

Shpendim Maksuti, PhD¹

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**VËSHTRIM I TË DREJTAVE DHE LIRIVE TË BASHKËSIVE
ETNIKE NË REPUBLIKËN E MAQEDONISË SË VERIUT**

**ПРЕГЛЕД НА ПРАВАТА И СЛОБОДИТЕ НА ЕТНИЧКИТЕ
ЗАЕДНИЦИ ВО СЕВЕРНА РЕПУБЛИКА МАКЕДОНИЈА**

**OVERVIEW OF THE RIGHTS AND FREEDOMS OF ETHNICAL
COMMUNITIES IN THE NORTH REPUBLIC OF MACEDONIA**

Abstract

Recognition of the rights and freedoms of the national communities in the Republic of North Macedonia presents a subject, namely matters for their regulation and for the important constitutional documents, approved in the Republic of North Macedonia. Particularly have to be underlined the criterion of historical development of the freedoms and rights of national communities, in this review we particularly emphasize.

The tendency to regulate and accept the freedoms and rights of the communities in a more qualitative and more appropriate manner, is noted in the novelties of the second constitution of the SRM, adopted in the distant 1963 year. In this context, it is worth underlining the SRM Constitution of 1974, its innovations, which are very substantial and qualitative, in relation to the recognition, legal regulation and legal guarantee of the rights and freedom of national communities in the Republic of Macedonia. The Constitution of the SRM of 1974 presents the third consecutive Constitution and the last constitution adopted in the time of “socialist regime” in our country.

¹ Part time Lecturer at the Faculty of Business Administration at the University of Tetovo

Freedom to establish institutions and associations is an important freedom that is adequately recognized by the constitutional decisions of 1991. It is about the right to establish different institutions and associations in order to develop and cultivate the attributes of nationalities, these attributes should be developed and cultivated in order to express the identity of each nationality in the Republic of Macedonia. These innovations that relate to the freedom of establishment of institutions and associations are not and are not an integral part of education. They exist as independent organizational form with specific functions that pertain and are expressed in the cultural plan of each nationality.

Introduction

Constitutional solutions and other legal solutions to the rights and freedoms of national communities in the socialist and post-independence period of the Republic of Macedonia

From the known fact the Republic of Macedonia is a multinational state, the positive provisions, installed by the Constitution itself, as the basic laws of the country, specifically regulate the rights and freedoms of the national communities living in the Republic of Macedonia. The freedoms and rights of national communities are in fact the freedoms and rights that come in and belong to the catalog of rights and freedoms, which are accepted by all citizens in the Republic of Macedonia. According to this, it is about fundamental freedoms and fundamental rights, political freedoms and political rights, economic freedoms and economic rights, freedoms and rights in the sphere of culture, social affairs, education and freedoms and other rights. For all of them, as is emphasized in the current hearing, the Constitution of the Republic of Macedonia has a complex constitutional provision, incorporated in its normative part of the Constitution and with the same provisions these, this corpus of liberties and rights are defined, guaranteed and protected.

The rights and freedoms of communities and nationals in the Republic of Macedonia are also closely related to the rights and freedoms of free expression of national belonging. These are in the frames of the previous point. Recognition of the rights and freedoms of the national communities in the Republic of Macedonia presents subjects, namely matters for their regulation and important constitutional documents, approved in the Republic of Macedonia. Particularly worthy of

note is the relevant legal acts brought after World War II, by them, by them, and in terms of the criterion of historical development of the freedoms and rights national communities, in this review we particularly emphasize. An important document is the ASNOM-IT². Declaration (ACDA) of 1944; then innovations in the Constitution of the People's Republic of Macedonia of 1946. The tendency for the regulation and acceptance of the freedoms and rights of the communities in a qualitative and adequate manner is noted in the novelties of the second constitution of the SRM, brought in the year of distant 1963. In this context it deserves to be underlined the Constitution of SRM of 1974, its innovations, which are very substantial and qualitative, in relation to the recognition, legal regulation and legal guarantee of the rights and freedoms of the national communities in the Republic of Macedonia. The Constitution of the SRM of 1974 presents the third consecutive Constitution and the last constitution brought by the "socialist regime" in our country.

