Regulatory Authorities as Guardians of the Public Interest and the Rule of Law: The (Peculiar) Case of the Republic of North Macedonia

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Abstract

Regulatory authorities occupy a critical space within the public sector. They are public authorities established to oversee, control, and enforce rules in specific sectors, therefore protecting the public interest and the interests of individuals, market fairness and competition as well as guaranteeing lawful and transparent conduct by all actors in that same sector. Thus, regulatory authorities play a vital role in the upholding of the rule of law and the establishment of a responsible public and private sector. For that reason, the legal framework on the regulatory authorities needs to be clear and precise and should guarantee and/or govern their independence but also accountability, specialization, competences, capacities, and decision-making powers.

Although all of this is vivid in theory, in the Republic of North Macedonia the legal and institutional architecture of regulatory authorities remains underdeveloped and fragmented, and the *raison d'être* of regulators is not fulfilled. Namely, the law in the Republic of North Macedonia neither defines regulatory authorities, nor are there uniform rules on their establishment, management, accountability, performance evaluation, staff or funds. This, furthermore, fuels uncertainty and public mistrust.

The primary hypothesis of this paper, having the aforesaid in mind, is that the legal framework on regulatory authorities in the Republic of North Macedonia should be improved so that authorities fulfill their potential in providing certainty in difficult times and promoting the rule of law. From a structural point of view, the paper shall be divided into several parts: the introductory part, the part on the conceptual and theoretical framework on regulatory

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authorities, the part on the legal and institutional framework in the Republic of North Macedonia, the challenges in the Macedonian system and the empirical observations; the comparative perspectives and, finally, the part on the future reform trajectory.

The paper at hand shall be valuable for two reasons. It is academically relevant as it bridges theory and practice and fulfills a research gap. It is also relevant for policy creators in the Republic of North Macedonia, but also beyond (since the same issues might exist in other countries as well).

Keywords

Regulatory authorities; rule of law; public administration; institutional independence; accountability; Republic of North Macedonia; public interest; comparative

1. Introduction

Most researchers in the field of public administration and institutional design have, at some point in their work, encountered debates and articles concerning regulatory authorities or regulatory agencies.[5] In many of those debates and/or articles the adjective independent is added to refer to those agencies/authorities, highlighting what is often considered their defining institutional characteristic. The nature and implications of this independence, however, shall be examined more in the coming text.

What is important to note at this stage is the maturity of the existing research on (independent) regulatory authorities. Authors have approached these authorities from multiple aspects, exploring their *raison d'être*, tasks, functioning, as well as the traits that distinguish them from the traditional administrative authorities. And, for that very reason, Maggetti, Di Mascio and Natalini observe that research on independent regulatory authorities is into a mature stage and now is the time to take stock and discuss the ways forward (Introduction to the Handbook of Regulatory Authorities, 2022, p. 2).

Having that said, this paper is dedicated to (the) regulatory authorities in the Republic of North Macedonia. The objective behind it is quite straightforward – to summarize what we know about them so far, and to set the trajectory forward. Our starting point is the premise that regulatory authorities have great potential to serve as guardians of the public interest, and, by extension, the rule of law.[6] Our hypothesis, on the other hand, is that this potential is not realized due to the inadequate legal framework. Finally, our proposal, which comes naturally, is the improvement of the legal framework on regulatory authorities in the Republic of North Macedonia.

As for the structure, the paper at hand was carefully tailored so that we start off with the broader perspective (regulatory authorities at their core) and we gradually move towards our claims and interest. The text is divided into several titles and subtitles: research methodology; conceptual and theoretical framework; legal framework governing regulatory authorities and current institutions which are considered regulatory authorities; empirical observations on regulatory authorities' work in the Republic of North Macedonia; comparative perspectives; conclusions.

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[5] We consider the terms regulatory authorities and regulatory agencies synonymous within this paper.

[6] Although one might just say they are guardians of the public interest, since rule of law is in the public interest.

2. Research methodology

Several methods have been used within this research. First, a conceptual analysis was conducted. As Dajović points out (2015, p. 1), concepts are important so that people better understand certain phenomena by creating generalized representations of said phenomena (concepts). Those concepts are further analyzed. This is called, according to Dajović (2015, p. 17), a conceptual analysis – examination of the essential properties or of the most important features of the concepts. This is precisely what was done within this paper. The concept of regulatory authorities was instituted and was analyzed. In fact, the third chapter is entitled "Conceptual and Theoretical Framework: Regulatory Authorities as Public Sector Authorities". The authors of this paper dissected the concept of regulatory authorities and looked into all their characteristics and features separately. Yet, before doing so, they paid attention to the differences in the concepts of regulatory authorities, (traditional) administrative authorities, and independent authorities (all of which are part of the public sector).

Second, a doctrinal legal analysis was undertaken. Rules (stipulated in laws and bylaws) were interpreted in a systemic and structured way with the aim to assess whether the (theoretical) traits and features of regulatory authorities are adequately set out in the Macedonian legal framework. Inconsistencies or conflicts of laws were also examined, as well as the overall coherence of the legal system. Finally, an attempt was made to evaluate whether the purpose (*ratio legis*) of the rules is being achieved.

Third, this paper also incorporates a comparative dimension, drawing on selected European models in order to assess the alignment of the national legal system of the Republic of North Macedonia with them.

Fourth, elements of empirical analysis are employed to assess how existing regulatory authorities function practically and how they are positioned *vis-à-vis* the other institutions (in the factual sense).

The methodology is therefore a blend. As for the data used, authors analyzed laws, bylaws, theoretical literature, policy documents, reports issued by regulatory authorities themselves, as well as reports by other institutions and organizations, etc. All these documents were publicly available and free to use. Where data gaps exist, there is a specific remark on this. We found that this is sufficient for the paper at hand. Future research could complement this work with interviews or surveys of stakeholders within the Republic of North Macedonia for even better understanding. Such primary fieldwork, however, is beyond the scope of this paper.

3. Conceptual and theoretical framework: regulatory authorities as public sector authorities

3.1. Traditional administrative authorities vs. regulatory authorities

The first step towards better understanding of regulatory authorities is to distinguish them from the "traditional" (state) administrative authorities who make up much of the public sector. As we noted in the text above, our idea is to perform a conceptual analysis of regulatory authorities. Before we do that, however, we need to conceptualize regulatory

authorities. What we do here is definition by negation: defining a concept by highlighting the differences between it and a similar, familiar concept.

The starting point is the terminology. Can we comprehend the difference between the two types of (public sector) authorities by differentiating regulation from administration, or regulatory from administrative activities? Upon the extensive examination of available literature, this seems quite difficult.

Even though both words – regulation and administration – have different meanings, they do overlap to some extent. The same goes for their derivatives. To regulate is "to control something, especially making it work in a particular way" or "to control an activity by rules or a system" (Cambridge Dictionary, NA). To administer, on the other hand, is "to control the operation or arrangement of something", "to govern a country, region" or "to be responsible for giving something to someone" (Cambridge Dictionary, NA). Thus, both words – regulation and administration – involve control or management of an organization or activity. Perhaps the difference would be that regulation involves setting rules or standards, whereas administration involves the day-to-day management of an organization or activity. Yet, this does not lead us to more clarity, especially when talking about the difference between regulatory authorities and administrative authorities, since it would open the floor for additional questions, the most obvious of which are: (1) do administrative authorities not regulate through bylaws, guidelines, etc.; (2) conversely, do regulatory authorities not engage in the implementation of rules in individual cases; (3) can we rely solely on terminology?

