

THE CHALLENGES OF SECULARISM AND EUROPEAN INTEGRATION (THE NORTH MACEDONIAN CASE)

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Introduction

The separation of the Socialist Republic of Macedonia from the Socialist Federative Republic of Yugoslavia⁷² happened in the light of the major tectonic movements in the former European socialist/communist countries

⁷² The collapse of the SFR Yugoslavia is characterized by a series of military conflicts that took place on the territory of this country, with the exception of Macedonia that has gained its independence peacefully. The wars were marked by fierce ethnic conflicts between the Yugoslav People's Army and Slovenians in Slovenia; between Croats and Serbs in Croatia; between Serbs, Croats and Bosniaks in Bosnia and Herzegovina and between Serbs and Albanians in Kosovo. These bloody conflicts, which were a result of the dissolution of the Federal Yugoslavia, ended with the signing of the Dayton Peace Agreement in 1995. After the collapse of this country, 5 new countries were created: Slovenia, Croatia, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia (which included Serbia and Montenegro). On 21 May 2006, as a result of a referendum, Montenegro became an independent state, and therefore so did Serbia. On February 17, 2008, members of the Kosovo parliament passed the Declaration of Independence. Yugoslavia's wars are considered one of the worst armed conflicts on the European continent since the end of the Second World War, due to which the UN established the International Criminal Tribunal for the Former Yugoslavia, which initiated war crimes proceedings against large number of participants in these military conflicts (See Petar Radan, *Breakout of Yugoslavia and International Law*, Routledge, September 21, 2001; Henry H. Perritt, *The Road to Independence for Kosovo: A Chronicle of the Ahtisaari Plan*, Cambridge University Press, Cambridge, 2010).

in the last decades of the 20th century⁷³, as a result of series internal political, economic and social conditions and circumstances.

With regard to the SFRY, these processes brought to the surface some conservative myths of constituent nations, which in the process of transition of the constitutional and political systems have built, on the foundation of these premises, new top priorities – national states with a democratic order, free and competitive entrepreneurship, market economy and commerce, political and social pluralism in accordance with the standards of the developed west-European democracies.⁷⁴

Having in mind the opposing constitutional concepts, the one that was falling apart vis-à-vis the one that was to be created, and under the pressure from major global trends, the process of a forceful collapse of the former Yugoslavia was initiated, which resulted in the formation of today's Macedonia⁷⁵ as a sovereign, independent and democratic country which stood for

⁷³ As a result of people's uprisings across the countries of Eastern Europe, the process of the fall of communism began. These events, started in Poland in 1989, continued in Hungary, East Germany, Bulgaria, Czechoslovakia and Romania. The Soviet Union collapsed in 1991, as a result of the decision of the Russian Federation and 14 other nations proclaiming their independence. Between 1990 and 1992, this system of state power also collapsed in Albania and in Federal Yugoslavia. These processes had their influence in other socialist states outside the European continent, such as Cambodia, Ethiopia and Mongolia, which also rejected this system of state regulation (See Bartlomiej Kaminski, *The Collapse Of State Socialism*, Princeton University Press, Princeton, New Jersey, 1991).

⁷⁴ See Carole Rogel, *The Breakup of Yugoslavia and its Aftermath*, Greenwood Press, 2004.

⁷⁵ The processes of acquiring Macedonia's independence through the dissolution of the then SFRY began in the course of 1990. On 20th September 1990, the Parliament of the Socialist Republic of Macedonia adopted 25 amendments to the Constitution that made the first changes in the constitutional and legal system (Decision on the adoption of the Amendments LVII – LXXXI of the Constitution of the Socialist Republic of Macedonia, Amendments to the Constitution of the Socialist Republic of Macedonia, *Official Gazette of the Socialist Republic of Macedonia*, XLVI, No. 28, Skopje, 21.9.1990, pp. 506-511). On 24th September 1990, the President of the Parliament called the first democratic multiparty elections, which took place on November 11 of the same year, and the North Macedonian Assembly in this composition was constituted on 8 January 1991. Furthermore, on 27th January 1991, the MPs elected the first President of the Republic, Kiro Gligorov, and on 20th March 1991, the first expert government led by Nikola Kljusev was elected. In the meantime, on 25th January 1991, the MPs adopted the Declaration of Sovereignty of Macedonia (Declaration on the Sovereignty of the Socialist Republic of Macedonia, Assembly of the Socialist Republic of Macedonia, No. 08-220-1). Furthermore, on 7th June 1991, the constitutional amendment LXXXII was adopted, which deleted the term "socialist" from the name of the SRM (Decision on the promulgation of amendments LXXXII to LXXXV of the Constitution of the Socialist Republic of Macedonia, Amendments to the Constitution of the

full observing of the common democratic principles of the international law contained in the UN acts⁷⁶, as well as in the documents of the other international, European and regional organizations.