So, briefly, we have just highlighted some of the innovations that directly affect the rights and freedoms of the guaranteed national communities in the quoted documents. They are important documents for the development of the legal – political system of the Republic of Macedonia.

In the Declaration of (ASNOM) from 1944 year, all the rights of the national communities for free and national life are guaranteed; for other ethnicities, outside the Macedonian people, reference was made to "national minority". The Declaration (ASNOM) represented one of the important legal acts in the area of rights and freedoms, brought to the Meting of (ASNOM) in the stated year.

Also important are the novelties of the 1946³ Constitution of the People's Republic of Macedonia, which belong to and which regulate the rights of all ethnicities in the Republic of Macedonia. It is also noted that the same reference- "national minority" reference was used for other ethnicities as well. The right to protect cultural development with the constitutional provisions of 1946, is specifically regulated and guaranteed. As important was the novelty with which the freedom of using the native language of other ethnicities is also guaranteed, differently from the Macedonian language.

² Prof . D-r. Svetomir Shkariq vepër e cituar.

³ Prof. Dr. Fatmire Lumani, E drejta kushtetuese 2000, Tetovë.

The list of rights and freedoms of national communities essentially and quantitatively increases with the constitutional norms of the 1963 Constitution of the SRM. With constitutional norms, new rights and freedoms for members of other national communities are also applied. Also noticeable is the novelty in the reference ratio of other national communities. In addition to the national minority reference, with the provisions of the 1963 Constitution, for the first time for other national communities was used also the reference “nationality”. Regarding the rights and freedoms with the constitutional provisions of this Constitution, equality in their use by all ethnic communities with the Macedonian people is guaranteed. The novelty of the representation of national communities in the Republic of Macedonia is also important, as well as the novelties of this Constitution, regulating the right to use the mother tongue, as well as the development of culture and the right to establish different institutions and organizations. The right to use their language was specifically regulated in the education process. By this, in legal and factual terms, the right to education in the mother tongue of national communities was guaranteed, and when it comes to the use of language, in the 1963 Constitution, we find that in the municipalities in which the concrete national communities live in larger numbers, the acts that are brought to the municipality are also published in the language of the concrete national community.

Outstanding constitutional solutions are also the novelties of the 1974 Constitution of the United States of America. First, this Constitution included almost all the decisions from the previous constitution, from the 1961 Constitution of the SRM. These are the solutions to the provisions and their regulations defined the rights and freedoms of national communities in the Republic of Macedonia. But with the innovation of the 1974 Constitution of the SRM, the directory of freedoms and rights was broadened and changed quantitatively. It was foreseen the legal importance-the right of adequate representation in the SRM. Assembly and its bodies. By constitutional provision, the equality of languages was guaranteed. The concrete novelty of this Constitution was also in relation to the right to education in the mother tongue of representatives of other national communities in relation to the reference, the constitution contains novelty so that other national communities also have the reference “nationality”. Qualitative legal protection, especially in terms of recognizing rights and freedoms, was foreseen for

other ethnic groups as well. In other words, the rights and freedoms and rights of other nations in the Republic.⁴

Also important were the constitutional legal status of Albanians and Turks in the Republic of Macedonia. The Constitution of 1974 provided for a concrete constitutional provision that Albanian and Turkish nationalities represent and the same were defined as constitutive subjects in the state of Macedonia along with the Macedonian people. And more specifically, the Socialist Republic of Macedonia, according to the provisions of Article 1 of the Constitution of the SRM of 1974, is defined as a national state of the Macedonian people⁵ as well as a state of Albanian and Turkish nationalities in it.

Essential innovations for the freedoms and rights of national communities in the Republic of Macedonia under the 1991 Constitution

The Constitution of the Republic of Macedonia gives place and special importance to the rights and freedoms in our country. New quality is recognized in their knowledge, their guarantee, and their realization in practice. In this area, in the area of human rights and freedoms, particulars are emphasized and regulated in relation to it, and the special rights and freedoms for the national communities living in the Republic of Macedonia. In this context, there are two phases of the development and legal regulation of human rights and freedoms for the national communities in the Republic of Macedonia. The first phase belongs to the period since the adoption of the Constitution of the Republic of Macedonia in 1991 and then its entry into force until 2001. It is about the amendments IV-XVIII of the Constitution of the Republic of Macedonia of 2001 (“Official Gazette of RM”, No., 91/2001 year.