Moreover, it would be imprudent to reduce the analysis to the literal meanings of the words when considered in isolation from the context. In fact, if we browse through more recent literature, we shall see that both words – regulation and administration – seem to be attributed with different meanings by different authors, depending on their native tongue, the scholarship that influenced them throughout their career, the region they come from, and other factors. In this very context, the eminent author Majone mentioned that American and European authors have a different understanding of regulation (Majone, 2006, p. 78). To paraphrase, per Majone, American authors have understood regulation in a much narrower sense than European authors.[7]

Therefore, we shall endeavor not to rely on terminology *per se* but to attempt to give a prototype definition of the two concepts – regulatory authorities and administrative authorities – and, hereinafter to distinguish them one from another. A prototype definition identifies the typical features of a phenomenon, without requiring that all such features be present in every instance (Dajović, 2015, p. 6).[8]

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[7] Majone specifically points out: "The academic and political debate in the United States has been greatly facilitated by the fact that the meaning of regulation is fairly clear within the framework of American public policy and administration (see below). By contrast, European scholars tend to identify regulation with the whole realm of legislation, governance and social control. Such a broad use of the term makes the study of regulation almost coextensive with the study of law, economics, political science, and sociology" (Majone, 2006, p. 78).

[8] To explain a bit more, a prototype definition is more flexible than a classical definition, which aims to exhaustively enumerate all the essential characteristics of a phenomenon and operates in an exclusive, binary manner (given entity either falls within the concept or does not). Since these are social phenomena, man-made institutions, we find the classical definitions a bit too narrow but the prototype definitions quite adequate.

A) Administrative authorities

To start off with the administrative authorities, they are public (sector) authorities which are embedded within the executive branch of power and subordinated to its supreme authority (the President, the Government/Cabinet … depending on the system).[9] They are bound by laws enacted by the legislator, which means the directives of the executive branch of power cannot supersede laws, however they are accountable before the executive branch and should work according to its directives and policies for implementation of the laws.

As for their functions, historically speaking administrative authorities were considered to act only as an *imperium*.[10] This suggests that the primary functions of administrative authorities have traditionally consisted in the implementation of laws (adopted by the legislator) or secondary legislation adopted by the President/Government/Cabinet (the holder of executive power), first and foremost through the adoption of binding bylaws that (further on) operationalize their provisions, secondly through the adoption of administrative acts (permits, licenses, approvals, orders, etc.), and, where necessary, the use of other coercive measures.[11] In addition, administrative authorities have always preformed administrative supervision which may also be understood as an emanation of this public authority, enabling them to oversee compliance with legal norms and ensure their effective application. Administrative authorities (have) perform(ed) these functions as the primary instrument through which practical effect to the law is given, i.e. to operationalize legal norms, ensure their effective application, and thereby secure the functioning of the legal order and the protection of public interests in complex societal conditions. At the most fundamental level this follows from the principle of legality. Administrative authorities have some discretionary power (Administrative Law, 2014, p. 4), since it is impossible for laws to prescribe precise rules for every case. Yet, this discretionary power should be very limited – its aims and boundaries are clearly set by law and are subject to judicial review. In fact, all administrative acts and other activities are a subject of judicial review.

Nowadays administrative authorities are widely considered to have non-authoritative functions as well. This would cover the initiatives for policy creation given to the highest executive authority (e.g. initiatives given to Parliament via the Government for legal amendments), i.e. policy formulation,[12] direct support of political leadership as the

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[9] If one looks at the Constitutions of European countries, they will find provisions on the subordination of the state administration to the executive branch. Article 20, para. (2) of the French Constitution states that the Government shall "have at its disposal the civil service and the armed forces" (France, 1958). In Germany multiple articles of the Basic Law (Federal Republic of Germany, 1949) refer to the administration. Although not explicitly stated that the administrative authorities are subordinated to the Government, several provisions refer to this relationship (e.g. Article 86). In Austria, Article 20 of the Constitution states that the administration is conduced by organs elected for a period of time or appointed professional organs under the direction of the highest organs of the Federation and the Länder (The Republic of Austria, 1920). Therefore, the subordination is vivid. In the region where the Republic of North Macedonia is situated, the Serbian Constitution (The Republic of Serbia), 2006) has a provision under which the state administration is independent, bound by the Constitution and the laws, and accountable for its work to the Government.

[10] This are the so-called functions of public authority (in French *puissance publique or in German Hoheitliche Tätigkeiten*)

[11] The list of other coercive measures is a long one, but for the sake of clarity it may include closure of premises, physical enforcement, penalties aimed at compelling compliance, measures carried out at the expense of the addressee (e.g. demolition of a building, etc.).

[12] In the relationship between ministries and subordinate authorities, it is often considered that ministries deal more with policy formulation and providing initiatives to Parliament via Government where needed, while subordinate authorities merely implement policies. Some authors nowadays review this perception (Bach, 2012)

drafting of laws and bylaws for Parliament, the President/Government/Cabinet, as well as the delivery of information, assistance, or advice. This would also cover the conclusion of public contracts for the sake of public service delivery, as well as the management of property or funds.

As per their structure, administrative authorities are organized in a strictly hierarchical manner; the ministries, departments, or secretariats are at the top, specializing in a certain domain, while other authorities are below them. They are usually called services and bureaus, administrations, offices, etc. Each lower-ranking authority is accountable to one ministry, department or secretariat, apart from those which are accountable directly to the President/Government/Cabinet since their line of work falls in neither of the ministries, departments, or secretariats.

It is worth mentioning that at present times, when referring to the "public administration" one refers not simply to administrative authorities (such as ministries, departments, bureaus, etc.). In fact, they would be more likely referred to as "state authorities". But when referring to the "public administration" as a whole one would also refer to institutions which provide public services – such as schools, hospitals, railroad or highway management (public) enterprises, transport enterprises, shelter houses, even state-owned enterprises which perform tasks of public interest, etc. Also, the term "public administration" would cover municipalities and their administration. As eminent British authors rightfully point out: "If the state is to care for its citizens from the cradle to the grave, to protect their environment, to educate them at all stages, to provide them with employment, training, houses, medical services, pensions, and, in the last resort, food, clothing, and shelter, it needs a huge administrative apparatus" (Wade & Forsyth, 2014, p. 4).

B) Regulatory authorities

Regulatory authorities are also public (sector) authorities. However, although still situated within the broader sphere of executive power,[13] they are not embedded in it in the same hierarchical and subordinate manner. In other words, when analyzing regulatory authorities, we can notice that the relationship between them and the supreme authorities of the executive branch are recalibrated. In fact, their most typical institutional feature, which we already mentioned in the introduction (second sentence), is their independence from the supreme authorities of the executive branch such as the President, the Government or the Cabinet depending on the constitutional set-up. Some organizations refer to this independence from the executive branch of power as operating "at arm's length" (OECD, 2014, p. 46) which refers to a certain distance and the lack of direct subordination. In fact, we might go a bit further and state that these institutions should be "not under the direct control of elected politicians" (Gilardi & Maggetti, 2010, p. 1). This means that they should not be under direct control of the legislative branch as well. Of course, this should not be

[13] This is if we accept the tripartite separation of powers as a constitutional doctrine, which means that there are three independent, distinct branches of power – the legislative, the executive and the judiciary. However, if we accept the existence of the fourth branch of power, as per Tushnet's exhaustive arguments (Tushnet, 2021), they might be considered as institutions falling within the fourth branch. To be fair, Tushnet considers several institutions might fall within the fourth branch, starting from constitutional courts, anti-corruption bodies, the ombuds offices, auditor generals, etc. He does not mention the regulatory authorities too much throughout his book, but in the broader sense, if we accept the logic behind the fourth branch, they might fall in it. Tushnet also refers (endnotes 3 and 4 to his book's first chapter) to Bruce Ackerman's work who advocates the express acknowledgement of the existence of a fourth "regulatory branch" (Tushnet, 2021, p. 6).

misunderstood – regulatory authorities shall derive their powers from the adopted laws. However, their day-to-day operations, the way they accomplish their goals, the way they shape or steer a specific sector or field should not be directly influenced by politicians (either in the legislative or in the executive branch). So, we are referring to higher degree of autonomy from politicians. Unlike administrative authorities, which are expected to implement the directives and policies of the executive, and who have much less discretionary power prescribed by law, regulatory authorities are expected to apply the law and pursue statutory objectives entrusted to them with a much greater degree of autonomous judgment. This is why they are quite often labeled as independent.