By installing the new constitutional, legal and political order, Macedonia was to respond to the challenges of the new age.

Ideological grounds

The system that was set up with the adoption of the Constitution on 17th November 1991⁷⁷ projected Macedonia as a civic and democratic state with a key position of the rule of law principle and the guaranteed human rights, civil freedom and national equality.⁷⁸

With regard to the relations towards the religious communities and, in that sense, the guarantees for the human rights and freedoms, Macedonia has developed a model based on:

1. The international West-European standards;
2. The traditions of the majority population that belong to the Orthodox Christianity; and

Socialist Republic of Macedonia, *Journal of the Republic of Macedonia*, Year: XLVII, No. 27, Skopje, 11.6.1991, p. 357). In this sense, on 7th May 1991, the President of the Republic of Macedonia submitted to the Members of the Parliament a proposal for the adoption of a new democratic Constitution, which was enacted on 17th November 1991, preceded by the Referendum on Independence of 8th September 1991, and the Declaration on public will of the citizens for a sovereign and independent state Macedonia, adopted at the session of the Assembly on 17th September 1991 (Declaration on the plebiscite expressed will of the citizens for a sovereign and independent North Macedonian state of Macedonia, Assembly of the Republic of Macedonia, No. 08-3786, 17.9.1991). Finally, on 19th December 1991, with the adoption of the Declaration on International Recognition of the Republic of Macedonia, started the process of international recognition of the already established North Macedonian state (Declaration on International Recognition of the Republic of Macedonia, Assembly of the Republic of Macedonia, No. 08-5099, 19.12.1991).

⁷⁶ See: Brad K. Blitz, *War and Change in the Balkans: Nationalism, Conflict and Co-operation*, Chapter 9; Andrew Rosos, *Disintegration of Yugoslavia: Macedonia's Independence and Stability in the Balkans*, Cambridge University Press, Cambridge, 2006, 118). Declaration on the Plebiscitarily Expressed Will of Citizens for a Sovereign and Independent State Macedonia, Assembly of the Republic of Macedonia, No. 08-3786, Skopje, September 17, 1991.

⁷⁷ Constitution of the Republic of Macedonia, *Official Gazette of the Republic of Macedonia*, Year: XLVII, No. 52, Skopje, 1991, (pp. 805-815).

⁷⁸ See Gerhard Robbers, *Encyclopaedia of World Constitutions*, Igor Spirovski (author), Macedonia, VB Hermitage, (pp. 551-555).

3. The realities that come from the current religious landscape in the country.

The challenge for the North Macedonian model of relations with the religious organizations, as well as the guaranteed religious freedoms and rights is contained in the ability to provide balance among the three above-mentioned factors.

The international West-European standards incorporated in the North Macedonian constitutional and judicial system are, in fact, part of the values from the theory of natural rights from the 17th and 18th century, the Renaissance⁷⁹, the Enlightenment⁸⁰, and the Protestant Reformation, which are values that are part of the history of the West European countries and North America⁸¹.

According to these ideas, as indicated in the first part, the human rights and freedoms are seen as a secular version of the Judeo-Christian ethics, while the relations between the state and the religious organizations is seen through the prism of the model of their separation.⁸² In accordance with these values and ideas, the American Declaration of Independence⁸³ was adopted in 1776, in 1789 in revolutionary France was adopted the Declaration on the Rights of the Man and the Citizen⁸⁴, and in 1791 the American Charter on the Rights⁸⁵ was adopted. These are all documents which are considered founding stones for the contemporary system of human rights and freedoms, and an inevitable part in this system are the religious rights and freedoms. With the development of the temporary constitutionality, these values found their place also in the constitutions of the West European countries, as well as in numerous other international acts, particularly in the UN Universal Declaration on Human Rights from 1948⁸⁶, as well as in the documents of the Council of Europe, NATO, the former European communities, i.e. in today's EU. In the documents of these organizations, the issues taken over

⁷⁹ See *The Renaissance, A Very Short Introduction*, Oxford University Press, Oxford, 2006.