Constitutional solutions of 1991 and the rights of national communities

The 1991 constitutional solutions and the rights of the national communities show a new and qualitative approach to regulating and recognizing rights and freedoms from the general catalog of human and citizen’s rights and freedoms. The first part refers to the reference itself.

⁴ Më gjerësisht Prof. Dr. Fatmire Lumani, E drejta kushtetuese, vepër e cituar f. 90-93.

⁵ Prof. Dr. Svetomir Shkariq, E drejta kushtetuese, vepër e cituar f.319-320.

It is precisely the reference “nationality” which was defined by the constitutional solutions of the 1974 SRM Constitution, that reference is replaced by the reference “nationalities”. Nationality references mean that understanding of all nationalities living in the Republic of Macedonia is terminated. For the rights of nationalities, in accordance with the constitutional solutions of the first independent constitution of the Republic of Macedonia, independent and independent, brought forward in 1991, significant novelties are. They are summarized as the Preamble of the Constitution itself, while on the one hand important, and as decisions in the normative part of the Constitution, two constitutional decisions are especially noted and have an adequate place in the Constitution, full citizenship is recognized for all nationalities in The Republic of Macedonia, on the other hand, determines an recognizes the permanent coexistence of all nationalities with the Macedonian people in the Republic of Macedonia⁶.

From important rights recognized to nationalities, and in accordance with constitutional solutions, the rights that pertain to freedom of expression and identity are noticed; the freedom of establishment of institutions and associations, the right to education in their mother tongue; and the right to use the mother tongue as an official language, in the manner and under the conditions laid down by law.

Regarding the constitutional innovations with which; recognizing the freedom of expression of identity, the highlighted so solution contains important innovations which are essentially distinguished by innovations from this sphere which were defined and guaranteed by the constitutions of constitutional and legal socialist rule in the Republic of Macedonia. With this exposed innovation, the right of nationalities is recognized to express their cultural, linguistic and religious identity. These are important attributes of each nation living within a state.

Freedom to establish institutions an association is an important freedom that is adequately recognized by the constitutional decisions of 1991. It is about the right to establish different institutions and associations in order to develop and cultivate the attributes of nationalities, these attributes should be developed and cultivated in order to express the identity of each nationality in the Republic of Macedonia. These innovations that relate to the freedom of establishment of institutions and associations are not and are not an integral part of education. They

⁶ Prof. Dr. Fatmire Lumani, E drejta kushtetuese, vepër e cituar f. 137.

exist as independent organizational forms with specific functions that pertain and are expressed in the cultural plan of each nationality.

The right to education in the mother tongue, as well as nationality, is a significant novelty in the Constitution. The right to use native language in primary and secondary education is recognized. In other words, the right to education in the mother tongue is recognized at the stated levels and in the manner prescribed by law. Even in this Constitution and in its solutions is emphasized the very fair obligation for the teaching of the Macedonian language in all schools in which education is realized on the language of nationalities. With the teaching of the Macedonian language, it is possible for the representatives of the nationalities in the Republic of Macedonia successfully integrate into the Macedonian society in carrying out all kinds of work and duties, professions and. The Constitution of the Republic of Macedonia did not have the provision for education in the language of specific nationalities for higher education. In further developing the constitutional legal regulation, this constitutional vacuum was completed in 1997 with the adoption of the Law and its legal solutions for education in Albanian at Faculty of Pedagogy. It is about the Law on the languages in which the teaching in the Pedagogical Faculty "Sv. Kliment Ohridski" in Skopje ("Official Gazette of R.M. No.5/1997).

