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Support to State Reorganisation

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DISCRETIONARY POWERS IN THE LEGISLATION THAT REGULATE EMPLOYMENT IN THE AREA OF CULTURE

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Skopje, Republic of North Macedonia

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1. INTRODUCTION

Discretionary powers like coins have two sides. One side is positive with discretion giving more possibilities to be flexible, solve problems in a fast and creative way and find options that are best suitable for the needs of the people. The other side is negative, since discretionary power also facilitates risks of corruption, arbitrariness and abuse of power. These risks cannot be eliminated totally, but they can be minimized by first setting clear borders to discretionary powers, and second by monitoring compliance with them on a day-to-day basis.

The EU-funded project “Support to State Reorganization” (EuropeAid/139876/DH/SER/MK) in the Republic of North Macedonia. The project has two components: (i) Optimization and rationalization of the state administrative bodies and inspection services; (ii) Improvement of the framework of the discretionary powers. The overall objective of the project is to optimize the overall institutional framework, enhance the public service delivery and strengthen ethics, integrity, transparency and accountability of public administration. Its purpose is to streamline and optimize institutional framework, eliminate overlapping competences and ensure effective lines of accountability.

This analysis is one of the outputs of the second component of the project. It foresees activities for revision of the system of the discretionary powers in employment in the sector of Culture to allow their application in a legal and just manner. For this purpose, it is important to strengthen the routine for taking decisions and enforce the control over discretionary powers. This analysis provides for a review and analysis of the regulations establishing discretionary powers and enables the beneficiary and other responsible institutions like the Ministry of Culture to discuss and find the best solutions to the identified problems and drawbacks. The recommendations part also provides for some suggestions of amendments that can be used as further basis for the discussion.

2. MAPPING OF THE LAWS

The mapping of the laws in the sector of Culture was done by the national expert of the Project. According to the suggestions of the National expert, the following pieces of legislation and articles were analyzed. In the framework of the Project different bylaws and reports were also analyzed, still the main accent according to the needs of the beneficiaries is on analyzing relevant laws and practice according to the meetings held with experts and specialists from the Government of the Republic of North Macedonia, the State Commission for the Prevention of Corruption, Ministry of Information Society and Administration. Ministry of Culture and other line ministries.

No.	Name of the Law	Relevant Articles
1.	Law on Culture. Official Gazette of the Republic of Macedonia "no. 31/98, 49/03, 82/05, 24/07, 116/10, 47/11, 51/11, 136/12, 23/13, 187/13, 44/14, 61/15, 154 / 15, 39/16, 11/18 and 11/18 - Decision of the Constitutional Court of the Republic of Macedonia, U.no.196 / 2007 of 16.1.2008, published in "Official Gazette of RM "no. 15/2008.	9-18;28-39;60-70g;76-79; 84,85.
2.	Law on copyright and related rights Official Gazette of the Republic of Macedonia no. 115/10, 140/10, 51/11, 147/13, 154/15 and 27/16.	
3.	Law on Film Activity Official Gazette of the Republic of Macedonia "no. 82/13, 18/14, 44/14, 129/15, 152/15, 39/16 and 11 / 18- Decision of the Constitutional Court of the Republic of Macedonia, U. no. 64/2014 of 16.3.2016, published in the "Official Gazette of the Republic of Macedonia" no. 58/2016	
4.	Law on Publishing	

	Official Gazette of the Republic of Macedonia "no. 199/14 and 152/15	
5.	Collective agreement of the Ministry of culture Official Gazette of the RSM, No. 10 of 16.01.2020	7-28, Chapter V;115-125

In the sector of Culture also general laws regulating employment and discretion in employment are applied. The Law on Administrative Servants is applied for employing administrative servants in the Ministry of Culture and throughout the sector. Law on Public sector employees is applied for positions that are not positions of administrative servants but are included in the sphere of applicability of the Law on Public Sector Employees. Labor law is applicable when technical staff needs to be employed. These laws have been analyzed separately in a separate document regarding general legislation of discretion in employment in the Republic of North Macedonia.