⁸⁰ See Martin Fitzpatrick et al., *The Enlightenment World*, Routledge, New York, 2004.

⁸¹ See Stathis N. Kalyvas, *Religion and Democratization: Belgium and Algeria*, Estudio/Working Paper 107, 1997 and Sabine C. Carey et al., *The Politics of Human Rights: The Quest for Dignity*, Cambridge University Press, Cambridge, 2010, (p. 16).

⁸² See Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era*, University of California Press, 2008, (p. 64).

⁸³ *Declaration of Independence*, (archives.gov), 7.3.2019.

⁸⁴ *Declaration of the Rights of Man and of the Citizen*, (hrer.org), 7.3.2019.

⁸⁵ *Bill of rights*, (archives.gov), 7.3.2019.

⁸⁶ *Universal Declaration of Human Rights*, (un.org), 7.3.2019.

in the legislations of the national states and by some other conventions and treaties are further elaborated⁸⁷.

Generally speaking, the North Macedonian model of secularism uses the experience from the traditions of the Orthodox version of Christianity, which is closer to the majority of the population in the country, as well as from the rest of the Orthodox acumen, which uses the Byzantine Empire as a model of the ideal state⁸⁸. The Byzantine model rests on the system of unity (symphony) between the church and the state power⁸⁹. The Emperor, who led the Empire, was the reflection of the spiritual and the worldly power⁹⁰. In this model, the Orthodox Church did not realize its primary role only based on the activities incorporated in the spiritual premises, but also in the function of the worldly state, as part of it⁹¹. There was also the rule that if the church was not fully connected with the state, that state could not be considered completely functional. That is why the jurisdiction of the Orthodox Church was connected with the specific state boundaries, and if the boundaries of the state were to be expanded, it was normal to expect that the boundaries of the church will also grow⁹². And vice-versa. If the jurisdiction of the church was expanded, it was normal for the political tendencies for changes of the state boundaries to come to the surface⁹³. In the period when the Orthodox people fell under slavery, the church had for its mission to "maintain the fire" in order to renew the state on the territory that was under its jurisdiction. With regard to the religious freedoms and rights, the Byzantine Empire, which was an Orthodox model of a state, recognized the Orthodox Christians as a constitutive element of its statehood. Namely, the main condition for one person to gain a state status and full capacity in Byzantium was to be an Orthodox Christian.⁹⁴

⁸⁷ See Blandine Chelini-Pont, *Religion and Society in Europe*, Conference: "Law and Religion in Transitional Societies", Norway, 2006.

⁸⁸ See John Meyendorff, *The Byzantine Legacy in the Orthodox Church*, St Vladimir's Seminary Press, Crestwood-New York, 1982.

⁸⁹ Pedro Ramet, *Eastern Christianity and Politics in the Twentieth Century*, Duke University Press, 1988, pp. 37-58.

⁹⁰ Pedro Ramet, *Eastern Christianity and Politics in the Twentieth Century*, op.cit., p. 40.

⁹¹ See Mile Bogović, *State and Church in Serbian Orthodoxy*, Center for political research (cpi.hr), 7.3.2018.

⁹² See Mile Bogović, *State and Church in Serbian Orthodoxy*, op.cit.

⁹³ Ibid.

⁹⁴ See Philip Schaff, David Schley Schaff, *History of the Christian church*, Charles Scribner's Sons, New York, 1910.

Unlike today's international standards that developed under the strong influence of the Catholic-Protestant tradition where from the very beginning the concept of separation of the spiritual and worldly power was present, thus opening the path to pluralism, the Orthodox European East was more keen on the unity of the church and government, i.e. on a state-church monolith existence and collectivism.⁹⁵

Macedonia does not have a religiously homogeneous society. Besides the followers of the Orthodox Church, the North Macedonian society has a number of other confessions, such as the Islam, the Catholic Christians, the Protestant Christians, the Jews, etc.⁹⁶ This plural religious reality in Macedonia has additionally shaped its model of relations with the religious organizations, as well as the character of the religious freedoms and rights in the country.

