The European Journal of Management and Public Policy

VOLUME 12 • No.1 (2012)
ISSN 1726-6475

ECPD
EUROPEAN CENTER FOR PEACE AND DEVELOPMENT
UNIVERSITY FOR PEACE ESTABLISHED BY THE UNITED NATIONS

The European Journal of Management and Public Policy

VOLUME 12 • No.1 (2012)

ISSN 1726-6475

Contents

Tamara Radovanovik, Does Europeanization Influence the Judicial Reforms in Macedonia **4**

Nano Ruzin, The Myth About Diplomacy, History and Iconography **12**

Tatijana Ashtalkoska, The Expand Confiscation in Macedonian Criminal Law **24**

Irina Cudoska, Immigration in the European Union, Definition of Social Problems and Problem Solving Methods **35**

Dragana Chifliganec, Marko Andonov, SMEs in Republic of Macedonia–a Brief Review on the Legal Regulation **44**

Aleksandra Srbinovska Doncevski, Professional Development Opportunities for Local Administration Staff in the Republic Of Macedonia **51**

Atanasovska Dusica, Types of Non-Pecuniary Loss and its Compensation Under the Macedonian Law **57**

Besim Veseli, Comparison of Multiethnic Model and the Political System Between Bosnia and Herzegovina and Republic of Macedonia **66**

Biljana Puleska, The Implementation of the Climate Change Regime in the Republic of Macedonia – Some Aspects on the EU Emission Trading Scheme **74**

Nikola Popovski, Tax Indicators for Quick Identification of Short-Term Changes in The Dynamic of Nominal GDP **86**

Marjan Mladenovski, Education–a Key to the Integration of Minorities: Focus on the Roma Community in Macedonia **98**

About The Authors **112**

published by:

ECPD

EUROPEAN CENTER FOR PEACE AND DEVELOPMENT
UNIVERSITY FOR PEACE ESTABLISHED BY THE UNITED NATIONS

European Journal of Management and Public Policy
Academic Journal and Professional Forum on Interface between Business and Society

Published by the European Center for Peace and Development of the University for Peace established by the United Nations

For the Publisher: **Prof. dr Negoslav P. Ostojić**, ECPD Executive Director

ISSN 1726-6475

The European Center for Peace and Development (ECPD) is a regional, international and research organization. The ECPD represents a unique institution in Europe and has special significance to countries of South-Eastern Europe. The ECPD was established in 1985, with the main tasks and objectives "to organize and carry out postgraduate studies, research projects and dissemination of knowledge, which contribute to the promotion of peace, development and international cooperation". Following its mission defined in its Statute, the ECPD "…brings together the intellectual potentials from all parts of the world for the benefit of implementation of the programs of education and research project devoted to the fulfillment of the ECPD aims and objectives". Dr. Simonida Marjanovic, Ambasador Paul-Marc Henry (long serving UN Under-Secretary Genaral and President of the OECD Development Center) and Dr. Pierre Maries-Gallois served as president, while Professor Norman Scott CMG, Professor Shinichi Ichimura and Professor Takehiro Togo chaired the ECPD Council.

The Basic tasks and objectives of the ECPD have been incorporated into its program structure, which feature:

(A) Studies leading to postgraduate degrees and specialist training in Management, European Union, European Union Law and International Business Law, Diplomatic Studies, Banking and Finance, Sustainable development issues,

(B) Interdisciplinary research on sustainable development issues, regional development, multicultural, multi-confessional and inter-ethnic relations and international relations;

(C) Organizing international meetings, conferences, round tables, symposia, and workshops on topical issues from its programme;

(D) Publishing conference, proceedings, professional and scientific texts, research papers, case-studies, textbooks, etc.

The ECPD organizational structure is based on its Executive Staff, consisting of the Executive Director and the ECPD Secretariat as well as professors core and expert team. The ECPD Executive Director represents the ECPD in public, national and international organizations, coordinates the ECPD activities and manages the ECPD Secretariat.

In focusing its activities on education and research that foster sustainable development and the promotion of peace, the ECPD has a very well-developed educational network in various countries, a number of research units and an extensive publication program (with more than 200 books published).

printed in Belgrade by Graficom-uno

Editorial Policy

The *European Journal of Management and Public Policy* publishes original scholarly papers across the whole spectrum of disciplines encompassing Management and/or Public Policy (widely defined). The areas of interest include Accounting, Finance, Human Resource Management, Organisational Behaviour, Industrial Organisation, Marketing, Public Administration, Public Policy, Transformation and Transition Studies, etc. but this list is by no means exhaustive. The Journal aims to be eclectic and pluralistic and, consequently, multidisciplinary work and work endorsing different (even conflicting) schools of thought is welcome. The Journal desires to be an influential policy forum and therefore the submissions must be primarily policy oriented and capable of influencing the policy processes at both the micro and macro levels. However, good quality theoretical papers, which may also be considered for publication, should clearly demonstrate the potential for replication and further extension by the professionals and policy-oriented scholars. Each paper submitted for publication will be judged, based on its own merit and international standards of excellence. The editors and referees will pay particular attention to the originality of the topic, the quality of the methodological approach, the paper's relevance for future developments of and within the discipline and the overall quality of exposition. Although the Journal promotes high quality, original empirical and theoretical work, high quality review articles are also welcome, especially if they demonstrate excellence to the extent that they may influence the directions of further research on the particular topic or in the focus area. All published papers must be accessible to both academics and practitioners, who should be able to understand papers published without being experts on the particular topic or area of research. All papers submitted will be judged in the first place by the Editor. If the paper is initially judged to be suitable for publication in the Journal, the Editor will send the paper to *at least* two anonymous referees. The referees can recommend a paper for publication without revision, publication with minor revisions, publications with major revisions and to reject publication of a submitted paper. In all cases where they recommend some changes to be made, the referees must provide a detailed report listing all the changes that are recommended. Based on the referee reports, the Editor will decide on the status of the submitted paper. The decision of the Editor is final and cannot be disputed.

The Journal aims to publish contributions of the highest quality possible that can be of interest to the wider international professional public. However, the research topics should preferably reflect research interests and traditions of Europe, notwithstanding the comparison of different approaches existing in other parts of the world.

The prospective authors may contact the Editor and respective Regional Associate Editor (if appointed) with questions regarding the suitability of the paper for publication in the Journal. However, the final decision can only be made on the submitted full paper. The editors can assess submissions that are incomplete, using their discretion, but their comments are not binding regarding any decision on a later submitted full paper. The editors will not provide detailed comments on papers prior to formal submission to the Journal. The Editor reserves the right to return manuscripts to the authors without the full refereeing process if, in his professional and academic judgement, the paper is not of a quality acceptable to the Journal, or for any other reason. However, the Editor or his nominee will provide a prospective author with reasons for such a decision, especially if the paper falls outside the editorial policy or the authors seriously disregarded the Notes to the Contributors, published on the back cover of the Journal.

The Journal is committed to best publishing practices and emphasises that the full referee procedure will be completed within 16 weeks from the date of submission to the Journal. The Editor will personally confirm receipt of the submission in writing and keep authors informed on the progress of their submission. Every effort will be made by the Editorial Board to inform the author of the decision within the committed 16 weeks from the date of submission. No submission fee is currently being charged.

Editorial Board

TAMARA RADOVANOVIK

Does Europeanization Influence the Judicial Reforms in Macedonia

Abstract

The case study of Macedonia is used to examine the impact of Europeanisation process and its interrelation with the democratization accomplishments of the country. The analysis focuses on the judicial system through political conditionality of the Republic of Macedonia. The paper advances the view that Europeanisation through political conditionality is an integral but not all encompassing factor for fostering genuine democratization as exemplified by the Macedonian judicial system. Macedonia harmonized Macedonian laws with the acquis communautaire and improved capacity building of the institutions but the judiciary is still under political pressure and therefore not independent. Considering the above reform framework of the judicial system, having in mind/ starting from the standpoint that the reforms of the judicial system proved difficult in transitioning countries, the rest of this paper assesses and comments the progress in the judicial reforms in Macedonia. These reforms are first and foremost necessity for the citizens in the country in order that democratically proclaimed governments provide actual democratic environment where citizens' rights and liberties are practically protected. Only this will create security in which the Macedonian citizen and voter will truly feel the benefits of the rule of law.

Key words: Europeanisation, judicial system, democracy, laws, reforms

I Introduction

The case study of Macedonia is used to examine the impact of Europeanisation process and its interrelation with the democratization endeavors of the country. The analysis focuses on the judicial system through political conditionality of the Republic of Macedonia. The paper advances the view that Europeanisation through political conditionality is an integral but not all encompassing factor for fostering genuine democratization as exemplified by the Macedonian judicial system.