Before we move on to their functions, a few more words about the regulatory authorities' independence would be helpful. The independence of regulatory authorities is not an end in itself, but a functional requirement derived from the nature of the tasks entrusted to them. These authorities are typically entrusted to regulate complex and sensitive sectors (energy, telecommunications, finance, etc.) where decisions need not only to be technically sound and stable but also insulated from short-term political pressures. Therefore, regulatory authorities' independence serves to enhance broader objectives of rule of law, legal certainty, and protection of the public interest. In addition, independence equals expertise-based decision-making even when such decisions are politically unpopular or not opportune. The regulatory authorities' independence must be carefully constructed through legal safeguards. These legal safeguards would imply a clear statutory framework, a precisely defined mandate, powers and limits, a clear, inclusive and transparent procedure for appointing directors and/or members (of collegial institutions),[14] dismissal safeguards, fixed terms of office, protection against arbitrary removal, financial and administrative autonomy (even making sure that fluctuations in the central budget would not affect the budget of the regulatory authority). In the broader picture, independence should imply merit-based recruitment of staff, qualification and expertise requirements, professional neutrality, stability of employment and protection against dismissal, but also certain human resources independence (the authority to be free, to a certain level, to determine its staff policies). However, formal independence is not sufficient, which is why Gilardi and Maggetti, for instance, pay a lot of attention to *de facto* independence. Other authors debate upon *de facto* independence too (Klimentová & Tomanová, 2024; Koop & Hanretty, 2010; Sześciło & Jakubowski, 2019, and others).

In terms of independence, one should not interpret what was said in the wrong way. A wrong interpretation would be that while regulatory authorities are completely independent, administrative authorities have no independence at all. A certain level of independence is necessary for administrative authorities as well, but it is primarily understood as legality-based or professional independence, not institutional or political independence. Administrative authorities must be able to apply the law impartially, decide individual cases free from unlawful interference, and resist arbitrary or illegal instructions.[15] So, they are bound by the principle of legality, but still accountable for their work in general to the supreme executive authority. The independence of administrative authorities may be described as independence

[14] The procedural guarantees should ensure merit-based appointments vis-à-vis spoils-based appointments (based on political inclination and/or partisanship).

[15] Lawfulness is one of the key principles for administrative authorities' work, promulgated in many documents such as constitutions, statutes (laws), sources of international law, soft-law documents, etc. Since we are located in Europe, one might refer, just for the sake of an example, to the principles of public administration promulgated by the Council of Europe, the first one of which is lawfulness (Council of Europe, 1996, p. 13). Of course, we can find thousands and thousands of writings on the legality of the administrative authorities' work.

within the hierarchy, not from it. Regulatory authorities' independence, on the other hand, is quite more vivid, as they do not just have independence/protection from illegal and arbitrary interference in their work but also shape sectors, make policy-sensitive decisions with long-term economic and social impact which may not be politically preferable. To put it in a single sentence, administrative authorities require independence in the sense of impartial and lawful decision-making within a hierarchical system, whereas regulatory authorities require a higher degree of institutional and functional independence from the executive in order to perform sector-wide, policy-sensitive regulatory functions.

Moving on to their functions, at first glance it might seem that administrative authorities and regulatory authorities, in fact, have the same ones (that is, that they perform the same tasks). However, this would be incorrect as anyone can see if they look a bit deeper. Even though some functions (and the tasks therein) seem similar, there are important specifics.

For starters, both administrative authorities and regulatory authorities adopt bylaws. These bylaws have statutory (legal) grounds. Yet, the administrative authorities' and the regulatory authorities' bylaws are quite different. The latter have much more autonomy and discretion (which is a repercussion of their independence and specific expertise) when preparing and adopting their bylaws. Namely, bylaws adopted by administrative authorities are ancillary to the implementation of the law, and their primary objective is to simply operationalize legal norms. Their content is usually closely determined by law. On the other hand, bylaws adopted by regulatory authorities often constitute a core instrument of regulation, aimed at structuring and governing entities' behavior in a certain sector. An illustrative example might help understand this. E.g. both the ministry that deals with energy issues and the energy regulator shall be allowed to adopt bylaws per the environmental law. However, the ministry shall adopt bylaws to further operationalize rather precise legal provisions[16] while the (independent) energy regulator shall adopt bylaws which do not really operationalize the law but rather set out original rules such as the tariff methodologies, grid access rules, market rules on trading electricity or gas, etc. When adopting such bylaws the energy regulator has much wider discretion than the ministry has when adopting their bylaws. That is, in fact, why it is often considered that regulatory authorities have quasi-legislative powers.

Regulatory authorities also influence policies, in a similar fashion to administrative authorities. Both obtain a lot of data and expertise in the area, so they formulate policies and propose them further on to the supreme executive institutions or the legislature. They do not create policies *per se* but they are an active player in its creation (Maggetti, Di Mascio, & Natalini, 2022, p. 3).

Regulatory authorities conduct supervision as well. In that sense they resemble administrative authorities. Yet, there are some differences in the broader picture. Administrative authorities mainly perform supervision to ensure compliance with the law. They are generally focused on individual cases. Of course, the data gathered can be used for policy formulation by the ministries, but the initiatives for policy changes are passed on to the executive and, if needed, to the legislature (e.g. large number of misdemeanors means that the ministry shall propose, via the Government, for Parliament to adopt statutory amendments and increase fines). But as for the administrative authorities (for instance, inspectorates), they are focused on legality in specific cases. Regulatory authorities do perform such supervision (i.e.

[16] For instance, all municipalities have to have municipal energy plans, the form and the content of which shall be prescribed by the minister.

inspections of entities' compliance with specific rules) but also supervise the functioning of the entire sector as well, including the risks or distortions. For instance, in many energy laws we shall find provisions that the energy regulators monitor and supervise the security of supply, market functioning, access to network, etc.

Perhaps the biggest similarity is the one related to the adoption of individual legal acts. In this respect, both types of authorities are similar: they adopt individual administrative acts (permits, licenses, orders, approvals, etc.) and determine the rights and obligations of individuals and businesses. When adopting these administrative acts, just as the administrative authorities, regulatory authorities respect rules codified in the laws on (general) administrative procedure. Regulatory authorities' administrative acts are subject to judicial review.

A further important distinction lies in the quasi-judicial functions typically attributed to regulatory authorities. In many of the laws, regulatory authorities are given the right to solve disputes between market participants, adjudicating conflicts between operators and consumers, or several operators amongst themselves. Administrative authorities, by contrast, generally lack such a pronounced adjudicatory role. Although they conduct administrative procedures and adopt individual acts, these are typically centered on a single addressee and do not involve the structured resolution of competing claims between multiple parties. Even when there are multiparty administrative procedures, the aim is not dispute resolution.