In the spirit of the Western European and international standards, the historical traditions of Orthodox Christianity, as well as the principles of religious pluralism, the state has provided several guarantees for practicing and nurturing other minority confessions.

Macedonia has set several practical postulates in relations with religious organizations, as well as freedom of religion based on:

1. The Western European spiritual heritage that states that the state power is separate from religious organizations, and that the principle of secularism is accepted as a principle of non-interference of state institutions in the competencies of religious organizations, and vice versa. Secularism is also expressed through the constitutional prohibition of any involvement and interference of religious organizations and communities in matters that are within the competence of the state;
2. the guarantees provided for the exercise of religious freedoms and rights of citizens based on universal and Western European standards;
3. the traditions of the Orthodox Christianity in the light of the legacy of the Byzantine Empire. It should be emphasized that the Orthodox Church in Macedonia, as well as its historical and spiritual heritage, has a primary place in the system;
4. the heterogeneous character of the religious landscape in the state that is built on the basis of the existing system of secured guarantees of free ex-

⁹⁵ Mile Bogović, *State and church in Serbian Orthodoxy*, op.cit., p. 89.

⁹⁶ According to the results of the 2002 census, 64.7% of the population stated that they confessed Orthodox religion, 33.3% – Islamic, 0.34% – Catholic, and 1.5% – other religions (stat.gov.mk), 7.3.2019.

istence and action of the Islamic community, the Catholic Church, Protestant churches, the Jewish community, and other smaller religious organizations.

Constitutional framework

The Constitution of Macedonia from 17th November 1991 sets the framework for the relations of the state with the religious organizations, as well as the guarantees of freedom of religion⁹⁷. At the time of the adoption of the Constitution, as well as at its later changes, there were different propositions.

The creator of the Constitution defines the borders of the North Macedonian model of relations with the religious organizations, as well as the issue of the freedom of religion. The content of these provisions points out to the conclusion that Macedonia poses the question of equality in the broadest sense, guaranteeing equality regardless of the religious identification of the citizens. Also, the state guarantees the freedom of religion allowing the citizens to express their faith freely by themselves or in association with others. The state allows the concrete religions to establish religious schools, social and welfare institutions in a procedure prescribed by law. The concrete religions are ordered in three groups:

1. In the first one is the North Macedonian Orthodox Church (MOC);
2. In the second are placed Islamic Religious Community, Catholic Church, Evangelist-Methodist Church and Hebrew Community, while
3. In the third, under the category "other religious communities and groups", are placed the rest of the minor religious denominations.

In that sense, placing the religious communities in three groups does not carry different scope of rights and freedoms which they can exercise, but that is more a reference to the historical and state-founding perspective seen through the character of the North Macedonian state, which in the greatest degree is founded on the Orthodox Christianity's heritage. In addition to the general guarantees, the state has provided other guarantees as well for the religious organizations of the minorities in a direction of cultivation and developing of their identity. The constitutionally defined freedoms and rights are subject to protection by the State through the Constitutional Court. Finally, the Constitution provides that the State during war time or in a state of emergency may restrict the freedoms and rights of the citizens, but these restrictions cannot be

⁹⁷ See Gerhard Robbers, Encyclopedia of World Constitutions, Igor Spirovski (author), Macedonia, VB Hermitage, (pp. 551-555).

discriminatory on the basis of, among others, religions, as well as that the restriction of the freedoms and rights cannot be in regard to the right of religion.

Legal framework

The first act in independent Macedonia that more concretely regulates the sphere of relations of the state with the religious organizations, as well as the freedom of the religion was passed in July 1997. The causes for passing the Law on faith communities and religious groups originate from the overall trends of transformation of the social and political system in accordance with the democratic principles.

Ten years after the first act had become a law, the second act was passed, which regulates in more details the relations of Macedonia with the religious organizations, as well as the freedom of religion. The causes for passing the Law on the legal status of a church, religious community or a religious group originated from the non-functionality of the previous legal solution, mostly a result of the two decisions by the Constitutional Court cancelling parts of the key provisions.