II Theorizing Europeanisation

The EU has become a normative and cognitive frame[1] for the aspirant countries that have undertaken Europeanisation. Europeanisation is the overall frame leading towards external transfer of EU rules and their subsequent

[1] Radaelli C. M. (2004) *Europeanisation Solution or a problem*?, European Integration online paper, vol. 8, no. 16

adoption by non-member states with the aim of obtaining eventual membership. In the context of "aspiring candidates in transition, Europeanisation can be understood as the conceptual framework that links integration and transition" due to the simultaneity of these processes as well as their overlap.[2] Thus, the EU can be perceived as "a reference model for modernization of the political, economic and social systems) of the aspiring candidates in transition."[3]

Europeanisation extends as a process attempting to tackle and change the 'ways of doing things' in the aspirant countries. The two main mechanisms utilized in the process are the prospect of EU membership and conditionality, as the main tool. In the Europeanisation process of these countries, conditionality encompasses political/democratic and economic requirements.[4]

Why should the Western Balkan states accept the EU's influence on their national patterns of governance? The literature suggests focusing on one powerful Europeanisation instrument in particular, which is absent in old member states: "membership conditionality gives the EU significant leverage in transferring to the applicant countries its principles, norms, and rules, as well as in shaping their institutional and administrative structures"[5]

Membership conditionality links the progressive improvement of the EU's relations with the respective countries to the fulfillment of a whole range of political and economic conditions by the latter. In the Eastern Enlargement, Grabbe[6] set out a typology of five conditionality instruments with which the EU managed to change governance patterns in Central and Eastern Europe. The "mechanisms of Europeanisation" referred firstly, to "models: provisions of legislative and institutional templates" corresponding with the legal downloading of the acquis communautaire and the harmonization with EU regulations; secondly, to "money: aid and technical assistance" that had "an important role in reinforcing the transfer of EU models" thirdly, to "benchmarking and monitoring" meaning to rank candidates, benchmark in

---

[2] Agh 1998, cited in Leeda Demetropoulou. *Europe and the Balkans: Membership Aspiration, EU Involvement and Europeanization Capacity in South Eastern Europe*. Southeast European Politics Vol. 3. No.2–3. 2002, 89.

[3] Ioakimides 1998, cited in L. Demetropoulou. *Europe and the Balkans: Membership Aspiration, EU Involvement and Europeanization Capacity in South Eastern Europe*. Southeast European Politics Vol. 3. No.2–3. 2002, 89.

[4] Atanasova G, (2008), *Does europeanisation equal democratisation?* Application of the political conditionality principle in the case of the Macedonian system of governance, Analytical journal, Skopje, may 2008, vol. 1, no. 1

[5] Grabbe, H. (2002) *Stabilising the East While Keeping Out the Easterners: Internal and External Security Logics in Conflict*, in S. Lavenex and E. M. Ucarer (eds.) *Migration and the Externalities of European Integration*, pp. 91–104 (Lanham, MD: Lexington Books).

[6] Grabbe, H. (2003) *Europeanization Goes East: Power and Uncertainty in the EU Accession Process*, in K. Featherstone and C. M. Radaelli (eds.) The Politics of Europeanization, pp. 303–31 (Oxford: Oxford University Press).

particular policy areas and provide examples that the applicant seeks to emulate; fourthly, to "advice and twinning" which involved the direct secondment of civil servants from EU member states to work as advisers in domestic institution building programmes; and finally, to "gate-keeping: accession to negotiations and further stages in the accession process", which was the "EU's most powerful conditionality tool" and related to "access to different stages in the accession process, particularly achieving candidate status and starting negotiations"[7]

Although these five Europeanisation mechanisms were powerful instruments for the EU, they did not automatically result in strong external influence. Research on the Eastern Enlargement showed that the effectiveness of membership conditionality was dependent on several mediating factors. The credibility of EU conditionality was a central factor. As Ulrich Sedelmeier noted, "credibility has two sides. The candidates have to be certain that they will receive the promised rewards after meeting the EU's demands. Yet they also have to believe that they will only receive the reward if they indeed fully meet the requirements".[8]

The credibility of EU conditionality represents a major difference between the Eastern enlargement and the enlargement strategy used for the Western Balkans. The current candidates are less certain when or even if they will receive the ultimate reward of EU accession. In view of a European public opinion increasingly opposed to further enlargement, European political actors are unwilling to specify a possible accession date for the Western Balkan countries.[9]

IV Judicial Reforms in Macedonia

Since 17th December 2005, Macedonia is a candidate country for EU accession. This has been a great achievement for a country that faced many challenges on its path acquiring the candidate status. Today "Macedonia in Europe" is a goal supported by all ethnic communities in Macedonia. Various surveys show that the EU integration is the common goal which unites all citizens of Macedonia regardless of their ethnicity, political orientation, social status etc.

---

[7] Grabbe, H. (2003) *Europeanization Goes East: Power and Uncertainty in the EU Accession Process*, in K. Featherstone and C. M. Radaelli (eds.) The Politics of Europeanization, Oxford: Oxford University Press, pg. 316

[8] Sedelmeier U., 2006, *The EU dimension in European Politics*, Houndmills:Palgrave Macmillan, 2006

[9] Trauner F. (2008), *The Europeanisation of the Western Balkans: deconstructing the EU's routes of influence in justice and home affairs*, Institute for European Integration Research, Austrian Academy of Sciences Paper presented to the ECPR Fourth Pan-European Conference on EU Politics, Riga, September, 25–27, 2008

Macedonia has Stabilization and Association Agreement with the EU for ten years now and its progress is evaluated on yearly basis. Still, the main weaknesses such as the incomplete reform of the judicial system, the problems with the rule of law, corruption, and the economy (high level of unemployment and low investments) remained. The need of fully functional judicial system is crucial for the country to continue its development. The reforms in the judicial system should consolidate the rule of law in the country and entrench the democracy. Establishing the rule of law, for Macedonia is not just part of the process of successful transition, but as a candidate for full membership in the European Union is a crucial requirement for the country to fulfill the political criteria.

Although the progress report in 2008 stated that the country has progressed in adopting new legislation and changes in the judicial system, yet it concluded that the judicial branch is not independent and efficient.[10] Even worse the report pointed to direct involvement of the executive branch of power in the work of the judicial branch. The recent 2009 progress report of the European Commission on Enlargement states that despite the reported progress "continued efforts are needed to ensure the independence and impartiality of the judiciary, in particular through the implementation of the provisions regarding appointments and promotions."[11] The report of 2010 says "Macedonia has delayed judicial, administrative and economic reforms over the past twelve months.[12]

Before going into the discussion about the stage of the judicial reforms in Macedonia, the theoretical background should give better prospective to understand the overall reform process.

Carothers states that there are three types of reforms of the judicial system; each with a different set of challenges. At some point the success of the reforms depends on the existence of a wide consensus in the society, especially among the government and those who practice the law.

The first type of reforms concentrates on the revision of the laws that remove very old provisions.[13] The purpose of these reforms is to overthrow legal procedures that might pose obstacle in the system, and create a solid legal foundation that will guarantee the independence of courts and protection of citizens' rights.

---

[10] European Commission report on the Republic of Macedonia 2008 Progress Report, November 2008, www.sei.gov.mk

[11] European Commission report on the Republic of Macedonia 2009 Progress Report, November 2009, www.sei.gov.mk

[12] European Commission report on the Republic of Macedonia 2010 Progress Report, November 2010, www.sei.gov.mk

[13] Carothers, Thomas. Chapter 1: The Rule of Law Revival. Promoting the Rule of Law Abroad: In Search of Knowledge. Pg 1 http://www.carnegieendowment.org/files/CarothersChapter11.pdf

The second type of reforms is building institutional capacity.[14] In this phase of the reform process focus is on the law related institutions, like courts, penitentiary system, public prosecutors, defenders and etc. The goal is to create independent, but yet accountable institutions that will be efficient, competent and impartial. This set of reforms includes many mechanisms like new salary system for judges, new technology, ethic codes, trainings, setting out standards for lawyers, judges etc.

The third type of reforms refers more on the behavioral change of the actors within the government. These reforms are probably the most vital. They are the key to genuine independence of the judicial system.[15] The third type of reforms aims to create environment where the government (all three branches) will increase its compliance with the law. Government officials should stay away from interfering in the work of the judiciary. This reform is the most challenging, but also crucial for the success of all other reforms. All three types of reforms should induce the driving impulses of a judiciary that complies with highest democratic standards.

Considering the above reform framework of the judicial system, the rest of this paper assess and comments the progress in the judicial reforms in Macedonia. The paper is focused on assessing Macedonian judiciary attentiveness to comply EU standards.

Regarding the first type of reform revision of the laws, the approximation of the Macedonian legislation with the EU laws is considered a priority area. For that purpose the National Program for Approximation of Legislation was adopted in April 2003 and a Working Committee for European Integration was established in March 2003. A subcommittee for approximation to the EU legislation established Working Groups for Harmonization of Legislation with the community acquis. Moreover, since October 2003 a "Statement on Compliance with EU Legislation" must accompany each draft of a new law or policy thus directly supporting the harmonization of the Macedonian legislation and policies to the EU acquis. The general assessment of the EC is that Macedonia is making progress in the approximation of the legislation.[16]

According to that analyze is made a 2011 revision of the National Programme for the adoption of the acquis, was accepted by the government in December 2010. According to this, the harmonization of the Macedonia legislation continued in 2011. The government plans to draft 62 European laws and over 400 bylaws. The National Programme for the Adoption of the acquis foresees

---

[14] Carothers, Thomas. *Chapter 1: The Rule of Law Revival*. Promoting the Rule of Law Abroad: In Search of Knowledge. Pg 2 http://www.carnegieendowment.org/files/CarothersChapter11.pdf

[15] Carothers, Thomas. *Chapter 1: The Rule of Law Revival*. Promoting the Rule of Law Abroad: In Search of Knowledge. Pg 3 http://www.carnegieendowment.org/files/CarothersChapter11.pdf

[16] European Commission report on the Republic of Macedonia 2010 Progress Report, November 2010, www.sei.gov.mk

201 trainings for 8 037 people for capacity building of the Macedonian institutions in order to bring them closer to European standards.[17]

Regarding the second type of reforms, building institutional capacity many reforms have been made during the past years. According to Minister of Justice Mr. Manevski, the Report of the European Commission from November 2010 "is objective and recommendations are balanced and focused on the most important issues that need to be worked on for their improvement".[18] The Report finds out that there was a positive effort made in the work of the Judicial Council for improving of the overall system, the career system was applied, the principle of equitable representation, and it was concluded that the Academy for Training of Judges and Prosecutors provided continuous training to nearly seven thousand participants. "An improved budget management was stated, and it referred to ongoing efforts to improve the efficiency of the judiciary. The Report says that the backlog of court cases in 2009 compared to 2008 was decreased by 15 percent, while electronic case management is fully "implemented". He said that the Report noted that the Judicial Council made additional efforts to fight corruption and to ensure impartiality, dismissing six judges for misuse of official position. Regarding anti-corruption policy, a well-founded progress has been made in implementing of anti-corruption framework.[19]

The Report states that it is inconvenient that the Minister of Justice is a member of the Judicial Council. In this regard, the initiative has been rendered to change the amendment. The Minister and the President of the Supreme Court shall not be members of the Council.