What we elaborated upon still does not make regulatory authorities non-accountable. Their individual acts and other administrative actions are subject to judicial review (administrative dispute). The same goes for their bylaws, which can be reviewed *in abstracto* (constitutionality and legality). The legislature also has oversight mechanisms. Yet, they are outside the reach of the supreme executive authorities, and more resistant to influence of politicians (i.e. politicians should not steer their work).

Finally, the areas they work in may vary, but it is safe to say that regulatory authorities most often exist in highly specialized markets which at some point were under complete state control (energy, telecommunications, postal services) and/or in markets where there is no effective competition or natural monopoly (Crampes & Leautier, 2015). Authors often mention finances as well (De Vrieze, 2019, p. 6) However, there is not a strict number of fields where regulatory authorities (may) exist. It can differ from country to country.

C) Summary on the distinction between administrative authorities and regulatory authorities

Having said quite a lot, it seems a prudent idea to summarize. Administrative authorities are hierarchically subordinated to the executive branch of power, primarily tasked with implementing the law (although they gain non-authoritative tasks as well). The legal framework they implement is more structured. Regulatory authorities are more independent institutions entrusted with shaping and governing entire sectors, and they have broader discretion as well as wider rule-setting powers.

Table 1 – Comparison between administrative and regulatory authorities (prototypes)

Trait	Administrative authorities	Regulatory authorities
Independence from executive branch of	Limited (no undue political influence in application of laws).	Yes. Operates without influence of politicians, at arm's length from executive

power/Relationship to Gov.	Must comply with policy directives	
Primary function	Implementation of laws and policies	Implementation of laws and policies, but with much broader freedom to govern entire sectors or markets
Bylaws	They adopt bylaws which are aimed in operationalizing laws	Much broader discretion for creation of bylaws, focused not only on operationalizing laws but on freely shaping sectors
Discretion	Narrower	Significantly broader
Supervision	Narrower, mostly legality	Not only aimed at compliance with laws, but also steering a sector in a certain direction
Individual acts	Yes (permits, licenses, approvals, orders, etc.)	Same
Quasi-judicial powers (dispute resolution)	No	Yes
Usual fields/sectors	N.A., they perform in all sectors where state intervention is needed	Energy, telecommunications, media, competition, financial regulators, postal services[17]

D) Blurring the lines

It should be pointed out that in social sciences (and legal sciences particularly) that there are no absolutes. Which is precisely why the lines between administrative authorities and regulatory authorities can sometimes be blurred, in general and individual sense. The lines between administrative authorities and regulatory authorities are becoming increasingly blurred as administrative authorities acquire, over time, features traditionally not associated with them. For instance, in Europe the idea of "top public managers" or "senior public managers" in central public administrations brings administrative authorities closer to regulatory authorities. Unlike the traditional views, where the managers below the ministers (e.g. directors, members of collegial bodies) should be politically appointed so there is political responsiveness, newer views are that these individuals should be appointed in a procedure and according to rules which are more merit-based (SIGMA, 2025, p. 4). The tendency is to constantly make these top public managers in central administrations more insulated from political influence. This brings the administrative authorities they manage closer to regulatory authorities, in the aspect of lack of control by elected politicians. Of course, this does not mean that administrative authorities and regulatory authorities are nowadays completely the same, but it might lead to some follow-up questions for researchers who deal with these topics. Of course, how close administrative authorities shall

[17] It should be clear that in most of these fields, there is a shared burden – some tasks are performed by administrative authorities and some by regulatory authorities. However, according to literature, these are most often the regulatory authorities' sectors (De Vrieze, 2019, p. 5).

be to regulatory authorities in terms of their management will depend on the specific country and its legislation. [18] In this context, the authors of this paper wrote in the past about using independent state authorities (amongst which the regulatory authorities) as a model for organizing administrative authorities (Davitkovski, Pavlovska-Daneva, Shumanovska Spasovska, & Davitkovska, 2018)

The other reason why sometimes lines between administrative authorities and regulatory authorities are blurred, is that administrative authorities gain more discretion related to the content of their bylaws, bringing them closer to regulatory authorities. Examples include food regulators, which adopt many bylaws. These bylaws are based on statutory (legal) provisions, but food regulators are much more free when determining their content, so we might say the respective bylaws are not merely adopted to operationalize laws but to regulate the food market entirely. On the other hand, these authorities are often not at arm's length but directly subordinated to the executive branch (e.g. the Food and Veterinary Agency in the Republic of North Macedonia which is directly subordinated to the Government). These authorities do blur the lines. The best thing to do, to distinguish them in such cases, is to pay attention to independence. When referring simply to regulatory authorities we should refer only to those which are independent from the supreme executive authorities (Government, President, Cabinet). However, we should acknowledge that there are administrative authorities with regulatory traits (such as quasi-legislative powers). Authors call these administrative authorities "regulatory agencies in the executive branch" (Carrigan & Febrizio, 2022, p. 11).

Sometimes in reality we might find authorities we cannot really classify easily. This is precisely why we used prototype definitions and not classical ones (under which an authority either is or is not a regulatory authority).[19]

To summarize, the distinction between administrative and regulatory authorities is sometimes blurred in reality, and this has been emphasized here to provide greater conceptual clarity to our readers and for future research.

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[18] In the Republic of North Macedonia, in 2019, there was an unsuccessful initiative to adopt a new Law on Senior Management Service (Нова Македонија (New Macedonia), 2019). The proposed legislation (Министерство за информатичко општество и администрација (Ministry for Information Society and Administration), 2019) sought to introduce a new procedure for appointing top public managers, amongst other institutions, in central administrative authorities (bodies within the ministries and independent state administrative authorities). The procedure prescribed there meant stripping Government and line almost entirely from their appointing prerogatives. The entire selection procedure was meant to be conducted by a newly formed body – a Commission for top public managers – whose members would have been appointed by and accountable to Parliament. If these legal provisions were adopted, managers within administrative authorities would have been much more similar, in terms of their recruitment, to managers within regulatory authorities. The initiative, however, was not ultimately adopted, reflecting the broader tension between the goals of depoliticization and the constitutional principle of executive accountability. In contrast to the 2019 initiative, the 2025 Draft Law on Senior Managers in State Administrative Authorities and Funds (Министерство за јавна администрација (Ministry of Public Administration), 2025) appears to maintain cleaner lines of accountability (Government and line ministers still have prerogatives to appoint, but in a more structured procedure), thereby avoiding convergence of administrative authorities towards the model of regulatory bodies.

[19] Recently in the Republic of North Macedonia such an authority was formed. This is the Council for the Advancement and Supervision of the Accounting Profession. It is defined as an independent regulator. Its members are appointed by the Government of the Republic of North Macedonia, but only two out of five on the proposal of the Minister of Finance. The others are appointed upon a proposal of academic institutions and chambers of commerce. So even though the law says that this is a regulatory authority, it is not as independent as regulatory authorities are in theory. If we read more closely, this Council does not have quasi-legislative authorities as well. It is established primarily with the aim to supervise accountants and their chamber (Собрание на Република Северна Македонија (Assembly of the Republic of North Macedonia), 2022).