There are also several bylaws applicable in the field of Culture:

- 1) Rulebook for the form and content of the application for making a decision for giving license for collective management of copyright and related right (adopted by the Ministry of Culture);
- 2) Regulation for financial support of artists and other natural persons (Ministry of Culture);
- 3) Rules of the procedure for the form and content of the annual report on publisher production of the publisher (Ministry of Culture);
- 4) Collective agreement of the Ministry of culture.

The level of the proposed analysis is very detailed in order to identify and point out the regulations where the discretionary rights might be either unintended or too wide. Therefore, only the main pieces of legislation were analyzed in such detailed manner. In the field of culture the Law on Culture was analyzed presently in force. It was established during the project that a new draft law on Culture has been submitted to the Parliament for adoption, but since it has not been adopted yet, the law presently in force was analyzed. The methodology of the analysis is explained further in this report, and it can be continued and applied also to other las and



bylaws either in the sector of Culture or in other sectors of public administration of the Republic of North Macedonia.

Detailed analysis is reflected in the table where the existing discretionary powers in the employment in the field of Culture are checked against several important benchmarks:

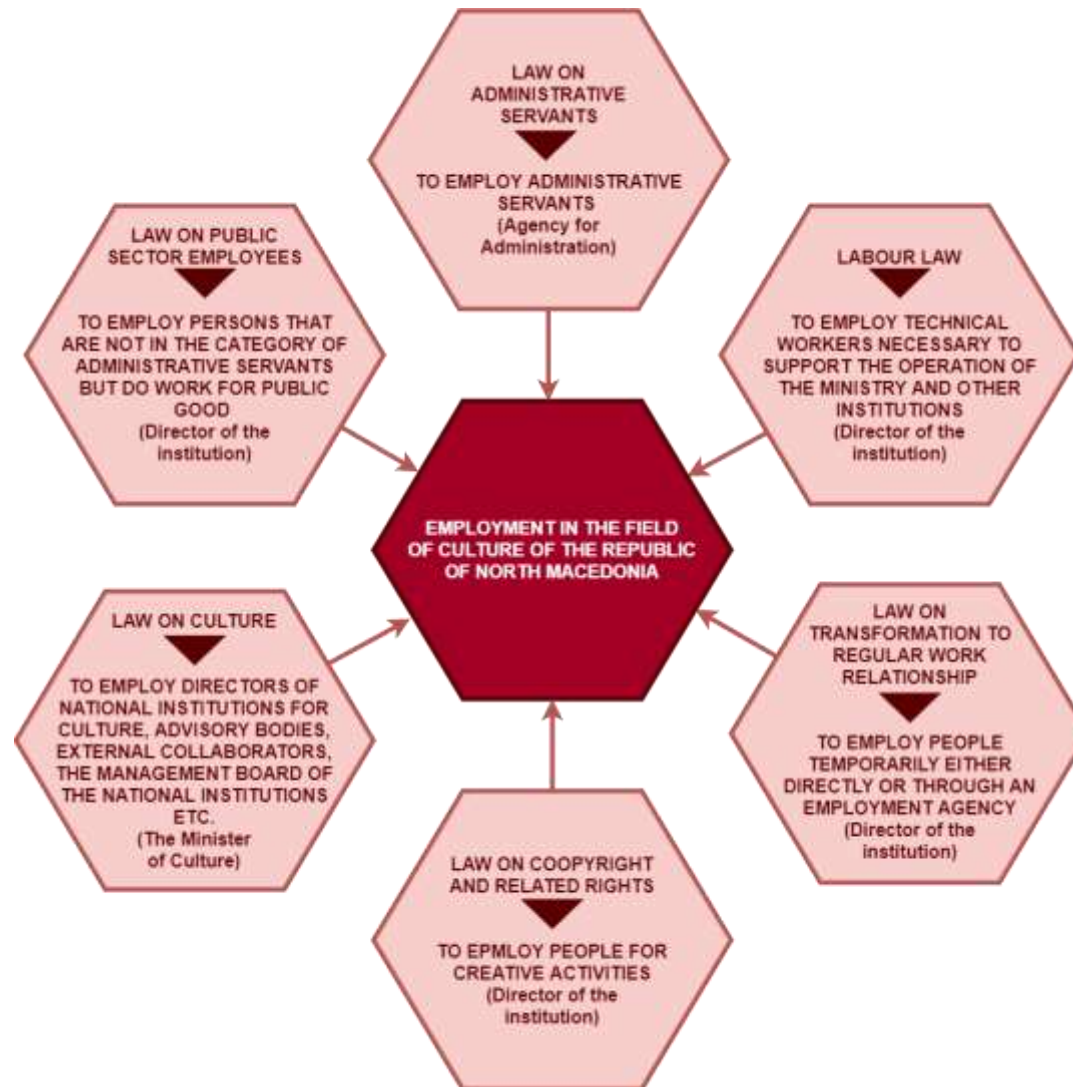
1. The provision of the Law under analysis.
2. The decision made according to the particular discretionary right.
3. The authorized person to make that decision.
4. The criteria defined for making the decision.
5. The deadlines either for making the decision or for its implementation or the term of the decision made.
6. The existence of a written justification of the decision in order to explain, prove and justify that the existing discretionary power was used appropriately.
7. The existence of an appeal procedure.
8. Existence of a regulation for public availability of the particular procedure, decision, its justification or any kind of information about the discretionary power used.
9. Analysis on whether and to what extent the decision that was made impacts the remuneration of a person involved.