The laws recommended in the Report "The Law on Courts, the Law on Judicial Council, the Law on Administrative Disputes and the Law on Judicial Service were adopted. The most significant developments in these laws, pointed out by the Minister of Justice Manevski on the press conference held on 16.9.2010, are the introduction of a system of career advancement of judges, improving the disciplinary system determining liability and unprofessional work performance of judges through introduction of objective and measurable criteria, improve transparency in operation of courts and improved financing of the judiciary by establishing fixed percentage of the Judiciary budget relative to GDP, which is 0.8 percent.[20]

---

[17] Младеновска Пелагија (2011), *Европската агенда не е приоритет*?, Makdenes, http://www.makdenes.org/content/article/2290933.html, 29.01.2011

[18] Manevski (2010), *The EC report is objective, it should be worked on improving the recommendations*, http://www.justice.gov.mk/novost_detail.asp?lang=eng&id=635, 10.11.2010

[19] Manevski (2010), *The EC report is objective, it should be worked on improving the recommendations*, http://www.justice.gov.mk/novost_detail.asp?lang=eng&id=635, 10.11.2010

[20] Ministry of Justice, Newsletter (2010), *Manevski: the amendments of four laws will provide more efficient and modernized judiciary*, http://www.pravda.gov.mk/documents/broshura3_eng.pdf, November 2010

Also the capacity developments was made of the Court Budget Council, Judicial Council, Court Service Council, and Academy for Judges and Public Prosecutors, enabling them to strengthen their administrative and management capabilities, and improve overall performance. The Automated Court Case Management and Information System (ACCMIS) was deployed, replacing manual case processing in all Macedonian courts, and over 2,200 system users were trained. Over 1,100 judges and court staff received training in topics such as communication strategy development, public information, customer service, case-flow management, and introduction to court administration. The Court Administration Association was established and, in its first year, drafted 10 of 39 amendments to the 2010 Law on Court Service and also participated in the development of the first Court Staff Ethics Code.[21]

The third type of reforms refers more on the behavioral change of the actors within the government. These reforms are proven to be the most difficult ones. Erwan Fouere, the EU ambassador to Macedonia, indicated the gist of the 2010 EU Commission report: "We would like to see a judicial system functioning without any political influence."[22] Macedonia has delayed judicial, administrative and economic reforms over the past twelve months; the EU Commission is set to conclude in its annual progress report. Yet the EC will uphold the recommendation to start membership talks with Skopje made in last year's report.

Up to now the government was persuading the European Union that they are maintaining the pace for the reforms but the three last reports contain almost the same remarks. Last year the critics were that Macedonia is slowing down in more areas. According to the Report from 2010 the problematic areas are politicized public administration, weak fight against the corruption, bad business climate because of the judicial instability, lack of court independence and human rights.

Whereas the government and opposition are arguing for bad condition in the judiciary system the experts are soliciting to show real will to change the conditions. One of the main criticism was the fact that the Minister for Justice sits in the Judicial Council which puts him in the position to possibly influence the Council decisions. According to the prof. Osman Kadriu "the change of the Minister in the Judicial Council who is no longer member will not change many things in the judicial system".[23] The courts are still corrupted, non efficient dependent, with show trials which shows that the judiciary still does not compute its main function to be impartial and efficient. In this

---

[21] USAID JUDICIAL REFORM IMPLEMENTATION PROJECT JRIP In Macedonia, http://macedonia.usaid.gov/en/sectors/democracy/jrip.html, 2011

[22] European forum Net, (2010), http://www.europeanforum.net/news/998/eu_progress_report_critical_on_macedonia_rsquo_s_reforms, Tue 26 Oct 2010

[23] Младеновска Пелагија (2011), *Политика во судството?*, Makdenes, http://www.makdenes.org/content/article/2318245.html, 23.02.2011

case the justice is everything but blind. We can't speak of real reforms if the government and the Parliament continue to use other ways and methods to temper and influence the judicial power. Whoever succumbs to the pressure is accomplice to the demolition of the rule of law.

Despite the judicial reforms the number of the appeals that the citizens have had with the judiciary has increased. According to the data from the Ombudsman in 2009 there were 774 appeals in 2009 and 756 in 2010.[24]

The European Commission recommends improving professionalism, competence, and impartiality in Macedonia's judiciary. According to the opinion poll for confidence in judicial systems from 2008 just 23 percent of Macedonians surveyed say they have confidence in the judicial system in their country compared to a regional median of 47 percent for 25 EU member countries surveyed. More than 7 in 10 respondents in believe corruption is widespread throughout the government, and more than 8 in 10 corruption is widespread within businesses 86 percent in Macedonia.[25]

One of the most important type of reforms refer to the moral and ethical behavior of those who hold office. This set of reforms simply requires from government officials to abide the laws, to be held accountable for their actions and refrain from direct influence of government on the judicial branch.[26] This stage of reforms requires all institutions to implement the laws. The only way to guarantee the independence and impartiality of the judiciary is actually to obey all regulations that have been passed with the purpose to guarantee the independence. No law on State Judicial Council or law on Election of Judges or any other piece of legislation can entrench the independence of the judicial system if those who proposed the laws are those who circumvent the laws. Independence and impartiality is the part that Macedonia fails to secure in its own courts.

Several events in recent period indicate government's interfering in court's matters. The opposition party SDSM is condemning the Judicial Council which appoints and designates judges according to the governmental preferences. They accuse the Minister that he degrades and destructs the judicial system trough constant political pressures, disqualifications, politization and attacks of the Constitutional Court.[27]

Radmila Sekerinska, President of the National Council for Eurointegratons said that "the government thinks of the Report from the European

---

[24] Младеновска Пелагија (2011), *Политика во судството?*, Makdenes, http://www.makdenes.org/content/article/2318245.html, 23.02.2011

[25] English Cynthia (2008), *Many in the Balkans Lack Confidence in Judicial Systems*, http://www.gallup.com/poll/104872/Many-Balkans-Lack-Confidence-Judicial-Systems.aspx, March 10, 2008

[26] Tasevski F. (2010) *Macedonia's judicial reforms: a rocky path toward accountability and independence*, pg. Analytical – Vol. 3, Issue 1

[27] Пелагија Младеновска (2011), *Европската агенда не е приоритет?*, http://www.makdenes.org/content/article/2290933.html, 29.01.2011

Commission only two months before it is issued and only then call immediate meetings and adopt laws. However at the moment that the report is adopted they continue with partization of the administration and the pressures on the courts and they disregard political dialogue in a manner that if the European laws are adopted it is still questionable how much they can improve the general impression."[28]

Behaving in such a manner Macedonia is risking vanishing from the European agenda. The country risks quiet isolation. According to one European official who follows Macedonian-European relations "last year The Commissioner for Enlargement Füle had many meetings with party leaders but this year things will change. The cause for these meetings was the hope that Macedonia will start with the necessary reforms, that it will start with concrete resolutions of the name dispute with Greece, instead of the verbal promises and that it will make further step towards EU. EC had hoped to announce in 2011 start of the negotiations, instead they faced again shallow promises from the Macedonian political leadership"[29]

V Conclusion and Recommendations

From the discussion presented above the overall conclusion contains bittersweet remarks for the judicial reforms in Macedonia. The country successfully progressed in the revision of laws in line with EU standards and in building institutional capacity. However, there are three deficiencies of the reforms. First, the judicial branch of government still is under tremendous political influence and still faces severe corruption. Such circumstances affect the efficiency of the system, depreciate the effect of the reforms, cause decline of the quality of justice and create negative perception for the judicial system among citizens.

To conclude, the judicial reforms demonstrate effective implementation and progress towards putting the necessary legal framework into place in line with EU standards. Moreover, Europeanisation through political conditionality and the prospect of membership has mobilized crucial reforms in the third branch of the governance system. However, major challenges of monitoring of implementation of legislation as well as maintaining the commitment for an effective fight against organized crime and corruption remain imperative.[30]

---

[28] Младеновска Пелагија (2011), *Политика во судството?*, Makdenes, http://www.makdenes.org/content/article/2318245.html, 23.02.2011

[29] Dnevnik, 2011, Македонија пред празна евроагенда, http://www.dnevnik.com.mk/default.asp?ItemID=8BF963E15E44E34684CB6921F31D7E4C, 30.01.2011

[30] Atanasova G (2008), *Does europeanisation equal democratisation? Application of the political conditionality principle in the case of the macedonian system of governance*, Analytical Journal, Skopje, may 2008, vol. 1, no. 1

The analysis of the aspects of the Macedonian judicial system demonstrates that Europeanisation has geared substantial reforms towards the fulfillment of the democracy criterion as a crucial segment of the Copenhagen political criteria. Concurrently, measures have been taken or envisaged by the Macedonian government in the documents such as the National Programme for the Adoption of the acquis which sets the short and medium term measures to be undertaken regarding the combating of these problems and acceleration the country's road towards Europe. Nonetheless, the domestic endeavors towards achieving results need further commitment and results. Evidently, Europeanisation through conditionality acts as a process generating domestic reforms in terms of both structure and agency towards the creation of a democratic state governed by the rule of law in Macedonia. Yet, despite the obvious positive impact of the Europeanisation framework, deficiencies can still be spotted.