3.2. Independent authorities vs. regulatory authorities

It is much easier to make this distinction than the previous one. The simplest way to explain the distinction is the following: although all regulatory authorities are characterized by a certain degree of independence from the executive and elected or appointed politicians, not all independent authorities are regulatory authorities. Many independent authorities – such as ombudspersons, commissions for access to public information, electoral commissions, anti-corruption commissions, budget audit institutions, etc. – are not regulatory authorities because they lack the quasi-legislative and quasi-judicial tasks. They are independent, yes, however they perform mainly oversight over the public sector and other entities and they do not regulate sectors or markets. E.g. the anti-corruption agency supervises whether elected or appointed persons comply with anti-corruption legislation, drafts plans and strategies further adopted by Government or Parliament on the country's efforts against corruption, may impose fines for breach of anti-corruption legislation, etc., but none of these functions are quasi-legislative. Commissions for access to public information usually monitor whether public institutions comply with transparency requirements and may decide in second instance procedures on appeals against denied access. Sometimes they impose fines. Yet, they are not quasi-legislative. De Vrieze stated the following: "independent oversight institutions exercise oversight over the democratic functioning and integrity of the executive and state administration, while regulatory agencies conduct a regulatory role over a specific economic sector - though "at arm's length", at a certain distance from the government" (2019, p. 5).

4. Regulatory authorities in the Republic of North Macedonia: legal and institutional framework

4.1. Legal framework

Regulatory authorities are an institutional reality in the Republic of North Macedonia. Their formation has been shaped by various factors, such as the integration within the European Union[20] (which, unfortunately, is still not complete as the Republic of North Macedonia is not yet a member), the liberalization and marketization of former state-controlled sectors (upon the dissolution of Yugoslavia) and the shift from command economy to free market. Another important driver has been the need to depoliticize certain activities of the public sector institutions.

Out of these factors, it is perhaps the external one – the EU integration – which is the most influential one. There are many specific EU law instruments due to which there are regulatory authorities in the Republic of North Macedonia. For instance, Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities - Access Directive (European Parliament, Council of the European Union, 2002), Directive 2002/21/RC on a common regulatory framework for electronic communications networks and services – Framework Directive (European Parliament; Council of the European Union, 2002), Directive 2002/20/EC on the authorization

[20] Per the Stabilization and Association Agreement, the Republic of North Macedonia (at the moment the agreement was reached, Republic of Macedonia) has the obligation to approximate its laws to the EU acquis (Article 68). Therefore, whenever the EU states there should be independent regulatory authorities, the Republic of North Macedonia would most likely follow.

of electronic communications networks and services – Authorization Directive (European Parliament; Council of the European Union, 2002), and Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services – Universal Service Directive (European Parliament; Council of the European Union, 2002) shaped the formation of the Agency for Electronic Communications (hereinafter: AEK) with the Law on Electronic Communications of the Republic of Macedonia[21] in 2005 (Собрание на Република Македонија (Assembly of the Republic of Macedonia), 2005).[22] The Law on Electronic Communications from 2005 is no longer in force, however it was the initial ground for the foundation of the said regulatory authorities. These directives were codified in another one later, namely, the Directive (EU) 2018/1972 on establishing European Electronic Communications Code - EECC (European Parliament; Council of the European Union, 2018). The Republic of North Macedonia harmonized its legislation with the latest EECC with the adoption of the Law on Electronic Communications from 2025 (Собрание на Република Северна Македонија (Assembly of the Republic of North Macedonia), 2025). In the field of energy, the Energy Regulatory Commission was founded in 2002 with the amendments of the then applicable Law on Energy (Собрание на Република Македонија (Assembly of the Republic of Macedonia), 1997). But the key changes in the status and the functioning of the Energy Regulatory Commission (hereinafter: ERC) happened upon 2003 when another set of amendments was adopted in order to align the said law with the Directive 2003/54/EC concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (European Parliament; Council of the European Union, 2003). More information on this can be found on the ERC's webpage. Upon that the ERC has been regulated with all other Laws on Energy and has been gradually gaining more tasks.[23] The Laws on Energy are constantly harmonized with the applicable EU law in the respective fields. Another area where the existence of an independent regulator was influenced by the EU is postal services where Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of quality of service influenced the founding of the Postal Agency.

We could go on and on analyzing the EU integration influence on the formation of regulatory authorities in the Republic of North Macedonia. Nevertheless, this is not the point of this paper so we shall move on to saying a bit more about the legal framework, regardless of the reasons why certain regulatory authorities are founded.

First of all, regulatory authorities are not a constitutional category (Фетаџокоски, 2017, p. 16), as the Constitution of the Republic of North Macedonia does not mention such authorities. Therefore, they are a legal/statutory category only. As for the laws, the framework might seem complex, but it does not deviate from the approach of divergent legal frameworks on regulatory authorities which exist in other European countries as well. To bring about better understanding we are initially illustrating it in a table:

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[21] The country was then called "Republic of Macedonia". This name was changed per Constitutional amendments in 2019, so it is now "Republic of North Macedonia". When referring to the period before the entry into force of said Constitutional Amendments, we shall refer to the country per the old name "Republic of Macedonia".

[22] The abbreviation is AEK due to the Macedonian name of this regulatory authority (Агенција за електронски комуникации).

[23] There were multiple Laws on Energy (one from 2006, one from 2011, one from 2018, and nowadays the one from 2025). The ERC's formal title now is Regulatory commission for energy, water services and services for communal waste management of the Republic of North Macedonia. This is per Article 1 of the Law on Energy from 2025 (Собрание на Република Северна Македонија (Assembly of the Republic of North Macedonia), 2025).

Table 2 – Macedonian legal framework on regulatory authorities

Type (category of law)	**Scope**	**Title of the laws**	**Relevance for regulatory authorities**
Procedural	Horizontal	Law on General Administrative Procedure	It governs administrative procedures of regulatory authorities, i.e. procedures they must use when deciding on individuals' rights, duties and legal interests and when they issue administrative acts (licenses, permits, orders, approvals), undertake real acts or other administrative activities
		Law on Administrative Disputes	Provides judicial review of individual administrative acts and other administrative activities of regulatory authorities
Predominantly procedural	Horizontal	Law on Misdemeanors	It establishes procedural rules that are binding upon regulatory authorities when exercising legally conferred powers to conduct misdemeanor proceedings and to impose fines and other sanctions. It also sets the types of penalties and the limits
		Law on Inspection Supervision	It governs inspection activities where regulatory authorities are endowed with supervisory powers; however, its application may be (completely or partially) derogated by sector-specific laws, meaning that such supervision, despite its functional similarity to that exercised by inspectorates, is governed partially or solely by the substantive law establishing the regulator
		Law on Free Access to Public Information	Ensures transparency and accountability, by regulating the procedure for granting access to public information but other substantive issues as well
		Law on Budgets	Guarantees financial autonomy and autonomy when executing the financial plan of regulatory authorities which are not subordinated to the Government of the Republic of North Macedonia. General rules still apply in terms of budget preparation, execution, internal financial audit, the integrated information system for public finances management, etc.