The analysis offers a “traffic light principle” according to which the most problematic situations are highlighted red, less problematic are highlighted yellow, but situations where no significant drawbacks are identified are not highlighted. The highlighted areas are meant to be subject to further discussions whether and what kind of changes are necessary to the laws analyzed.



3. LAWS APPLICABLE FOR THE EMPLOYMENT IN THE FIELD OF CULTURE

The laws shown below reflect the laws identified by the experts of the Project. The real number of las may be even bigger.



4. VERIFICATION OF THE RESULTS

The methodology used by the Project during the analysis of the applicable laws and the main criteria for restricting the discretionary rights were discussed and verified during the workshop organized by the Project on October 18., 19. and 20, 2021.

Many problems, risks and vulnerabilities regarding excessive discretion of public administration and especially political influence on employment procedures were identified during the workshop.

The participants of the workshop agreed that discretionary power may be either positive or negative, and it depends on the person using it. But in order to prevent arbitrary and excessive use of discretionary power which may lead to favoritism and nepotism, certain limits must be imposed. The limits offered by the experts of the Project were discussed and accepted during the workshop.

Representatives from all involved ministries and other stakeholders were invited to the workshop.

During the third day of the workshop a piloting of the proposed employment procedure was carried out, including the process of framing discretionary powers and providing justification for each decision.

5. LAW ON CULTURE

NOTE: A Consolidated Unofficial version of the Law on Culture was used for the needs of this Report.

Also, Google Translate tool was used for translating the law from Macedonian to English language, which may cause irregularities

According to the suggestion of SNKE of the project following articles of the Law on Culture were analysed: Articles 9-18;28-39;60-70g;76-79; 84,85.

It is understandable that a politically responsible person cannot make all the decisions on his or her own and needs several advisors he or she can trust both politically and personally. But the number and remuneration of such political advisors must be limited in order to avoid using of public funds and tax-payers money for monetary rewarding of political supporters or even sponsors of the particular political party, or buying loyalty and support. These are big risks that can undermine trust to the whole public administration and lead from professional to political administration. Political administration on its turn is dependent on political changes after the elections, making the policies discontinuous and eclectic rather than continuous and consequent. This kind of risk can be prevented by setting clear boundaries to the number and expenditure of politically appointed persons of the Minister. This number at this moment is limited in the Law on the Government and the Law on Public Sector Employees to 2 or 3 persons for each politically responsible person (minister or deputy minister).