The reforms continue, but the judicial system is still inefficient and not fully independent. As a consequence the inefficient judicial system together with the public administration reform is pillar factor in inhibiting progress in most aspects. These reforms are first and foremost necessity for the citizens in the country in order democratically proclaimed governments to provide actual democratic environment where citizens' rights and liberties are practically protected. Only this will create security in which the Macedonian citizen and voter will truly feel the benefits of the rule of law. The objective must not be just to satisfy Brussels and his representatives. After all Mr. Rehn and Mr. Füle are passing in Macedonia just few hours or one day and we remain to live.

REFERENCES

Agh (1998) *Europe and the Balkans: Membership Aspiration, EU Involvement and Europeanization Capacity in South Eastern Europe*. Southeast European Politics Vol. 3. No.2-3. 2002, 89.

Atanasova G, (2008), *Does europeanisation equal democratisation? Application of the political conditionality principle in the case of the Macedonian system of governance*, Analytical journal, Skopje, may 2008, vol. 1, no. 1

Carothers, Thomas. Chapter 1: *The Rule of Law Revival*. Promoting the Rule of Law Abroad: In Search of Knowledge, http://www.carnegieendowment.org/files/CarothersChapter11.pdf

Dnevnik, 2011, M*акедонија пред празна евроагенда*, http://www.dnevnik.com.mk/default.asp?ItemID=8BF963E15E44E34684CB6921F31D7E4C, 30.01.2011

Grabbe, H. (2001) *How does Europeanization affect CEE governance? Conditionality, diffusion and diversity*, Journal of European Public Policy, 8 (6), pp. 1013 – 31.

Grabbe, H. (2002) *Stabilising the East While Keeping Out the Easterners: Internal and External Security Logics in Conflict,* in S. Lavenex and E. M. Ucarer (eds.) *Migrationand the Externalities of European Integration*, pp. 91–104 (Lanham, MD: Lexington Books).

Grabbe, H. (2003) *Europeanization Goes East: Power and Uncertainty in the EU Accession Process*, in K. Featherstone and C. M. Radaelli (eds.) *The Politics of Europeanization*, pp. 303–31 (Oxford: Oxford University Press).

English Cynthia (2008), *Many in the Balkans Lack Confidence in Judicial Systems,* http://www.gallup.com/poll/104872/Many-Balkans-Lack-Confidence-Judicial-Systems.aspx, March 10, 2008

European Commission report on the Republic of Macedonia 2008 Progress Report, November 2008, www.sei.gov.mk

European Commission report on the Republic of Macedonia 2009 Progress Report, November 2009, www.sei.gov.mk

European Commission report on the Republic of Macedonia 2010 Progress Report, November 2010, www.sei.gov.mk

European forum Net, (2010), http://www.europeanforum.net/news/998/eu_progress_report_critical_on_macedonia_rsquo_s_reforms, Tue 26 Oct 2010

Ioakimides 1998, cited in L. Demetropoulou. *Europe and the Balkans: Membership Aspiration, EU Involvement and Europeanization Capacity in South Eastern Europe.* Southeast European Politics Vol. 3. No.2-3. 2002, 89.

Manevski (2010), *The EC report is objective, it should be worked on improving the recommendations*, http://www.justice.gov.mk/novost_detail.asp?lang=eng&id=635, 10.11.2010

Manevski (2010), *The EC report is objective, it should be worked on improving the recommendations*, http://www.justice.gov.mk/novost_detail.asp?lang=eng&id=635, 10.11.2010

Ministry of Justice, Newsletter (2010), Manevski: the amendments of four laws will provide more efficient and modernized judiciary, http://www.pravda.gov.mk/documents/broshura3_eng.pdf, November 2010

Младеновска Пелагија (2011), *Политика во судството?*, Makdenes, http://www.makdenes.org/content/article/2318245.html, 23.02.2011

Младеновска Пелагија (2011), *Европската агенда не е приоритет?*, Makdenes, http://www.makdenes.org/content/article/2290933.html, 29.01.2011

Radaelli C. M. (2004) *Europeanisation Solution or a problem?*, European Integration online paper, vol.8, no. 16

Sedelmeier U., 2006, *The EU dimension in European Politics*, Houndmills: Palgrave Macmillan, 2006

Tasevski F. (2010) *Macedonia's judicial reforms: a rocky path toward accountability and independence*, *pg.* Analytical – Vol.3, Issue 1

Trauner F. (2008), *The Europeanisation of the Western Balkans: deconstructing the EU's routes of influence in justice and home affairs*, Institute for European Integration Research, 2008

USAID Judicial Reform Implementation Project JRIP in Macedonia, http://macedonia.usaid.gov/en/sectors/democracy/jrip.html, 2011

NANO RUZIN

The Myth About Diplomacy, History and Iconography

Abstract

Diplomacy, history and iconography, three mutually connected contents, three elements in which the identity of people and ethnicities is born, promoted, settled, expressed and fabricated. During the 20 centuries of European history, each leader, emperor and prince had created their own iconography to uphold their own kingdoms. Such practice continued in the new century and during the time of Stalin and Hitler, and later on, during the Cold War. Even Yugoslavia of Josip Broz was a state of numerous iconography symbols. The war in ex SFR Yugoslavia was a war of iconographies, and the rivalry of iconography imposes in every multiethnic society, as it is the Republic of Macedonia. Diplomacy is kind of an instrument for promotion of its own iconographic symbols, implemented in particularly important historic moments. What is the connection among these three models? What is their mutual connection and why the iconography is an integral part of our life? What is the role of the politician in creating the iconography and its exploitation in political goals? This would be the content of this text.

The Myth About Diplomacy, History and Iconography

There are several definitions about diplomacy. One of the most prevalent and the simplest is that diplomacy is the way, art and implementation of politics. A diplomat is the one who implements that magic of diplomacy, that behind which many princes and rulers stood behind, as well as politicians and dictators, despots and emperors.

By the beginning of modern times or the Renaissance, the diplomacy that we know in today's version, did not exist. The emissaries sent by various countries irrespectively whether it is about the Greek states – cities, the Slavic or Celtic tribes, the Roman Empire, the Oriental emperies and others, they all have been limited to a role of messengers and had not had the role of negotiators. Observed from the present perspective, despite if it sounds simple and objective; still there is much of a mythology behind the diplomatic activity and its scope of action. According to the U.S. diplomat of the Cold War, Henry Kissinger, the author of famous work "Diplomacy", the first diplomat to have dignity to bear the aura of a true diplomat is Cardinal Richelieu 1586-1642 otherwise the Prime minister of King Louis 13 (Luis XIII). Precisely, he created the new term in the field of foreign policy: la raison d'Etat – highest state interest. This principle assumed privileging of the state and the security of the territory and people over other priorities. In the last four centuries, it

seems that this principle remained unchanged and most important for diplomacy and every diplomat.

Often, in the full swing of your diplomatic career you will ask yourself, where did I come from? Who am I? Where do I go? Just like the title of the famous canvas of Gauguin that sought to define the space of myth.

However, the man sets out this metaphysical dilemma from the very genesis. Maybe because since the first beginnings of civilizations, the various kings, emperors, pharaohs, rulers, kings, such content of the human spirit to identify themselves with one identity, symbol, totem, construction work, custom, language, flag started to use it as mobilizing factor of their peoples.

There is no doubt that since the first great civilizations that created the seven wonders of the world and the first three most important pyramids Keops, Khepren and Mykerinos in Egypt, the Mausoleum Helicons in Turkey, the third wonder of the world Statue of Zeus in Greece, fourth Colossus of Rhodes, fifth Temple Artemis in Turkey, sixth wonder of the world the Hanging Gardens of Babylon and the seventh wonder of the world and the lighthouse of Alexander the Great in Egypt, as well as other world monuments as the Sphinx in Gizeh, the stone blocks of Stonehenge, Abou Simbel temples in Egypt, the Kaaba in Mecca, Athens Acropolis, the Wailing wall in Jerusalem, the Colosseum, Petra in Jordan, Chechen Itza in Mexico, Basilica of St. Sophia in Istanbul, and a dozen others around the world testify the ambitions of their builders and inspirers.

