then, with the help of Dr. Martin Bruce’s methodology, indicators were developed for each of the areas mentioned, which serve as a measure to assess the situation in the areas and, in fact, represent an authentic understanding of what the EC is requesting from each country as progress in a given area. Following the first assessment, the CDT in 2018 has expanded the research focus to other countries in the region, and together with colleagues from CRTA (Serbia), the Metamorphosis Foundation (Macedonia), Why Not? (Bosnia and Herzegovina), the methodology has been refined, and on the basis of this methodology are conducted such researches.

The basics for the development of the indicators are the key assessments and recommendations from the European Commission’s



reports, but also other international reports, comparative studies and research, action plans, as well as numerous international standards and practices and other reference materials. The total number of indicators for all areas is 168, with several indicators added this year in each area in terms of gender representation, budgeting and overall policies.



About the Metamorphosis Foundation

Metamorphosis Foundation for Internet and Society is an independent organization operating in the Republic of North Macedonia and in our wider European home. Our team is comprised of dedicated activists who advocate for democracy, united by a common goal and values of mutual accountability, open communication and an unwavering commitment to universal human rights and democracy.

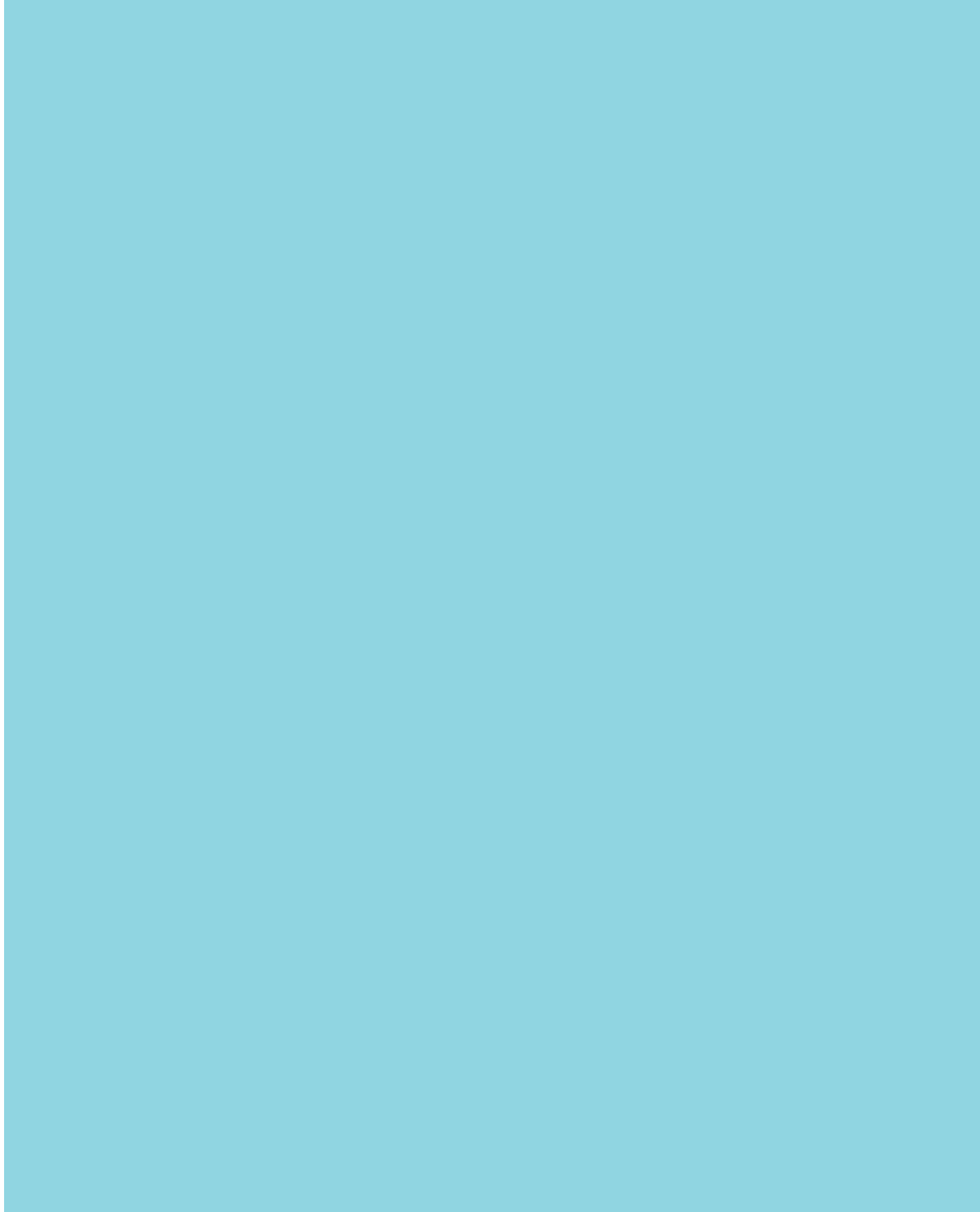
We strive for a society in which engaged and aware citizens actively use innovative tools to fulfill their civil rights and responsibilities, citizens who unconditionally influence the authorities and demand accountability, thereby ensuring democratic, accountable and transparent governance.

Metamorphosis works to strengthen the awareness and capacity of citizens and civil society to assume their fullest possible role as activists for democracy, while supporting government to fulfil its democratic role in serving society.

Our programmes focus on:

- ▶ Institutional openness and accountability
- ▶ Capacity development for active citizenship
- ▶ Protection of human rights in the digital area
- ▶ Media development

Metamorphosis started operating in 1999 as part of the e-publishing program of the Foundation “Open Society Institute – Macedonia”. In 2004 Metamorphosis became a separate legal entity.





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