Article 11, especially paragraph 4 of the Law on Culture provides for practically unlimited possibilities of the Minister of Culture to establish advisory bodies and hire external collaborators. The only limit to this competence is the available budget since according to Article 11 paragraph 5 the members of the advisory bodies and associates are entitled to appropriate compensation for their work, The amount of this compensation is left solely to the discretion of the Minister of Culture. But this discretion should not reach further than the direct political office of the Minister, formed out of a limited number of advisors. This number may be an object of political discussions, but the result of these discussions (the size of the “bureau” of a particular minister) should be available publicly. It is **recommended** that the number of politically recruited persons does not exceed 10 or 15 persons for one member of the Government. But determining this number must definitely go together with elimination of political impact on the rest of the public administration, including on the appointment of senior administrative servants.

Moreover, Article 11 of the Law on Culture contrasts Article 11a which regulates appointment of the Ambassadors of Culture, who are not entitled to remuneration of their work but are

required to provide annual reports regarding their work. External collaborators and advisory bodies regulated in Article 11 are entitled to remuneration but do not need to provide any kind of reports for their work. This contrast is rather symptomatic, and it is recommended to provide for a possibility to find put publicly also the results of work of other persons working in the field of culture and paid for by the public funds, including members of advisory bodies and external collaborators. This principle is also maintained for the Director of the National institution (Article 31b of the Law on Culture) and for the Management Board of the National Institution (Article 36 (1) 12)).

Article 38 of the Law on Culture applies the same rules as provided for national institutions of culture also to the municipal institutions of culture. This unified regulation is in overall terms a very positive feature, yet obviously also all deficiencies and risks associated with national institutions of culture and described in the table below also refer to municipal institutions of culture. The same applies to the cultural funds (Article 39).

Article 65 (6) states that appealing the decision regarding the competition does not postpone the execution. This helps ensure the continuity of processes and provide for a smooth continuation of work of public administration without necessity to wait for the result of the appeal. But on the other hand, this makes the process of appeal rather useless since it is not possible for the author of the Project to get the necessary funding even in case he or she wins the appeal. Therefore, it is **recommended** to think over the necessity to state that the appeal does not postpone the execution. Another solution may be to set a deadline for handling the complaint, which would guarantee postponement of the results of the competition only for a certain and foreseeable period of time. This might ensure certain legal stability on the one hand, but also some sense of meaning to the appeal procedure on the other.

Articles 70 – 70g of the Law on Culture provide for the project budgeting. It is a progressive and modern method of budgeting in cases the performance indicators are formulated precisely and reaching of these indicators is controlled. Since the task of this activity of the Project does not reach to the issues of budgeting, this aspect will not be further analyzed. But in order to precisely analyze discretionary power in employment it must be noted that the project budgeting approach may leave more space for discretion also in employment by allowing more freely to employ experts, external collaborators and also employees for a definite period of time (for



realizing the particular project). But all this discretion should not result in political employment and politically based decisions to employ or not to employ a person. The first rule to avoid this is a professional and impartial director of the national institution whose appointment and dismissal is not politically influenced. This may be reached by adopting a common Law on Senior Officials which is now being developed and is planned for adoption.

According to Article 76 of the Law on Culture, employees of a public institution in the field of culture are also employed according to the Law on Administrative servants, Law on Public sector Employees and Labour law. The regulation and discretionary power in employment according to these laws are analyzed in a separate document.



6. DETAILED ANALYSIS OF THE LAW ON CULTURE

This section contains a detailed analysis of the Law on culture. The analysis was carried out according to the milestones described in Section 2 of this report. These milestones were chosen out of many others as first steps to ensure that the discretion now available to public officials of the Republic of North Macedonia is limited and put into a more understandable framework.

Detailed analysis of the Law on Culture contains a total of 82 possible improvements throughout the law. 33 of them were marked red, but 49 – yellow.

In the field of transparency (public availability of information) a total of 18 possible improvements are suggested, 12 of them yellow but 6 – red.

Also, regarding possible and necessary justification of the decisions, 15 drawbacks are identified. 10 of them yellow for discussion but 5 – red, recommended for immediate improvement.