All these magnificent buildings as well as the phantasmagorical works of other civilizations, such as the pyramids and temples of Mayas, Incas and Aztecs, the works of Cycladic, Cretan-Mycenaean and Judah, or Indian and Chinese civilizations, besides the sacred meanings by which the myth of power and the power of gods or the sovereign had been extolled, had his own iconographic meaning. They supposed to persuade the subjects to submission and obedience to the sacrifice and mobilization around the iconography that became recognizable. Ancient civilization and Roman civilization later stressed the iconography of humanism and the state capital with all the wonderful works of art (Ancient Greece), or iconography of the legal state and the giant Coliseum and other works of the Roman Empire.[1]

In the first century on April 7, Ponce Pilate governor of the Roman province of Judea had crucified and left to die the thirty years old Christ, who was considered the son and representative of God. He imposed monotheism, which will grow into a new iconography – because of the great and glorious imperial iconography – the imperial Pan-Roma's institution. In the second century, Chinese Han Dynasty cherishes Confucianism and builds the Great Wall, whilst thanks to the Roman Caesars, above all Trojan in 116 BC are reaching its maximal extension. In 176 BC, beautiful statue of the Roman Empire had

[1] For more details: Bernard Voyenne *Histoire de l'idee europeenne*, Paris: Payot, 1964)

been reconstructed, which shows Caesar Marco Aurelio on a horse that will become a universal iconographic model. In third century, the Goths crossed the Danube and attacked the empire in order to conquer Athens, Corinth and Sparta. In order to oppose them successfully, Caesar Diocletian divided the empire in 285 BC on Eastern and Western empire of Maximien Hercules.

In the fourth century, 312 BC, the Roman emperor Constantine had converted himself to Christianity, Julius I imposed himself as the first priest of Christianity and in 354 BC in Rome, he celebrated the first Christmas that replaced the solar cult of the emperor Aurelia. In this century in 330 BC, Constantinople was inaugurated as the capital of Eastern Roman Empire. The fifth century passed in the sign of penetration of Attila and his Huns, Goths and Vandals to Rome which stopped to be the capital of Western Roman Empire. In 410 BC, the Visigoth Alaric conquered Rome, and in 476 BC, the barbarian Odoacer expelled the last Roman Emperor Romulus Augustus so the empire stopped existing. In sixth century, the only thing left out of the former empire was the Eastern roman kingdom where the Emperor Justinian at 537 BC had inaugurated in January the great church Ayah Sophia, with ambitions to unite the two kingdoms through religion. Nonetheless, Pope Gregorio, who took over the reform of the church and deepened further the gap between Western and Eastern Roman Empire, rejected these efforts. This is also the epoch when the breakthrough of Slav tribes in Balkans begun, as well as their inhabitation.

The seventh century is identified with the emergence of a new religion-Islam preached by Mohammed, who left Mecca in order to shelter in Medina in 622 BC. The Islam was spread throughout the East, to Central Asia and India. The new iconography had just begun to splash Europe. In the eighth century, the Muslims conquered the Spanish city of Toledo and Chinese Emperor was defeated in 751 BC by Arabs, so Central Asia leaves Buddhism in favour of Islam. In the ninth century, Thessalonica brothers Cyril and Methodius Christianized the Slavs and created the Cyrillic alphabet. This is the epoch of enlightenment of Saint Climent and Naum Ohridski, when Ohrid grew in important cultural and enlightenment center of Macedonian Slavs. Asides the Slavs, the Nordic Vikings accepted the Christianity with more difficultly. In the tenth century 962 BC, the Holy Roman-German Empire headed by Otto I was born, and Russia thanks to the wedding of Prince Vladimir I with the sister of the Byzantine emperor Basil II, converted into Christianity.

In eleventh century, another of the many wars of various iconographies took place. The Shiite Caliph al-Hakim has massacred the Christians and the inhabitants of Jerusalem on Nile valley. Despite the condemnation of Sunni Caliph of Baghdad, 50 million Catholics learned that their sacred places were devastated. In 1054, the relations between West and East have been suspended since the Roman Pope and Patriarch of orthodox Constantinople could not find common language. In 1095, the Pope Urban II, who had been in a conflict with Rome, begins the Crusade from France towards Jerusalem. The

Twelfth century brought the three Crusader conquests and new Gothic cathedral in Saint-Denis is built, from where in 1114, the new crusade toward the East begun.

In the thirteenth century while the West begins to be enriched, thanks to exchanges with the East, and Venice and Genoa are rising in commercial and marine forces, the very east is loaded with military impacts. The Spanish Catholic barons expelled the Muslims from Grenada to Cadiz. In Delhi, the largest mosque in the world – Cutup Mosque is built (1229). The Venetian Marco Polo discovered the water route to China. The fourteenth century passes in inequity between the Christians. Pope Boniface VIII is waging war against the French king Philippe le Bell.

In 1346, English army led by Edward III attacks France that begins the one hundred years war. This is the period of the great black plague, which decimated the people of Europe in 1348. After the Kosovo's battle in1389, the Ottoman Empire penetrated into Balkans. The fifteenth century is the century of discovery of the New World by Christopher Columbus in 1492. Previously, the Ming Dynasty in 1409 installs in Beijing, and turns the Forbidden City into a heaven for the emperors. In 1420, an epoch of the Renaissance in Florence begins too. In this century, there were still no independent ocean maps irrespectively that in 1440 Gutenberg invented the printing house in Strasbourg. In 1453, once the victory of the French against English at Castellan was over and so the hundred years war was completed, it was discovered that Mohamed II conquered Constantinople and turned the church of St. Sofia into a mosque.

In the fifteenth century, it was believed that the spiritual centre of Christianity in Rome was under a threat. Nobody spoke about Jerusalem any longer. The gold from America enabled the Holy Empire headed by Charles Quaint created the most powerful artillery by which the attacks of the Turkish army had been rejected. Whilst the Renaissance in Italy was in blossom, on third of January, the Pope excommunicated the monk Martin Luther who, in his 95 theses endeavoured to reform the church. Despite the harsh reaction of the Pope, no one could stop the German princes to accept the Reforms and to stop the communication with Rome. Henri VIII in 1534 formed the Anglican Church, while ten years later Copernicus will prove that the Earth turns around the Sun. In the seventeenth century, the life of Don Quixote and Shakespeare, Rembrandt with anatomy lessons, the first colonial conquests, the beginning of thirty years long war between religious leaders, this is the century of Louis XIV and his Versailles.

In the eighteenth century thanks to the discoveries of Galileo, Torricelli, Kepler, the science and technology reaches serious achievements; Peter the Great moved the headquarters of Russia in Sank-Petersburg to be closer to the West. James Watt in 1763 discovers the steam machine, so the era of scientific-technological revolution begins. Denis Diderot and D'Alembert are

working on the encyclopedia, and on July 4 1776, founding fathers of the thirteen colonies of America in Philadelphia announced that a new great nation has just been born. From the other side of the Atlantic, French Revolution erupts in Paris by the fall of the Bastille on July 14, 1789. Both declarations, the one of the independence of the United States and French one for the basic rights and freedoms of citizens will become the basis of all democratic constitutions. This century was the century of revolutions and enlightenment.[2]

The nineteenth century is the century of Napoleon, the emperor who would promote the iconography throughout his major conquests, the defeat at Waterloo will enable England to take advantage of overseas trade. In London at 1948, the Manifest of the Communist Party gets published with the slogan: Proletarians of the world, unite!. The bourgeois revolution affects Europe, while in 1859 Darwin published the theory of natural selection. In the USA the civil war escalates that will end with the abolition of captivity. France and England develops the colonialism and industrialism and become the engine Europe. This is the century of national awakenings.

Contemporary Iconographic History

The twentieth century is the century of science, art, of Einstein, of Freud, Picasso and Blerio, of the national identification of nations. After the assassination in Sarajevo in 1914, First World War erupts with 9 million victims, the October revolution will break out too. Iconographic socio-realism developed in Russia by totalitarian governments will seek to strengthen the power of the revolution against all internal and external enemies. The return of USA towards the isolationism will act on the dysfunction of Versailles peace and the League of Nations. In Italy, the discontent of the Versailles Treaty will result with power of Mussolini in 1922, and in Germany with Hitler in power on 1933. In 1939 the Second World War arose, provoked by Hitler's Germany, champion of fascist iconography. After the World War Second, the real socialism will affect all countries of the Cold war. He will be actualized especially in one-party systems of real socialism. The twentieth century is a century of film and rock, of the myth actors as Greta Garbo, Merlyn Monroe, James Dean, John Wayne, Brando, of the Beatles and the Stones, also the century of the consuming society of Coca Cola and Mc Donald's, Channel 5, Dior, the jeans and the bikinis, of the marketing and propaganda.[3] Twentieth century is the century of the birth of EU and strengthening the partnership between the United States and EU. At the same time, twentieth century is century when communism fails in 1989 with the fall of the Berlin Wall.

---

[2] Philippe Braud/Francois Burdeau *Histoire des idees politiques depuis la revolution*, Paris: Montchrestien, 1983, page 696

[3] Ronald Barthes *Mytologie*, Paris: Seuil, 1957

Europe is finally united. The model of liberal democracy wins. Is that the end of ideology and history, Francis Fukuyama will ask.[4] The wars in the Balkans reminded us of the old nationalist iconography and the thesis of Huntington for the war of civilizations. Essentially, the paper of Huntington was a kind of an answer to Fukuyama theory.[5] He continues implying that the history continues**.**The new iconography-Europe common home of all peoples between the Atlantic and the Urals is more popular nowadays.

The beginning of the twentieth and the first century will impose the phenomenon of globalization, but also of the global asymmetric danger by the side of international terrorism. This is also a century of democracy, but also of the new iconographies. The world is moving, and the young urban and educated but unemployed people in Northern Africa and maybe later in the whole Great Middle East which is stretching from Mauritius, through the Middle East, all the way up to Afghanistan and Pakistan, will face its great democratic reversal, same like it happened in the states of the real socialism in South-East and Central Europe.