Significant are the changes regarding the use of the language of nationalities as an official language. This right, the right to use the language of nationalities as an official language, is recognized in local government units, but only under the terms and conditions foreseen by the Constitution itself, respectively the Law. It is about the use of the mother tongue of concrete nationality as an official language in the local government units in the territory of which concrete nationality lives in bulk or substantial parts. For the nationality that is a majority in the local self-government units, the law provides for the way in which the language of the specific nationality can be used as an official language. In this sense, in accordance with the constitutional provisions, in the majority meaning is meant the majority of concrete nationality which is and represents over 50 % of the majority of the population of the local self-government unit. According to this definition, according to the provisions of Article 7 of the Constitution,⁷ it is further noted that in the Republic of Macedonia the official language is the Macedonian

⁷ Prof. Dr. Svetomir Shkariq, vepër e cituar f. 321.

language and its Cyrillic script. In the local self-government units where the majority of the nationals are represented, in official use, in addition to the Macedonian language and Cyrillic script, are the languages and the writing of the nationalities in legally regulated manner.

The question of the considerable number of members of concrete nationality, as a constitutional provision, by a concrete law, this institution is determined and regulated. More specifically, with the Law on Local Self Government of 1995, the provision of meaning, an important part of concrete nationality that lives in the local self-government assumes and belongs to the number of members of concrete nationality who lives in the local self-governing unit, the percentage reaches over 20 % of the total population. In this regard it is underlined / emphasized that in the local self-government units in which there are a considerable number of members / representatives of certain nationality, in official use, apart from the Macedonian language and the Cyrillic scrip, are also the language and script of nationality, and manner prescribed by law.

The Constitutional Amendments of 2001 and the Rights of National Communities

When it comes to the rights of national communities in the Republic of Macedonia from concrete areas and concrete list of human rights and freedoms, with particular importance for the solutions, the decisions contained in the amendments to the Constitution of the Republic of Macedonia since 1991, which amendments were brought in 2001.

It is about important and fundamental changes to the concrete constitutional solutions that the 1991 Constitution had. The essential changes to the 2001 Constitutional Amendments were more relevant to the directions. Importantly, in this reflection we will emphasize the innovations that pertain to the rights of national communities.⁸

The first novelty about the reference itself is noticed. The specified reference and the “nationalities” rule, as it stood in the normative part of the Constitution, is replaced by the reference “national community”. Reference to the national community is noted for the first time in the Constitution of the Republic of Slovenia. This is understandable when a certain comparison of constitutions and constitutional arrangements of the former RSFJ republics is made.

⁸ Amendamentet Kushtetuese në Republikën e Maqedonisë IV-XVIII të publikuar në Gazetën zyrtare të RM nr. 91/2001

When analyzing other provisions of the Constitutional amendments and their solutions, however, two very important decisions /solutions are noticed. The first solution belongs to the right of symbols and their use for all national communities living in the Republic of Macedonia. This decision / resolution is summarized in Amendment 8 of the Constitution of the Republic of Macedonia. The second constitutional decision /decision concerns the right of national communities to form cultural, artistic and education, on the other hand, recognizes the right to form other scientific associations with the sole purpose of ensuring and defending the right to express, cultivate and develop the identity of each national community.

These two very important innovations that regulate, recognize and guarantee the stated rights are added to these important innovations. The Constitution guarantees adequate and equitable representation of members of national communities in the state government bodies and other public institutions that exist at all levels in the Republic of Macedonia.

This innovation and determination, deserves to be emphasized, is set in the fundamental values of the constitutional regulation of the Republic of Macedonia. The fundamental values are defined and sanctioned by the provisions of Article 8 of the Constitution of the Republic of Macedonia of 1991.⁹

The second innovation, more precisely, the subsequent innovation contained in the Constitutional Amendments of 2001 has to do with the use of the official language of nationalities. The use of the mother tongue as an official language and the novelty in the constitutional and political regulation of the system in the Republic of Macedonia derives from the constitutional provision, which is implemented by a concrete law. The Constitutional provision guides /directs to an important regulation. Exactly, the official language in the Republic of Macedonia and at the level of the Republic of Macedonia, apart from the Macedonian language and Cyrillic script, is the language and script of the national community living in the Republic of Macedonia in percentage of at least 20 % of the total population. In the same context, when it comes to the important innovations that are contained in the Constitutional Amendments introduced in 2001, the novelty of which is governed by the right of veto is also noted. The veto right is recognized in the adoption of laws that are of particular interest to the national

⁹ Neni 8 I Kushtetutë së Republikës së Maqedonisë.

communities living in the Republic of Macedonia. Under the notion and determination of veto, in the context of constitutional amendments, the need for a double majority during the voting and adoption of concrete laws and other acts brought by the Assembly of the Republic of Macedonia, with which acts and their provisions regulate rights of special interest to national communities.