7. PLACES OF RISK IN THE LAW ON CULTURE

No.	Provision	Decision	Authorized person	Criteria	Deadline	Written justification	Appeal	Public availability	Remuneration
1.	Adoption of the National Strategy for the Development of Culture – Article 9	To adopt a National Strategy for the Development of Culture	The Assembly	Public debate and participation of the ministries	At least six months before the expiration of the validity of previous strategy	Not required	Not relevant	Not regulated. Still since the Strategy was made available to the expert of the Project by the national expert it may be assumed that the Strategy is publicly available.	Not relevant
2.	Establishment of the Council of Culture – Article 11 (1) (2) (3) (5)	To establish the Council of Culture	The Minister of Culture	Not defined "Prominent artists, experts in the field of culture and the public and social life, according to the principle of expertise and competence and adequate and equitable representation of the citizens".	Not regulated	Not required	Not regulated	Not regulated.	According to the discretion of the Minister.
3.	Establishment of advisory bodies and hiring of external collaborators – Article 11 (4) (5)	To establish an advisory body or hire a collaborator	The Minister of Culture	Not defined	Not regulated	Not required	Not regulated	Not regulated.	According to the discretion of the Minister.

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No.	Provision	Decision	Authorized person	Criteria	Deadline	Written justification	Appeal	Public availability	Remuneration
4.	Awarding the title of Ambassador of Culture – Article 11a	To choose an Ambassador of Culture	The Government upon the proposal of the Minister of Culture.	Prominent and affirmed persons in the field of culture	Not regulated	Not required	Not regulated	Not regulated.	The title of Ambassador of Culture of the Republic of Macedonia is honorary and without monetary compensation
5.	Awarding monthly allowances to independent artists – Article 16	To award monthly allowances to particular independent artists	Discretion of the Minister of Culture upon a proposal of the commission established according to the discretion of the Minister of Culture	Procedure is determined by the Minister of Culture	Not regulated	Not required	Within 15 days to the State Commission for deciding in the Second Instance. No further information regarding appeal to the Court	Not regulated.	Discretion of the Minister of Culture
6.	Election of a Director of a National Institution – Article 29 (1).	To elect a Director of a National Institution.	Discretion of the Minister of Culture.	Public announcement. Education. Experience. Knowledge of English. Proposal for a program for work and development of the institution. Special conditions in the Statutes of an institution.	The Director is elected for a term of 4 years and may be re-elected.	Not required	Not regulated.	Not regulated. Report must be prepared every six months – Article 31b	Determined by the Minister of Culture upon the consent of the Government – Article 31a. Coefficient from 2.4058 to 5.2154.

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No.	Provision	Decision	Authorized person	Criteria	Deadline	Written justification	Appeal	Public availability	Remuneration
7.	Dismissal of a Director of a National Institution – Article 31b (3).	To dismiss a Director of a National Institution.	Discretion of the Minister of Culture Proposal of the Management Board (Article 36 (1) 8))	Non-fulfillment of the annual work program. Deficiencies/losses in the financial operations. “Does not work in accordance with the law and the statute” – Article 33 (2).	Six months after the term for elimination of deficiencies.	Not required	Not regulated.	Not regulated.	Not relevant
8.	Appointment of an Acting Director – Article 34	To appoint an acting director	Discretion of the Minister of Culture.	Not defined	Maximum period of 6 months. Public announcement for the Director must be announced immediately. No information regarding prolongation	Not required	Not regulated.	Not regulated.	Not regulated.
9.	The Management Board of the National Institution – Article 35	To appoint a Management Board of a National Institution	Discretion of the Minister of Culture and the Mayor of the local government regarding the representative of the Municipality.	Five members Prominent individuals in the field of culture. Principle of expertise and competence.	Period of appointment is four years and members are entitled to reappointment.	Not required	Not regulated.	Not regulated.	Appropriate compensation determined by the Minister of Culture