How, we the people of Balkans experienced the fall of the old iconographies replaced by new iconographies and values.[6]

Even the greatest conquerors of Europe had ambitions to unite the Old Continent. Napoleon once wrote that one day he wins Russia he will unite Europe in one state. Hitler moved to Moscow to create Europe between the Atlantic and Ural, based on fascist stand where the pure race will be the dominated one. The meaning of our war is Europe, stated Goebbels, the chief of Hitler's propaganda. Even Stalin dreamed of Europe from Ural more western than Berlin where his cult and the power of Bolshevism will be the dominated one. Hitler and Goebbels will imply the new fascist and nazi iconographies as a form of anti-liberalism, anti-individualism, anticommunism, the picture of organic unification of the national community, the belief in the power of unity.

The entity is nothing; the individual would have to fully sink within the identity of community or the social group. The fascist ideal is the new man, hero accompanied by the duties, honor and the sacrifice. He sacrifices his life for the nation glory and unconditionally obeys to the Supreme Leader. Hitler is his work Mein Kampf (1925) seeks to join expansionist germane nationalism and anti-Semitism and to join into the theory of history, according to which an uninterrupted war exists between the Germans and the Jewish, actually between the good and the evil, which resulted with the phenomena of holocaust.

---

[4] Francis Fukuyama *The End of History? – In National Interest,* Nixon, Centre, ed by Irvin Kristol, New York,1989

[5] Samuel P. Huntington *The Clash of Civilizations and Remarking of World Order* Simon & Schuster, 1996, page 402

[6] Bertrand Badie *La fin des territories*, Paris: Fayard,1995, page 276

Hitler's iconography and fascism was built in the function of the Aryanism, actually the predetermination of the German race to rule the world. In behalf of Firer's iconography, millions of people lost their lives between the Atlantic and Ural.[7]

The orthodox communism of Stalin is full with similar ideological and iconographic reminiscences. Stalin adopted the name "man of iron" and promoted the orthodox communism. Towards the thirties, he introduced the cleansings in Soviet Union, so the state was turned into totalitarian dictatorship. The mythology of the scientific socialism had a need from the new society created by the new man. The new man would be in condition to move the rivers and mountains, to build castles on altitudes high as Mont Blanc or the sea bottoms. The average man will reach the immensity of Aristotle, Goethe or Marx. From that point, new tops will rise. And truly, the miracle happened in the night between 30 and 31 of August 1935, when the miner Alekseу Stakhanov that in the mine basin of Donjetsk dug 102 tones of coal. This quantity over passed the average for 14 times of men's digging. That means that Stakhanov was worth for 14 other workers. The communism will get realized when we will become stakhanists. The comrade Kobe, populist and nationalist, fascinated by Bonaparte, invent the demagogy in the mirror.

He smokes the pipe as the "wise father", seated in his modest armchair, dressed in military uniform, leather boots, zipped up to his throat. When he became Marshal, he will switch the pose, starts smoking a cigar, wears white uniform, decorated with red and golden epaulettes. The cult of personality was already built. His fiftieth birthday becomes state holiday, and the sixties a delirium. He was named as *universal genius, the leading light, sublimated leader, poet, and sculptor*. His seventeenth birthday is already pictured though the biggest portrait of Marshal – Patriarch on the Red Square. Essentially, the propaganda and building of iconography of Stalin was carefully cultivated after the strengthening of his power in Russia even more. .In 1929, Koba drives a combine, with healthy and cheerful kids around him, the women are singing and the kids are laughing , The people are happy. His statues are manufactured in thousand samples; the canal bears his name "Stalin" as well as the factory for car manufacture in Moscow. He builds Moscow metro during the full international crises, as well as new roads, rails, dams, museums and theatres. The artistic direction of the real-socialism represents such idyllic and malformed pictures. The iconography of the forth classic of Marxism according to Marx, Engels and Lenin, luckily for the laboring class in ex SSSR, for the new man homo sovieticus turns into an iconographic idol. The biggest iconography is the cult of Stalin' s personality.[8]

---

[7] Yves Roucaute *Les demagogue de l'Atiquite a nos jours*, Paris: Plon, 1999, page 177

[8] Yves Roucaute, Ibid. page 135

Yugoslav Iconography

Following the end of Second World War by the example of Stalin, other communist leaders of real socialism are promoted too. The most important was to strengthen their cult. All Easter – European states began to name streets, squares, educational institutions, factories with the names of the classics of Marxism, but also with names of the still living communist leaders.

Although the Yugoslav system differed from other communist regimes, this system relied on iconography of Marshall Tito and communism. In each of the six republics and two autonomous provinces of the federation, there were towns with a prefix or suffix Marshall: Tito's Mitrovica, Tito's Velenje, Titograd, Tito's Uzice, and Tito's Veles. There was no town or suburb, a square, street, factory or school having no name of Josip Broz Tito. He became the most powerful iconography of Yugoslavia's artificial creation.

The multiethnic federation was promoted and enhanced with iconographies for brotherhood and unity. The longest highway called "brotherhood and unity" was built, connecting the northernmost Republic of Slovenia with southernmost Macedonia. "Keep the brotherhood and the unity as you keep your eye pupil", sounds the slogan of Tito. Twenty-fifth of May, the birthday of Marshall Tito was declared as the "day of youth", and in his honour, a parade was taking place that day, organized by the youngsters, handling to Tito a baton. The brotherhood and unity amongst people painted on the national emblem of the six torches-republics, promoted the energy of the six members republic. Above them, a five-pointed red star was proudly placed, the symbol of partisans of Tito and communism. The function of brotherhood and unity was widespread and the legend of brothers solidarity of the Serb Boro and the Kosovar Ramiz during the war.

During the Yugoslav socio-realism, the myth of Russian miner-recorder of digging mine Stakhanov, was found in the character of the miner from Bosnia Alija Sirotanovic, whose character was printed on the Yugoslav note.

Later in the period of self-management, other iconographies of the working state of self-managers were affirmed, prizes were awarded to young self-managers, self-management schools were formed, and in the euphoria of self-management thrill, the law that any Yugoslav without high school graduation cannot enter university was adopted. The previous iconography of brotherhood and unity was replaced by the ichnography for fellowship. The adjective fellowship pictured the best the beginning of disharmony in the relationship between the republics. The system was called pluralism of self-management interest, where the carrier was an employee self-manager. Lower educated personnel were equally participating on the vacancies for selection of managers or the adoption of relevant decisions through voting. Observed from outside, this system was giving a picture of a Marxist ideal. However, the weakness of self-management was consisted in its formal nature, the absence of a true democracy and the monopoly of the only party SKY. However, the

Yugoslav model had an advantage over other communist models; the Yugoslavs could freely travel around the world.

That is why once the communism started to dissolve in 1989; the Yugoslav communists appeared to be unready for the upcoming drama. Tito's construction, nine years after his death, fail apart as card tower. With the suspension of one party system in Yugoslavia, the communist iconography of the self-management started to disappear. Even the Yugoslav orientation as a national orientation of 2 million citizens registered on last censuses, turned into few thousands in few years.[9]

Iconography in Macedonia

The five decades dominant ideology, supported by efficient iconographic symbols, with predominant federal, state and uniting picture-books, constructions, symbols and ideologies, gave up the place to the ethnical and national one. With the nationalism, projects and iconographies from the great territorial pretensions of the ex-Yugoslav republics[10] appeared too. At the same time, the citizens begun to go back to the historical heroes from the past, by imitating their look. Thus, in Croatia, the inspirations came from Ban Jelachic, in Serbia from Milosh Obilich the Kosovo hero, and from the reformer Vuk Karadzic, Skender Beu amongst the Albanians, and in Macedonia, at the very beginning those were the gemidzias (boatmen) and the heroes from the Ilinden uprising Goce Delchev, Jane Sandanski, whilst today, it is Philippe the second and Alexander the Great. Nevertheless, if the Americans can imitate Marilyn Monroe, Elvis Presley or Michael Jackson, and they can talk about Presley-mania or Jackson-mania, why can we talk about delchevmania? On the streets of Bitola or Skopje, you could meet people having the same moustaches as the one of Delchev, gemidzias or ancient warriors while attending sports competitions between fan groups and between youngsters. Still, the ancient attire was most visible during the reception protocol of the alleged descendant of Alexander the Macedonian, the King of Hunza coming from far Pakistan, during his official visit to Macedonia. Even the Macedonian bishop Mister Stephen will missed to say that "the man really resembled Alexander" despite his obvious dark skin.

Parallel to this phenomenon, the long suppressed history by the communism started to be affirmed strongly more and more. The vacant place of ideology is taken by the church. Throughout a night, the church becomes more attractive by all layers and politicians. The people are massively discovering the Orthodoxy, Catholicism and the Islam. That is the new strong mobilizing

---

[9] Xavier Raufer/Francois Haut *Le Chaos Balkanique*, Paris: Table ronde 1991, page 191

[10] Ivan Colovic *Bordel ratnika – folklor, politika i rat*, Zemun: Biblioteka XX-og veka, I i II tom, 2000 g

iconography. In this direction however, the multi-ethnical and multi-iconographical problem gets imposed. In Skopje, the Millennium 66 m high cross was built, which the former nationalist VMRO-DPMNE strove to emphasize the Christian majority in the capital Parallel to it, hundreds of smaller crosses sprung up across the state, restored or brand new orthodox, Catholic, Protestant religious temples as well as mosques. However, in every multiethnic country like Macedonia, it is understandable that there is a problem with the use, interpretation and the adoption of multi-ethnicity and multi-iconography once the appropriation of iconography is questioned.