Predominantly substantive	Horizontal	Law on Administrative Servants	Regulates status, recruitment, promotion, evaluation, and discipline of administrative servants in public institutions. At the moment the Law on Administrative Servants from 2014 is applied which allowed sectoral laws to exclude its application for regulatory authorities. So, it is most often partially derogated with sectoral laws. From 2027, the Law on Administrative Servants from 2025 shall be applied which does not allow, actually, sectoral laws on regulatory authorities to derogate its provisions.[24]
		Law on Public Sector Employees	Broad framework law covering all public sector employees (including institutions outside classic administration). Applicable to regulatory authorities unless derogated (supplemented or modified) in parts where this is allowed. It defines who is considered public sector employee, basic employment principles, types and categories of employees, general employment conditions, general obligations for all institutions to plan employment in the future, as well as to conduct functional analyses before changing bylaws for number of staff members and job positions, etc.
Predominantly substantive	Sectoral	Law on Electronic Communications	Establishes and regulates the AEK, defines its powers (market regulation, significant market power control, licensing, supervision)
		Law on Energy	Establishes the ERC, defines its powers (regulates tariffs, licensing, market supervision)
		Law on Audio and Audiovisual Media Services	Establishes the Agency for Audio and Audiovisual Media Services (hereinafter AVMU), regulates broadcasting control powers, etc.
		Law on Postal Services	Establishing the Postal Agency, regulates its powers, postal market supervision, etc.
		Other sectoral laws	Establish other regulatory authorities and define their powers and the area/sector they work in

[24] The 2025 Law on Administrative Servants introduces a distinct category of "special state servants" within certain institutions, for whom it explicitly allows specific aspects of their status to be regulated differently through other laws. But state servants within regulatory authorities did not fall in this category, instead they remained "typical" state servants and therefore sectoral laws cannot derogate the Law on Administrative Servants. This might be amended in the future, as it caused reaction by regulatory authorities.

***This is not an integral listing. There are other predominantly procedural or predominantly substantive laws which also are applied, in certain cases, to regulatory authorities (e.g. Law on Public Procurement, Law on Public Internal Financial Control, etc.). This list however shows how many laws are applied to these authorities.

There are two conclusions we can draw from analyzing the table: (1) the legal framework is rather complex, since different laws are applied to/by the regulatory authorities in the performance of their tasks and duties, but also for their status; (2) the Macedonian legal framework does not have an omnibus law on (independent) regulatory authorities, their duties and tasks. To put it otherwise, it becomes evident that, unlike administrative authorities, regulatory authorities in the Republic of North Macedonia are not governed by a unified horizontal legal framework comparable to the Law on Organization and Operation of State Administrative Authorities (Собрание на Република Македонија (Assembly of the Republic of Macedonia), 2000), which comprehensively regulates their organization, status, accountability, and functions. This is not bad *per se*, since a similar approach exists in other developed nations as well (what OECD calls "regulatory jigsaw"), yet it might be prudent to think about developing a *lex generalis* for regulatory authorities which will set out the systemic rules for them. Of course, this *lex generalis* on regulatory authorities, which would be comparable to the Law on Organization and Operation of State Administrative authorities, will set out the general rules on their status, the sectors regulatory authorities work in, their relationship to Parliament, Government and administrative authorities, etc., but will be, if needed, supplemented or modified with sectoral legislation.

4.2. Position of regulatory authorities within the institutional framework

In the text above we clarified that usually authors use the term regulatory authorities when referring primarily to authorities independent from the executive branch of power. This means that usually when an author writes about regulatory authorities (s)he does not speak about the so-called "regulatory agencies in the executive branch" (Carrigan & Febrizio, 2022, p. 11)[25] which are, in essence, administrative authorities who have been delegated with regulatory-like powers. Typical example for these regulators within the executive branch is, as already mentioned above, the Food and Veterinary Agency (whose director is appointed by Government) in the Republic of North Macedonia, due to the fact that some of its functions go beyond classic administration and resemble sectoral regulation and quasi-legislative powers.[26] Another example would be Agency for Medicines and Medical Devices – MALMED in the Republic of North Macedonia. MALMED makes highly scientific/expert based decisions resembling EU regulatory agencies and exercises ongoing pharmacovigilance which goes beyond the traditional administrative (inspection)

[25] Carrigan and Febrizio explain that the difference between U.S. independent regulators and regulatory agencies in the executive branch in the extent to which retain independence from political influence. They point out that "whereas executive departments and their subunits submit their rules to the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) for centralized clearance, independent regulators do not (Executive Order 12866)." (2022, p. 11)

[26] The Food and Veterinary Agency adopts detailed rulebooks, hygiene standards, veterinary conditions, laboratory conditions and has broad discretionary power when adopting them. This makes them, in a way, more similar to regulatory authorities since their bylaws do not merely operationalize the law but set out new rules. E.g. the Law on Food Safety states that only accredited laboratories may perform testing related to food (Article 79). The same law states that the Agency shall prescribe the conditions laboratories must meet to be accredited, giving it broad regulation (quasi-legislative) powers.

supervision. MALMED (whose director is also appointed by Government) also has quasi-legislative powers, since it adopts bylaws which go beyond simple operationalization of laws (rulebooks on conditions for manufacturing of medicines, etc.). These and other institutions within and outside of the Republic of North Macedonia usually are not considered in the discussions on regulatory authorities, since they are, after all, subordinated to the Government (or other supreme executive authority) and (sometimes) to line ministries.

If we exclude regulators within the executive branch of power, regulatory authorities will fall within the broader concept of the executive branch of power but will not be governmental agencies or administrative authorities. Instead, they are accountable to Parliament (the Assembly) and not to the Government of the Republic of North Macedonia. However, in certain cases there is a relationship to the Government of the Republic of North Macedonia which speaks of a limitation to the said independence and more of checks and balances (e.g. when the Government nominates officials for appointment).

In order to explain the position of the regulatory authorities in the Republic of North Macedonia we would initially have to enlist the regulatory authorities. Currently, according to the Ministry of Public Administration, which maintains the Register of Public Sector Employees,[27] there are ten institutions which fall under the category of regulatory authority (Министерство за јавна администрација (Ministry of Public Administration), 2025, pp. 22-23). Regulatory authorities are, within said Register, enlisted as a different category than independent state authorities. This division confirms what we already said: these are distinct but related categories (all regulatory authorities are independent, but not all independent state authorities are regulators)

Table 3 – Independent regulatory authorities in the Republic of North Macedonia per the Register of Public Sector Employees run by the Ministry of Public Administration

Independent state authorities[28]	**Regulatory authorities**
• Administration Agency (about to be transformed into a body within the Ministry of Public Administration soon per new Law on Administrative Servants) • Personal Data Protection Agency • Agency for Protection of the Right to Free Access to Information of Public Character	• AVMU • AEK • Postal Agency • Railway Regulatory Agency • Agency for Supervision of Fully Funded Pension Insurance (hereinafter: MAPAS) • Insurance Supervision Agency

[27] In the Register of Public Sector Employees, the Ministry of Public Administration divides their employers in several categories: administrative authorities, independent authorities, regulatory authorities, local government, etc. That is why we can use this Register to actually not only get information on the number of employees in the Macedonian public sector but also for looking at how many institutions exist and what types of institutions exist.

[28] It is a bit odd that the Ombudsman, the Central Bank of the Republic of North Macedonia and the Constitutional Court are not mentioned here. There is an error in the Report (Министерство за јавна администрација (Ministry of Public Administration), 2025, p. 27) since these three institutions are enlisted under “independent bodies of state administration”. This is not correct. Independent bodies of state administration are the ones who are independent from the line ministries, and answer directly to Government (such as the Food and Veterinary Agency, MALMED, the Film Agency, the Crisis Management Center, etc.).

• State Audit Office • State Election Commission • State Commission for Prevention of Corruption • State Commission for Public Procurement Appeals • State Commission for Second-Instance Decision-Making in Administrative Procedures, Employment Relations Procedure and Inspection Supervision in second instance • Commission for Protection against Discrimination • Commission for Protection of Competition • Operational Technical Agency • Central Register[29]	• Civil Aviation Agency • Securities and Exchange Commission • Housing Regulatory Commission • ERC
Total: 12	**Total: 10**
Grand total: 22	

Appointment and removal rules show some heterogeneity. ERC members are appointed by Parliament, under the Law on Energy, without interference of the Government of the Republic of North Macedonia whatsoever. AVMU's council members are appointed by Parliament as well, without interference of the Government, however, candidates who have applied for the position must have letters of support by civic organizations, journalists' organizations, high education institutions, etc. So these institutions are within the executive branch (in a broader sense) but in no way under the Government. MAPAS has a council of experts (as a managerial body within) whose members are also appointed by Parliament but upon nomination by the Government. This makes a difference: while MAPAS is defined as an independent institution, the relationship to Government is a bit different than in the case of ERC or AVMU. The same goes for Securities and Exchange Commission whose members are appointed by Parliament upon a nomination by the Government. They are also dismissed upon proposal by Government.