The right to education and use and use of the language of national communities, as was underlined, was recognized and regulated by concrete constitutional provision for primary and secondary education. With regard to higher education in the mother tongue it is noticed that in the constitutional amendments in 2001¹⁰ there is no clear provision. The clear provision is not contained in the Ohrid Framework Agreement brought in 2001. But on the other hand, the right to education in the mother tongue in higher education is later regulated by the specific provisions of the Law on Higher Education. And more concretely, with the amendments to the Law on Higher Education conducted in 2003, a concrete legal decision regulates the right to education in mother tongue and in higher education under regulated conditions, procedures and procedures and guaranteed by Law quoted. It is about the education of the Albanian national community in Macedonia. Accordingly, education in the native language of the Albanian national community is also recognized in higher education.

Concerning the use of the language of the concrete national community as an official language in the Republic of Macedonia, in accordance with the solutions contained in the Ohrid Framework Agreement and in accordance with the Constitutional Amendments of the Republic of Macedonia, there is essential innovation. This question should more specifically be regulated by the Law. The Republic of Macedonia with concrete legal solutions regulates the issue of the use of the language of the concrete national community which the national community lives in the territory of the Republic of Macedonia at least 20 % of the total population.

These are just some of the important decisions /resolutions contained the Amendments of the Constitution of the Republic of Macedonia, brought to us in 2001. With these amendments and their Regulatory Rules, they regulate the issues that belong to the rights of national communities in the areas of emphasis, respectively in the fields of social relations.

¹⁰ Amendamentet Kushtetuese në Republikën e Maqedonisë IV-XVIII të publikuar në Gazetën zyrtare të RM nr. 91/200.

It is essential to note that the solutions so far belonging to the rights of the national communities on the one hand represent continuity with the previous solutions, but on the other hand, it is noticed their modification which is an expression of adaptation of the solutions so far to a new political system expressly expressed through innovations in political pluralism. On the other hand, this should also be noted, the solutions contained in the Amendments to the Constitution of the Republic of Macedonia, introduced in 2001, present adequate adaptation to the UN Declaration of the United Nations on Minority Rights, which was approved in December 1992. Solutions from the mentioned statement, which at the stage of the project proposal, was used in the Republic of Macedonia during the preparation and adoption of the first constitution in the Republic of Macedonia¹¹ after its independence, brought in 1991, which constitution is in legal force, but supplemented and amended with concrete amendments. Completed with 2013, the number of amendments introduced in the Constitution of the Republic of Macedonia is 32.

Conclusion

The freedoms and rights of national communities are in fact the freedom and rights that come in and belong to the catalog of rights and freedoms, which are accepted by all citizens in the Republic of Macedonia. According to this, it is about fundamental freedoms and fundamental rights, political freedoms and political rights economic freedoms and economic freedoms and economic rights, freedoms and rights in the sphere of culture, social affairs, education and freedoms and other rights. For all of them, as is emphasized in the current hearing, the Constitution of the Republic of Macedonia has a complex constitutional provision, incorporated in its normative part of the Constitution and with the same provisions as these, this corpus of liberties and rights are defined, guaranteed and protected.

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¹¹ Prof. Dr. Svetomir Shkariq, vepër e cituar.

Regarding the constitutional innovations with which; recognizing the freedom of expression of identity, the highlighted solution contains important innovations which are essentially distinguished by innovations from this sphere which were defined and guaranteed by the constitutions of constitutional and legal socialist rule in the Republic of Macedonia. With these exposed innovations, the right of nationalities is recognized to express their cultural, linguistic and religious identity. These are important attributes of each nation living within a state.

Reviewers:

Prof dr. Jeton Shasivari

Prof dr. Mersim Maksuti

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