The multi-ethnical element in the iconography means that in one state, various entities can nurture and identify in various rival and opposite iconographies. Sarajevo was a typical example of multi-ethnical and opponent iconography amongst the Muslims, Catholics, the Orthodox and Jewish. However, that was the case with other cities on Balkans. In multiethnic Skopje, the desire to impose their own sound or pictorial material iconography creates a rivalry between the promoters, supporters and believers of their own iconographic content. For example, we are aware of the rivalry between bell ringers of the Catholic and Orthodox churches and strong echoes of decibels and prayers of imams. Several incidents in post-communist Macedonia showed that this could be a serious problem. In the nineties, the problem with the symbol of Albanian flags in Gostivar ended with the arrest of Mayor Rufi Osmani. During the crisis in 2001, NLA leader repeatedly emphasized that it is a battle for the Albanian language, Albanian language faculty, the use of the flag and decentralization. Actually, the conclusion of the Ohrid Agreement of August 2001 is largely devoted to the regulation of these issues. **The incident in Skopje castle Kale in 2011 confirmed that the inter-iconography rivalry is still actual. According to the Government project, in place with predominant Albanian population, construction of orthodox temple was foreseen to take place. However, taking into consideration the cultural importance of this locality, construction of any kind of objects is forbidden. The intention to build orthodox religious object on territory which the Albanians from Skopje are considering to be sensitive and can hurt their religious feelings, caused serious riots from an interethnic aspect. It was confirmed that the Western Balkans is still living with the folklore of iconographies.** The described rivalries do smell a bit on the doctrine of American geo-politician Samuel Huntington.

There are theories originating from the three volumes of Samuel Huntington for clashes of civilizations that wars in ex-Yugoslavia were wars of iconographies, orthodox Serbs against Croatian Catholics in Croatia, orthodox Serbs against Bosnian Muslims in Bosnia, Croatian Catholics against Bosnian Muslims, Serbian and Croatian Christians against Bosnian Muslims as well in Bosnia, orthodox Serbs against Kosovo Albanians Muslims, orthodox Macedonian against Macedonian Albanians Muslims.

We know the aftermath of Yugoslavian wars, they were defeating, and in some cases even genocidal. The lessons learned are that other iconographies should be respected, but the way out is to find new, broader and more universal iconographies. For example, the universal iconography is the Euro, the dollar, the inner myths through which various entities identify themselves as for example Mother Theresa and the Ohrid framework agreement. In neighboring Serbia, the problems are most benign and are usually related to several common iconographic features. The Serbs believe that the Stone Bridge in Skopje was built by the medieval King Dushan, and it should be called Dusan's bridge. The Serbs think that Marko the King is a Serb; whilst we the Macedonian, consider him to be a Macedonian from Prilep. There are several historical misunderstandings about the participation of Macedonians in the Balkan wars and in the First World War that due to the artificially changing of their last names to end up on „ikj", makes them to be identifying themselves as Serbs. However, these episode disagreements between the two countries are minor, although occasionally, some of the Serbian ministries and institutions, despite the recognition of constitutional name, „inadvertently" are using the offending reference FYROM. Unrecognizing of the Macedonian Orthodox church by the Serbian Patriarchy gives bigger weight to the relations between Belgrade and Skopje. During the Kingdom of Yugoslavia, all orthodox believers from Macedonia, Montenegro, BiH and Croatia were put under the jurisdiction of Serbian Patriarchy. After the creation of Macedonian Orthodox church in 1958 and its schism from the Serbian Patriarchy, the recognition of the Macedonian Orthodox church autocephaly came under question. Twenty years after Macedonian independency, Serbian Orthodox Church refuses to recognize Macedonian Orthodox church autocephaly. This is a serious problem when the clash of two iconographies with same vocation i.e. the orthodoxy is taken into consideration.

More serious is the problem with Republic of Bulgaria. In Macedonia, it is considered that Samuel the King, Saint Climent Ohridski, the holy brothers Cyril and Methodius, Goce Delcev and all others are Macedonians. The Bulgarians consider them to be Bulgarians. However, apart from these historical misunderstandings, more serious is the problem with the unrecognizing of Macedonian language by the side of Sofia. Bulgaria recognized Republic of Macedonia under its constitutional name, but did not recognize the Macedonian language, which is the most powerful iconography of every nation. As a result and negative implications of this bilateral problem, Bulgaria does not recognize the political parties with Macedonian vocation inside Bulgaria, as it is the case with OMO Ilinden.

The Greeks consider that they are the only one to have the monopoly over the name of Macedonia, but we consider it to be incorrect, since it is about common historical in heritage. Some of our theoreticians came up with the thesis that Philippe the second and Alexander the Great are Macedonians and that the blood of antique Macedonians is running through our veins,

thesis that I consider to have suspicious scientific base. Apart from it, multi-iconography created serious political and diplomatic problems among the states. Where is the way out?

Here, the regional clashes of iconographies and entities demands affirmation of transnational iconographies: Balkan values, humanism created by antique Greece, but also the rockers from U2 or Simple Minds, the rappers, hip-hop hits that join the youngsters together, the regional media that are broadcasting Balkan hits, universal values, European values and EU, ecology, persons like the fathers of independency of USA, Martin Luther King, Nelson Mandela, Gandy, Che Guevara, Kennedy, Mother Teresa, individualism and the freedom.

Conclusion

After the described circle traveling through the centuries, we tried to explain a matter which is so evident and to which no attention was paid from the iconographical point of view. Through iconography and its interpretation, a great number of phenomenon could be explained, but it is a fact that the iconography is only one dimension when interpreting the phenomenon. Other factors can also influence the nation's behavior.

Nonetheless, through iconography analyses, this was an original way to approach the identity comprehension.

BIBLIOGRAPHY

Hutington P. Samuel, *Le Choc des civilisations*, Paris : ed.Odile Jacob , 402.

Perica Vjekoslav, *Balkan idols. Religion and Nationalism in Yugoslav states*, Oxford University Press,2002.Tom I, 280 / Tom II, 212

Colovic Ivan, *Bordel ratnika*, Beograd: Cigoj stampa, 2000g. 214 p.

Lenain Pierre, *Le mensonge politique*, Paris: Economica, 1988, 108 p.

Colovic Ivan, *Politika simbola*, Beograd: Biblioteka XX og veka, 396 p.

Rupnik Jacques, *Le dechirment des nations*, Paris: Seuil, 1993, 285

Giradet Raoul, *Mythes et mythologie politique*, Paris: Seuil, 210 p.

Nouschi Marc, *Le 20e siecle*, Paris: Armand Colin,2000,542

Boia Lucia, *La mythologie scientifique du communisme*, Paris: Les belles letters, 2000, 218 p.

Roucaute Yves, *Les demagogues de l'Antiquite a nos jours*, Paris: Plon,1999, 332p.

Garde Paul, *Analises de vie et la mort de la Yougoslavoie*, Paris: L'age d'Homme,1992, 135 p.

Sellier Andre/Sellier Jean, *Atlas des peuples d'Europe centrale"*, Paris: La Decouvert, 1992, 192 p.

TATIJANA ASHTALKOSKA

The Expand Confiscation in Macedonian Criminal Law

Abstract

The increase of crime that directly or indirectly acquire proceeds, necessarily causes an increase of the methods and means which has influence to the suppression of this type of crime. In this respect, the modern penal legislation, special attention and space, devoted to the promotion of the measure, confiscation of property and proceeds acquired by criminal act, either as a penal sanction, punishment or a separate criminal legal measure.

Applying this measure should establish the former legal situation, before committing the offense, it saps the power of criminal offenders for further illegal activities and the potential perpetrators are referred to a message that will be no able to retain proceeds from offense, or that the perpetration of the offense would not worth. Hence, the seizure of proceeds acquired by criminal act logically tends, as an influential tool in crime prevention aimed at acquiring property.

Key word: expand confiscation, criminal offence, proceeds, and burden of proof.

The origin of this measure, brings roots from once, often applied confiscation, either as a punishment, either as a process measure of seizing the so-called instrumenta et producta sceleris (objects with which the act was committed or caused by his commission). In modern criminal law there are two types of confiscation: general, seizure of all or part of the assets from the offender, and confiscation of the instrumentalities as any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences[1]. General confiscation today is very rarely applied.[2]

In different legal systems today, this institute can have a different legal nature, but its essence and purpose of the hearing remain the same everywhere. French Criminal Code of 1992 provides confiscation as a punishment, security measure and as reparation.[3] In France the general confiscation is envisaged

---

[1] Камбовски Владо *Нови казненоправни одговори на предизвикот на организираниот криминал*, Зборник на трудови на Правниот факултет Јустинијан Први Скопје, Актуелните прашања за државата и правото на Р. Македонија и Руската Федерација, том 1, Скопје 2007, p.186

[2] Pradel Jean *Droit pénal comparé*, Dalloz, 1995, p. 184

[3] Levasseur, G., Chavanne, A., MontreuiL J., Bouloc B. *Droit pénal general et procédure pénale*, Sirey editions, 1999, p. 356–358

as punishment for serious offences of illegal drug trafficking (art. 222-49, 2 of the Criminal Code) and for all, crimes against humanity (Article 213-1 of the Criminal Code)[4]. The Italian Criminal Code off Art. 240 provides as a real security measure within the system of criminal sanctions[5], despite being among Italian scholars nowhere denies its sui generis legal nature[6]. German Criminal code, confiscation of proceeds provides as a separate criminal legal measure (Criminal Code of Germany, 1998) whose application is not conditioned on the existence of guilt of the perpetrator, but only with the assumption that a fixed offense obtained proceeds[7]. Since 1992 the law against organized crime has provided a general confiscation as a penalty for acts of drug-related organized crime[8].