No.	Provision	Decision	Authorized person	Criteria	Deadline	Written justification	Appeal	Public availability	Remuneration
10.	Dismissal of the Management Board of an Institution – Article 35 (3)	To dismiss the Management Board of a National Institution.	Not regulated.	If they work illegally or the institution does not perform its function	Not regulated.	Not required	Not regulated.	Not regulated.	Not relevant
11.	Evaluation of applications for financing projects – Article 63	To grant financing to certain projects	Expert commissions and external collaborators hired according to the discretion of the minister	Announced according to Article 62. Criteria and announcements are available publicly	September of the current year for the following year. With exceptions in Article 64. The Ministry of Culture, during the year may announce other competitions". The Minister decides within 45 days.	A report must be submitted with proposals for the projects to be selected, the amount of necessary funds and the projects to be rejected with reasons for their rejection.	Within 15 days to the State Commission in Second Instance. No information regarding appeal in court. The appeal does not postpone the execution.	On the website of the Ministry of Culture – Article 65 (4).	Not regulated.
12.	Funding special projects without competition – Article 64 (3)	To fund certain projects "of national interest in the field of international cultural cooperation or in the field of protection of cultural heritage, which for objective reasons could not be submitted to the competitions"	Full discretion of the Ministry of Culture	Not defined. Projects of national interest in the field of international cultural cooperation or in the field of protection of cultural heritage.	Not regulated.	Not regulated.	Not regulated.	Not regulated.	Not regulated.
13.	Finalization of the project and return of funding – Article 66	To decide whether the Project has been finalized and to decide to initiate a procedure before a competent court for returning the funds	The Ministry of Culture	According to the agreement	Not regulated.	Not regulated.	Not regulated.	Not regulated.	Not relevant

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No.	Provision	Decision	Authorized person	Criteria	Deadline	Written justification	Appeal	Public availability	Remuneration
14.	Employment procedure in the field of Culture – Article 77a (2)	To employ a person in the field of culture	The Director of a Public Institution. Commission for employment established by the Director or the Minister of Culture	According to Article 77b Auditing procedure or an interview	5 years for artists, indefinite time for others. At least 15 days for submitting the application 5 days for the director to make the decision	A candidate proposal should be prepared and submitted by the Commission.	8 days to the Management Board. No information regarding further appeal.	On the website of the institution – Article 77h (2)	Not regulated
15.	Promotion procedure in the field of Culture – Article 77a (3) 77и	To promote a person in the field of culture	The Director of a Public Institution.	According to Article 77b Internal announcement Adopted by the Board of Directors – Article 77и (4)	5 years for artists, indefinite time for others	Not regulated.	Not regulated.	Not regulated.	Not regulated.
16.	Auditions and dismissals of the Category A artists (Article 77 п)	To decide regarding audition of a category A artist	Auditing Commission formed by the Director of an institution	Tree failed auditions	Audition must be passed every three years	Not regulated.	In a competent court	Not regulated.	Not regulated.

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No.	Provision	Decision	Authorized person	Criteria	Deadline	Written justification	Appeal	Public availability	Remuneration
17.	Disciplinary offences of employees in the field of culture – Article 78a, Article 78b, Article 78c,	To decide on a disciplinary misconduct or disciplinary offence	Director of the institution upon a written report prepared by the superior	According to Articles 78b and 78c	Initiating disciplinary procedure is possible within one month after finding out about the violation or within 3 months from the violation. Disciplinary procedure must be conducted within 30 days Director makes his decision within 3 days	Proposal of the disciplinary commission to the Director	Appeal to the management board within 8 days. No information regarding further appeal in court	Not regulated.	According to the decision
18.	Material damages caused by the employee – Article 78 и	To decide on compensating the caused damage	The Director according to the suggestion of the Commission Discretion to release the person	In a general act adopted by the Management Board	Within 30 days after the superior found out about the damages. The procedure may take no longer than 60 days	The Commission must submit a report to the Director	Within 8 days to the Management Board	Not regulated.	Not regulated.
19.	Determining the salary of the providers of public services – Article 78-лъ	To determine salary of particular service providers	The founder of the public institution	Not regulated.	Not regulated.	Not required	Not regulated.	Not regulated.	Discretionary
20.	Termination of employment – Article 78м	To terminate employment relationship	The Director	According to Article 78м (5)	Not regulated	Not required	To the Management Board within 8 days. No information regarding further appeal in court.	Not regulated.	Not relevant

8. PROPOSED AMENDMENTS TO THE LAW ON CULTURE

A total of 48 different activities are proposed for amending the regulations of the Law on Teachers and Professional Associates in Primary and Secondary Schools. They are specified in the table below and correspond to the vulnerabilities, risks and deficiencies revealed in the table above.