In contrast to the pertinent constitutional and legal provisions, which were analyzed above, the North Macedonian approach in relation to the questions related to the status of the religious organizations, as well as the freedom of the religious confession, is determined also by other normative acts which have been adopted throughout the years, and which fully outline the character of the North Macedonian pluralistic model of secularism.

In a full sense, it is about acts related to the legal proving of the religious belonging; returning of the possessions – denationalization; protection against discrimination on religious foundation; conscientious objection, studying of theology in primary school, religious blessing in the state schools; the status of high schools of the religious organizations; the state celebration of the religious holidays, the status of the acts of the religious organizations in the legal system of Macedonia, as well as the acts which are related to the questions about the state support in the struggle for autocephaly of MOC.

International standards

From the aspect of internal legal orders, the United States is the first country in the world to guarantee freedom of religion in its highest legal act, the

Constitution. This reality is a result of the political views of the US creators who, through the guarantees of the free exercise of religious confession, hoped that the new territory would not be confronted with religiously grounded problems and trials that were characteristic of the Christian European West. The way in which the United States ensures the peaceful coexistence of different religious denominations is mirrored by other states in their own constitutional texts. Today most of the democratic states contain provisions in their constitutions that offer guarantees for the exercise of the freedom of religion.

Taking into account the aforementioned, regarding the topic, for Macedonia today the documents of the United Nations and the Council of Europe are particularly relevant.

The United Nations, as a universal international organization that declares itself as a global association of governments cooperating in the field of international law, global security, economic development and social equity, was founded in 1945.

From the aspect of the topic, the following 5 international documents of this international organization are significant. They are:

1. the UN Charter;
2. the Universal Declaration of Human Rights;
3. the Covenant on Civil and Political Rights;
4. the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, as well as
5. the Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities.

The Council of Europe is a regional international organization, established on 5th May 1949, in order to promote greater co-operation between the countries of the European continent, as well as to promote democracy, human rights and the rule of law.

From the aspect of the topic, the following two international documents of this international organization are significant. They are:

1. the European Convention on Human Rights, as well as
2. the Framework Convention for the Protection of National Minorities.

Institutional framework

Generally, in regard to this question, the institutions can be divided into three groups:

1. In the first group are the institutions which work domain is predominantly related to the question of the state's relations with the religious organizations, that is the Commission for relations with the faith communities and the religious groups;
2. The second group predominantly is concerned with the question of the state relations with the religious organizations, as well as with the question of achieving, among other things, the religious freedoms and rights, that is the Constitutional Court;
3. In the third group, are the institutions which work domain is predominantly concerned with the question of achieving, among other things, the religious freedoms and rights, that is the Regular Committee of inquiry for the protection of freedoms and rights at the Parliament, the Attorney General and the Committee for prevention and protection against discrimination.

Conclusion

The geographical position of Macedonia largely defined its historic destiny in terms of its statehood, culture, ethnicity, and certainly in religious terms. Located in a region where there is always a surplus of historical disputes over local historical battles, local concerns, and achievements of each of the Balkan nations, Macedonia continues to give its contribution to the larger community.

Since gaining its independence to date, in Macedonia the ideological and political pillars that determined the North Macedonian model of secularism have not always functioned in full harmony and cohesion. This conclusion can be derived from the nature of the legal regulations adopted in this area. Namely, as noted, the nature of the legal solutions was largely conditioned by the ideological positions or matrices of the actions by the ruling parties. Namely, the parties of the conditionally speaking, the left wing, advocate a more pronounced form of secularism according to which the state should develop only a general attitude towards all religious organizations and communities, while, opposite of them, the right wing parties, as a rule, aspire towards establishment of less pronounced secularism, which, in the framework of the established general attitude towards religious organizations, endeavors to elevate the status of the North Macedonian Orthodox Church. On the other hand, the parties of the ethnic communities, in the frames of the constitutionally defined concept of separation of the state from the religious organizations, emphasize the importance and the role of the Is-

lamic religious community, in conditions when such status is to be given to the MOC. This fact points to the conclusion that in Macedonia there is still no unanimity regarding the question of finding the perfect balance between the three factors that determine the state model of relations with religious organizations and in that sense, the freedom of religion.

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