This variety may appear inconsequential at first glance; however, it may be significant, as it may create differing levels of insulation from institutional deadlock and varying degrees of exposure to coalition bargaining (more streamlined

[29] As regards the Central Register, one may exercise caution before fully endorsing the position of the Ministry of Public Administration that it constitutes an independent state authority. The law establishing this body explicitly provides that the Central Register is a legal entity endowed with rights, duties and responsibilities defined by statute, while its Management Board members are appointed by the Government of the Republic of North Macedonia. In this light, its classification as an independent authority appears debatable, as its institutional and functional relationship with the executive aligns more closely with that of a typical administrative authority. Furthermore, the Central Register does not perform regulatory functions; rather, its core mandate consists in maintaining trade and other registers of legal entities and carrying out administrative tasks typical of traditional administrative bodies.

bargaining when Government nominates, so there might not be such broad support as when Parliament appoints without Governmental nomination). Government nomination should not be regarded as inherently detrimental but rather assessed within the broader institutional design and the balance it strikes between independence, accountability and functional effectiveness. Nevertheless, in the Republic of North Macedonia, there appears to be a lack of scholarly analysis explaining these divergences: specifically, why Government nomination is employed in some regulatory authorities, but not in others?

Budgetary autonomy is likewise uneven. ERC enjoys one of the clearest statutory (legal) revenue models, financed by regulatory fees and backed by a temporary-financing clause if parliamentary approval of the financial plan is delayed. AVMU has sector-derived funding and must submit annual reports, programs and audits to Parliament. The Securities and Exchange Commission is fee-funded and may accumulate a reserve fund, but its pricelist requires Government approval. MAPAS also submits financial plans and audit reports to Parliament, while compensating its staff and Council from its own assets. MAPAS' financing is not related to Government in any way.

To summarize, regulatory authorities are (generally speaking) independent from the Government. Their members are appointed by Parliament. Parliament does not really interfere in their day-to-day operation, which means they are, in a way, insulated from direct control of elected and appointed politicians daily. But this is a general remark. If we go into details, we shall observe a certain degree of heterogeneity in institutional design. Unfortunately, this heterogeneity seems not a deliberate differentiation – at least not one that is noted in any written literature – but rather a fragmented and insufficiently theorized approach. This supports the case for adopting a *lex generalis* that would establish common principles on when regulatory authorities are formed, as well as for their independence, accountability, appointment and dismissal mechanisms, as well as financing and day-to-day insulation from politicians, while still allowing for sector-specific modifications.

5. (Some) Empirical observations and critical remarks related to regulatory authorities in the Republic of North Macedonia

Empirical observations can be used in more than one context. In this paper we use them to check what regulatory authorities' position *vis-à-vis* other authorities is, whether we can notice some recurring practices especially related to their independence, and to point out some other remarks on the functioning of regulatory authorities in general. This would be a rather brief part with empirical observations just for the purpose of illustrating *de facto* functioning since we cannot go into more details in a short paper as this one.

Regrettably, these observations (we focused on the period between 2018 and 2025) lead to a less-than-optimal conclusion: while certain patterns do emerge, they point to the fact that regulatory authorities are recurrently exposed to appointment deadlocks, politicized selection processes, and forms of indirect executive influence. In some cases one cannot really understand the need for the existence of regulators.

The clearest case is related to AVMU. The 2025 EU report on the Republic of North Macedonia (European Commission, 2025, p. 38) noted that in June 2025 Parliament elected the new members of the council of the AVMU and that concerns were raised about the way those members were selected due to lack of transparency, as well as the

lack of clear criteria for impartiality. This goes right against the idea of regulatory authorities being independent from the executive, but even in a broader sense from politicians who are elected. Earlier in the year, journalists wrote that experts are worried about the process as well (24.mk, 2025). The Association of Journalists publicly criticized the process as politically driven. AVMU was pointed out as a negative example in the past too. In 2021 a journalist (Ризаов, 2021) reported that the appointment of new council members of the AVMU has been repeatedly delayed due to political disputes (parties not being able to reach an agreement on who the members should be upon published calls for applications), elections, and general lack of transparency and clarity. Ultimately this resulted in expired terms in office being extended for several years. The journalist moreover pointed out to the EU reports on the Republic of North Macedonia for the corresponding years.

A second case is ERC, where formal independence exists but there is strong political exposure because the subject matter of ERC – electricity, heating and utility pricing – is inherently politically sensitive. In fact, it is not at all uncommon for politicians to comment on expected outcomes during electricity or gas price discussions while also acknowledging that the Government cannot formally determine tariffs. Problems with this authority have been pointed out also in the EU Report on the Republic of North Macedonia from 2025: "the regulatory authority has received additional resources, but dismissals of board members at the end of 2024 and more recent attempts have raised concerns about its institutional independence" (European Commission, 2025, p. 84).

A third case is the AEK. We shall not dive deeper, but simply point out that, according to the European Commission this agency "needs to bolster its independence" too (European Commission, 2025, p. 73)

Another interesting point of discussion is the Housing Regulatory Commission, not so much from the perspective of its independence from political influence, but rather in terms of the very justification for its existence. Unlike regulators in sectors such as energy, media or telecommunications, where market failures and the need for specialized oversight clearly warrant the establishment of independent authorities, the rationale for creating a separate regulatory body in the field of housing appears less evident. It seems that the tasks of housing regulation could be, without any problems, the competence of a ministry or another administrative authority, or even the municipal government. This raises the broader question of whether the proliferation of regulatory authorities in the Republic of North Macedonia always reflects genuine functional necessity, or whether, in certain cases, institutional design has been driven by *ad hoc* or insufficiently articulated considerations. Another indicator on the need to double-check the need for existence of the Housing Regulatory Commission is the fact that, according to the latest reports, it has only 6 employees (just one more than the number of members within the Housing Regulatory Commission, which is five).

The next example we are pointing out is not strictly related to a regulatory authority, but to an independent state authority. Nevertheless, it is relevant for the purposes of this analysis as it illustrates problematic practices by the Macedonian Parliament (Assembly). These practices may, by analogy, also affect regulatory authorities. The problem in this instance is not primarily one of formal independence but one of institutional paralysis resulting from appointment deadlock. The case was the following: the Agency's previous director's term ended on the 25th of December 2025. Parliament was notified on this several months before the said date. Yet, the procedure for appointing a new director was neither initiated nor completed on time, for which reason the Agency was basically paralyzed – it had no director therefore it could not perform its tasks (МЕТА.МК, 2026; Крамарска, 2026). Parliament could not,

strictly speaking, prolong the term of the current director since the law regulating this authority does not provide for such an opportunity. At the moment of the writing of this chapter, at the end of April 2026, there is still no director of this authority. This example clearly demonstrates that even where a legal framework provides for independence, the failure of Parliament to carry out timely and merit-based appointments can undermine the very functioning of the institution. In that sense, the issue is not merely political influence in the narrow sense, but also institutional inertia and politicized stalemate, which can be equally detrimental. By analogy, similar risks can be identified in the context of regulatory authorities, where delayed or blocked appointments may lead to extended mandates, reduced accountability, or diminished institutional effectiveness.