No.	Recommendation	Proposed amendments	Responsible Institution	Deadline
1.	To define the criteria for establishing the Council of Culture	Activity 1. To define the fields and institutions entitled to nominate their representatives in the Council of Culture. Activity 2. To ask for a written justification for nominating each member of the Council of Culture. Activity 3. To provide for a public availability at least of the names of the members of the Council of Culture and the justification for their choice Activity 4. To set concrete and defined borders for the remuneration of the Council of Culture	Ministry of Culture State Commission of Preventing Corruption	1 year
2.	To define the criteria for establishing an advisory body or hiring a collaborator	Activity 1. To provide for a fixed number of possible advisory bodies and external collaborators. Activity 2. To require a written and publicly available justification for hiring each advisory body or external collaborator. Activity 3. To define precise and verifiable results for evaluating the work of advisory bodies and external collaborators. Activity 4. To set concrete and defined borders for the remuneration of the Council of Culture.	Ministry of Culture State Commission of Preventing Corruption	1 year
3.	To define precise limits and procedures for awarding monthly allowances to independent artists	Activity 1. To provide the transparency of the competition procedure. Activity 2. To form a commission that is not dependent on any decisions of the Minister of Culture. Activity 3. To award the allowances according to the decisions of the Committee not the Minister.	Ministry of Culture State Commission of Preventing Corruption	2 years

		<p>Activity 4. To require a written and publicly available justification of providing each of the allowances.</p> <p>Activity 5. To define and make publicly available the amount of each allowance and the results achievable according to it.</p>		
4.	To minimize discretion in electing the Directors of the National Institutions of Culture	<p>Activity 1. To adopt the Law on Senior Civil Servants.</p> <p>Activity 2. To provide for a formation of a selection committee to evaluate the candidates according to the procedure prescribed by law.</p> <p>Activity 3. To ensure political independence of the selection Committee by adding members from outside the public administration</p> <p>Activity 4. To provide for the necessity and public availability for both the proposal of the selection committee and the decision of the Minister.</p> <p>Activity 5. To provide for an effective appeal procedure in court.</p>	Ministry of Culture State Commission of Preventing Corruption	2 years

5.	To safeguard the political independence of the Directors of the National Institutions of Culture in regulating the dismissal	<p>Activity 1. To provide for a clear and publicly available procedure for initiating the dismissal of the Director.</p> <p>Activity 2. To provide for a procedure of evaluating the opinion of the Director.</p> <p>Activity 3. To provide for the necessity and public availability of the proposal of the Management Board and the decision of the Minister.</p> <p>Activity 4. To provide for an effective appeal procedure in court.</p> <p>Activity 5. To provide for an effective procedure of recovering the damages of an unlawful decision (in the form of unreceived remuneration).</p>	Ministry of Culture State Commission of Preventing Corruption	1 year
6.	To prevent long term appointment of acting directors of institutions	<p>Activity 1. To define the criteria for appointing an acting director – either he should already work in the institution, or he should correspond to all requirements for the position.</p> <p>Activity 2. To limit the term of one acting director to one term of 6 months, that is not renewable</p> <p>Activity 3. To provide for the necessity and public availability of justification to appoint an acting director.</p> <p>Activity 4. To provide for precise deadlines for organizing a competition for a permanent director.</p> <p>Activity 5. To provide for the necessity and public availability of the results of the competition carried out to appoint a permanent director.</p>	Ministry of Culture State Commission of Preventing Corruption	1 year

7.	To improve appointment and dismissal procedures of the Management Boards of National Institutions of Culture	<p>Activity 1. To define criteria for the persons to be appointed in the Management Boards.</p> <p>Activity 2. To provide for the necessity and public availability of justification for appointment of particular persons to the Management Boards.</p> <p>Activity 3. To define a unified remuneration or compensation system for the members of the Management Boards.</p> <p>Activity 4. To define criteria for the persons to be dismissed from the Management Boards.</p> <p>Activity 5. To provide for the necessity and public availability of justification for dismissal of particular persons from the Management Boards.</p> <p>Activity 6. To provide for an effective appeal procedure in court of both appointment and dismissal procedures of the Management Boards.</p>	Ministry of Culture State Commission of Preventing Corruption	1 year
8.	To avoid projects funded according to political preferences	<p>Activity 1. To define criteria for the Projects of National interest.</p> <p>Activity 2. To provide for a procedure of forming evaluation committee, including representatives from outside of public administration.</p> <p>Activity 3. To provide for the necessity and public availability of justification for proposals of the evaluation Committee and decisions of the Minister.</p> <p>Activity 4. To define a unified remuneration or compensation system for the members of the evaluation committee.</p> <p>Activity 5. To provide for an effective appeal procedure in court, providing also for the possibility to suspend the execution of the decision until the final judgment of the court.</p>	Ministry of Culture State Commission of Preventing Corruption	2 years
9.	To improve promotion procedures in the field of Culture	<p>Activity 1. To provide for the necessity and public availability of justification of all decisions regarding the promotions.</p> <p>Activity 2. To provide for an effective appeal procedure in court.</p>	Ministry of Culture State Commission of Preventing Corruption	1 year
10.	Improvement of disciplinary inquiry procedure	Activity 1. To ensure justification and public availability of the considerations of the Disciplinary Committee and the Decision, possibly with covered personal data.	Ministry of Culture	1 year

		Activity 2. To provide for an effective appeal procedure in court.	State Commission of Preventing Corruption	
11.	To improve the procedures of termination of employment	Activity 1. To ensure justification and public availability of the considerations of the Director regarding the termination of employment. Possibly with covered personal data. Activity 2. To provide for an effective appeal procedure in court.	Ministry of Culture State Commission of Preventing Corruption	1 year
12.	To provide for an understandable sanctions oversight and sanctions mechanism for breaking the law	Activity 1. To provide for a regular auditing (e.g. once in 5 years) of the existing employment relationships in order to understand the existing situation and set goals for improvements. Activity 2. To provide for a sanctions mechanism for the findings of the audit. Activity 3. To provide for public availability of the findings of the audit, including press releases and press conferences.	Ministry of Culture State Commission of Preventing Corruption	1 year

9. RECOMMENDATIONS

After a thorough analysis of the general legislation and legislation regarding employment in the field of culture, the following main recommendations are offered:

1. To develop and adopt the Law on Senior Administrative Servants regulating the procedures of recruitment and employment of the heads of institutions.
2. To include in legislation regulating decision making a legal necessity to justify all administrative decisions, giving reasons for making one decision or another. This should be applied as a general principle for all decisions, but according to this analysis the necessities are identified in the Column no.7 of the tables analysing the Law on Culture.
3. To consider unification of basic recruitment, promotion and dismissal procedures for employees throughout the public administration – either it is public service or civil service, leaving only technical staff to the procedure of general Labour law.
4. Most often the decisions regarding employment in public administration are not publicly available, which allows for speculations in this direction. Therefore, according to the “yellow light” and “red light” in the tables, the changes should be made in respective regulations to make the decisions publicly available to everybody on the websites of institutions.
5. To eliminate the possibility and practice of recruiting temporary workers and acting heads of the institutions by strictly observing the existing regulations. An audit regarding this topic should be carried out to fix the existing situation.
6. Specific regulations regarding formation of various boards, commissions and expert councils should be made more transparent by regulating their establishment, work and remuneration and by making all decisions regarding these institutions publicly available on the website of the Government or respective institution. A procedure should be established to ensure that the working bodies do not duplicate the competence of the ministries.



7. To eliminate the number of politically recruited persons not exceeding 10 or 15 persons for one member of the Government. But determining this number must definitely go together with elimination of political impact on the rest of the public administration, including on the appointment of senior administrative servants.
8. To think over the necessity to state that the appeal does not postpone the execution. Another solution may be to set a deadline for handling the complaint, which would guarantee postponement of the results of the competition only for a certain and foreseeable period of time. This might ensure certain legal stability on the one hand, but also some sense of meaning to the appeal procedure on the other.