We could go on and on in this context, yet we do not have the inclination to do so since this would take up too much space, and we could lose the point of the paper. The summary of what we said is this: across the spectrum we can see recurring failures by Parliament to ensure timely, transparent and merit-based appointments of heads of regulatory authorities (and other independent authorities) which translate into institutional paralysis, prolonged mandates, lack of legitimacy or weakened effectiveness. Also, some regulatory authorities' existence begs the very question – do Government and Parliament have a clear vision when regulatory authorities should exist?

6. Comparative perspectives in terms of legal framework

The Republic of North Macedonia, as already pointed out, has a fragmented, sector-by-sector model of regulating regulatory authorities. While there are some horizontal laws, which are applicable to all regulatory authorities as to all administrative authorities, their functions, tasks, duties and relations to the Government and to the Parliament are primarily set out in sectoral substantive laws. While this is not unusual in Europe. Even the EU acquis model is similar – EU law generally requires certain national authorities to be independent and adequately resourced with finances and regulatory powers, but it does not require Member States or candidates to adopt one horizontal *lex generalis* on regulators (with principles for their establishment, general rules for independence and financing, etc.). However, we argue that this might not be the best approach in the Republic of North Macedonia where there are, in any case, difficulties in establishing a clear vision of what regulatory authorities are and a culture of appointments, transparency and accountability lines. For that reason, we find that the Republic of North Macedonia needs to adopt a *lex generalis* for regulatory authorities – as an analogy of the Law on Organization and Operation of State Administrative Authorities – which would set up the general legal framework and which will, then, be supplemented or modified by sectoral laws if needed. We find this would bring about clarity on regulatory authorities' status and position, relationship with other institutions, functions and tasks. In this sense we would point out several examples: (1) the French Law on general status of independent administrative authorities and independent public authorities (France, 2017);[30] (2) the Portuguese framework law on independent administrative entities with functions of regulating the

[30] This is not a Law on Regulatory Authorities, as one can see, since each regulator is created by its own sectoral law, however, is a partial framework law which regulates general principles, appointment rules, accountability, transparency obligations, and even sets out, in the Annex, a list of such authorities. This law is a good starting point for what we strive for in the Republic of North Macedonia.

economic activity of the private, public and cooperative sectors (Portugal, 2013).[31] Another, a much more drastic approach, is the Spanish one of merging several regulatory authorities (regulators in the fields of energy, telecommunication, media, transport, postal services, gambling and competition) into one with the Law 3/2013 on the creation of the National Commission on Markets and Competition (Spain, 2013). However, this might be too broad of a reform in the Republic of North Macedonia which would undertake serious follow-up work (transfer of data, knowledge, human resources, equipment, etc.) that the country might not need at this very moment upon the 2024 reorganization of the public administration which illustrated difficulties.

Nevertheless, comparative experiences show that our hypothesis for the need of a single horizontal *lex generalis* on regulatory authorities in the Republic of North Macedonia – analogous to the Law on Organization and Operation of State Administrative Authorities – is reasonable. Such laws exist in other countries, and the effects have included improvements to the framework on regulatory authorities.

7. Conclusion

This paper set out to examine regulatory authorities as public-sector institutions entrusted with safeguarding the public interest and, by extension, the rule of law, through expert, stable and predictable governance in complex sectors. Building on a conceptual analysis, the paper distinguished traditional administrative authorities from (independent) regulatory authorities by focusing on their institutional position "at arm's length" from elected politics, their broader discretion, and their quasi-legislative and quasi-judicial functions, while also acknowledging that in practice the boundary may be blurred by regulators situated within the executive branch. Against this theoretical background, the Republic of North Macedonia was presented as a "peculiar" case in which regulators exist and perform essential functions yet operate within a fragmented statutory and institutional landscape that neither defines regulatory authorities nor provides uniform horizontal rules for their establishment, governance, staffing, financing, and accountability.

The mapping of the Macedonian framework demonstrated that, although several horizontal procedural and status laws apply to regulators (e.g., on administrative procedure, administrative disputes, misdemeanors, inspection supervision, transparency, budgeting and public-sector employment), the decisive rules regarding mandate, powers and institutional design remain dispersed across sectoral statutes. As a result, key safeguards differ from one authority to another: appointment and removal models range from purely parliamentary selection to government-nominated appointments; financial arrangements vary from fee-based models with temporary financing clauses to budgets or fee schedules requiring governmental approval; and reporting and oversight obligations are not calibrated according to consistent logic. This heterogeneity is not inherently problematic in comparative perspective, but in the Macedonian context it appears largely non-systemic and insufficiently theorized, thereby weakening legal certainty, public trust, and the credibility of regulators' independence.

[31] Similarly, this might serve as a good starting point on the scope when working on the Macedonian law. Of course, we should not merely copy the Portuguese approach but align it with the Macedonian institutional set up and logic. Nevertheless, the logic of this law is to define regulatory authorities, their independence, their accountability, their fixed terms, the prohibition of Government members' interference in their work and suggesting how they should perform, etc. There is also a list of regulators in the law.

The empirical observations, focused on the period 2018–2025, reinforce the conclusion that formal guarantees are not sufficient if institutional practice does not support them. Recurrent appointment delays and political bargaining in Parliament, concerns about transparency and impartiality criteria in selection processes, and episodic attempts to remove members of regulatory boards illustrate how easily *de jure* autonomy can be undermined in *de facto* terms. In politically sensitive fields such as energy or media, even indirect pressures and public expectations voiced by political actors may affect regulators' perceived legitimacy and their willingness to take technically grounded but unpopular decisions. Moreover, the paper noted that the proliferation of certain bodies may not always reflect functional necessity, which in turn dilutes the very rationale for arm's-length governance and raises questions about capacity, expertise and institutional sustainability.

Comparative experiences show that fragmentation can be managed when it is embedded within a clear set of common principles. Framework approaches, such as the French statute on independent administrative authorities and the Portuguese framework law on independent regulators, demonstrate how a horizontal act can clarify definitions, strengthen legitimacy and harmonize minimum safeguards, while leaving space for sector-specific solutions. For the Republic of North Macedonia, the adoption of a coherent *lex generalis* on regulatory authorities would therefore be a proportionate and feasible reform trajectory. Such a law should, at minimum, define the concept and criteria for creating (or discontinuing) a regulator; set common standards for appointment and dismissal (including transparent, time-bound procedures, merit-based eligibility and incompatibility rules, and protection against arbitrary removal); codify reporting, transparency and audit obligations tailored to the authority's powers; and secure administrative and budgetary autonomy through predictable financing and staffing arrangements. Importantly, these safeguards should be designed to reduce the risk of institutional paralysis and to strengthen checks and balances, ensuring accountability without enabling day-to-day political steering.

Ultimately, strengthening regulatory authorities is not a merely technical exercise in institutional design: it is a rule-of-law project aimed at ensuring that decisions affecting markets, public services and fundamental interests are lawful, reasoned, and predictable. If regulators are to function as credible guardians of the public interest, reforms must address both the architecture of the legal framework and the political-administrative culture surrounding appointments, resources and oversight. Future research may deepen the empirical dimension through interviews with regulators and stakeholders and by developing indicators of *de facto* independence and performance. However, the evidence already assembled in this paper supports a clear policy message: the Republic of North Macedonia should move from a regulatory "jigsaw" toward a more coherent, principled and transparent model of regulation.

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