Legislative solutions to confiscation can generally be divided into two groups: imposition in procedure in personam and imposition in procedure in rem. The first legal solution exists in the continental legal system, and consists in imposing the confiscation in criminal proceedings, with respect for fundamental principles and legal guarantees in the procedure. The second solution is not necessarily required to respect these principles and provides transfer of power of burden of proof to the owner of the property. In this way the confiscation is imposed in civil proceedings under U.S. law, based on assumptions and rules of civil procedure.

The possibility of confiscation of property or proceeds with criminal backgrounds in civil proceedings comes from the Old Saxon law, before the Norman Conquest in 1066[9]. It is a lawsuit in rem, directed not against a person, but against material goods, with the aim of a court decision that will be provided their illegal origin or circumstance that has been used as a tool for enforcement of the criminal act. This legal possibility knows the U.S. Act for reform of the civil confiscation of proceeds of crime (Civil Asset Forfeiture Reform Act) of 2000, Australian Act of criminal profits in 2002, Proceeds of Crime Act, the eponymous Irish Act of 1996, and the eponymous English Act of 2002, Proceeds of Crime Act amended by the Serious Organized Crime and Police Act 2005. Confiscated property could be used for compensation to the victim, compensation costs for state services and funding assistance programs for victims and prevention.

---

[4] Pradel Jean *Droit pénal comparé*, Dalloz, 1995, p. 578

[5] Evaluation Report on Italy Adopted by GRECO at its 43rd Plenary Meeting, Strasbourg, 29 June–2 July 2009, www.coe.int/greco, p. 20

[6] Alessandri, A. *Confisca nel diritto penale*, *Digesto delle Discipline Penalistiche*, III, UTET, Torino,1998, p. 46

[7] Jeschek H. & Weigend T. *Lehrbuch des Strafrechts*, Allgemeiner Teil, Duncker & Humblot, Berlin,1996, p. 790

[8] Pradel Jean *Droit pénal comparé*, Dalloz, 1995, p. 578

[9] Ilic Goran *Oduzimanje imovine stečene kriminalom*, Revija za bezbednost, Centar za bezbednosne studije, godina II br.5, Beograd, 2008, p. 10

Outside of the criminal proceedings, confiscation, in some states may be envisaged within the administrative seizure of criminal profits, which in the U.S. are carried out without engaging the judicial authorities[10]. The authorization for making such a decision belongs to, for example, the Tax Administration, the Federal Investigation Bureau, Office on Drugs or the Department of Immigration and Customs. The administrative deprivation may occur in the process of tax collection, which can deduct personal property not exceeding 100000 dollars. Moreover in this way can be deducted and criminal proceeds in the fight against money laundering to the amount of 500,000 dollars. This system exists in France, but differs from the American model, because the measure can be imposed if there is no condemnation for the offense.[11]

Confiscation in procedure in rem opened the issue of protection of property rights of third parties who are not charged with an offense, in light of the ECHR (art.1 of the First Protocol to the ECHR: no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law!). ECHR in several of its decisions have declared that the confiscation of objects on the basis of customs regulations or special anti-mafia legislation when the burden of proof is transferred to the third party is not in contradiction with the guaranteed right of ownership (as in the case of application of Italian anti-mafia law as Raimondo v. Italy, 1994, etc.).

The answer to the question of admissibility of transferring the burden of proof depends on the qualification of confiscation as a „punitive measure": if it is considered a punitive measure, namely, you should apply the presumption of innocence, and its application will always assumes the responsibility of determining the person committed the offense. If it is considered as a legal consequence of the offense, which is not bound to establish the guilt of a particular offender then can be applied toward the person who has criminal proceeds on any grounds. ECHR does not contain provisions on whose fall the burden of proof, which however can be derived directly from some of its provisions. The transfer of the assumption of responsibility on the defendant in a civil action would be contrary to the right to a fair trial (Article 6 of the ECHR), if thus creates an unacceptable imbalance between the parties. In the criminal procedure it is not prohibited with national laws to establish assumptions about the facts or law, by setting reasonable limits that recognize the principle of proportionality and the right of defense: the more confiscation is a punishment, and not only restitution of instrumentalities or

---

[10] Fuller N. *Oduzimanje i deljenje imovine*, Međunarodna konferencija o oduzimanju imovine stečene krivičnim delima, Specijalno, tužilaštvo za organizovani kriminal, U.S. Department of Justice OPDAT U.S. Embassy of Belgrade i Misija OEBS-a u Srbiji, 15–16. mart 2007, Beograd, p. 7

[11] Pradel Jean & Corstens Geert *European criminal law*, Kluwer Law International; 1 edition, February 1, 2002, p. 253

proceeds, the more protection should be used by the defendant in criminal proceedings.

Focusing on the process of confiscation on the subject, rather than the perpetrator, creates in terms of its criminal or quasi-criminal nature of duality that suppresses the presumption of innocence, so that in civil proceedings it is assumed that the property was acquired illegally, while in the criminal-that is not acquired on a criminal manner[12]. The civil proceeding for confiscation, therefore, cannot be considered as a criminal proceeding in which person is exposed to a punitive measure, but it is restitution, confiscation of property which is presumed to be criminal proceeds or instruments of the offense.

Transferring the burden of proof on the perpetrator or a third party has an international basis in the Vienna Convention (Article 5 par. 7). It providing an obligation of States to adopt measures necessary to enable confiscation of proceeds derived from criminal acts defined in the Convention and thus, each state in accordance with the principles of national legislation, should consider shifting the burden of proof of the legal origin of the said proceeds or other property subject to confiscation. Such a solution is accepted by the ECHR (in the case of Murray v. UK 1996[13]): when the evidence presented against the defendant calling for his explanation that he could and should have given the absence of such explanation can justify the conclusion that the defendant has no explanation and that is to blame. The number of laws that accept such a solution is becoming greater (Belgian, Danish, Swiss, Irish, etc.).

In the case of Phillips eponymous person is found guilty of entering a large amount of cannabis in England and rendered him a prison sentence of nine years[14]. Based on the Act on Traffic in Narcotic Drugs of 1986 concurrently with the criminal proceedings initiated an investigation of the property the defendant owns. After its completion it was established that the defendant realized the benefit of drug trafficking and that the value of his goods was 117,838 British pounds. Once the defendant is guilty of advertising, the court, in addition to sentencing, made a confiscation order which oblige offenders to pay a sum of 91,400 British pounds, by threat of execution of sentence of two years if it fails to do. The court in determining the said amount is governed by the legal presumption that all property is owned by the defendant for six years before the initiation of criminal proceedings is the result of drug trafficking. The defendant had the opportunity to prove the opposite, in line with the standards that apply in civil proceedings. European Court of

---

[12] Bowles Roger, Faure Michael and Garoupa Nuno *The Scope of Criminal Law and Criminal Sanctions: an Economic View and Policy Implications*, http://www.wzb.eu/mp/conf/io08/papers/bowles.pdf, p. 23

[13] John Murray v. the United Kingdom European Court of Human Rights, 18731/91 [1996] ECHR 3 (8 February 1996) URL: http://www.bailii.org/eu/cases/ECHR/1996/3.html

[14] Phillips v. the United Kingdom, European Court of Human Rights, 5.07. 2001§ 42 и 43

Human Rights noted that the use of the disputed statutory presumption had not aimed at convicting the defendant of an offense, but should allow the competent national court to determine the amount that would be subject to confiscation. The assessment is given in the trial of a public hearing at which the parties had an opportunity to present their arguments. On this basis the Court concluded that there is no violation of Article 6 of the European Convention on Human Rights.

The system of confiscation of criminal proceeds in criminal proceedings, establishes a court decision for committing a criminal act which was acquired proceeds or property of an illegitimate way. The proposal to confiscate is a special point of indictment, which unlike the decision of guilt that must be proven with respect to all standards and principles of the criminal proceedings may be taken by the transfer of power of burden of proof on the owner of the property.[15]

In certain cases, when, because of factual or legal interference is not possible criminal conducting of proceedings, the passing of confiscation is possible without conviction for the particular offense. In first and also in the other system, today, more and more is actualized the issue of expanding the use of confiscation, not only directly on the acquired property or proceeds, but also on other property of the offender, for which there is an assumption that has been acquired in a criminal manner. So, of the countries that provide confiscation as part of the criminal proceedings, it is worth to mention the legal solution adopted in the Belgian Criminal Code in Article 43rd. It requires that the subject of confiscation may be the property of the convicted person for a standardization of the listed offenses, gain over five years before the indictment (Code Penal (1867-06-08/01) modified par Loidu 15.05.2007 (Moniteur belge N. 244, 22-08-2007).

Condition sine qua non for confiscation are serious and concrete indications, indicating that the property derived from criminal offense for which the person is convicted or identical offenses[16]. Under serious and concrete indications, there has been considered authentic items submitted to the court indicating no scale between temporary or permanent increase in property and income of the convicted person within the specified period. The notion of identical offences expand the opportunities for criminal confiscation of proceeds, because it is not a criminal offense for which the person is convicted, but for offenses that fall strictly within the circle of the listed offenses in respect of which confiscation is possible and can be put under the same or related legal qualifications and criminal act which is subject to condemnation.

---

[15] Fijnaut Cyrille & Paoli Letizia, *Organised crime in Europe: concepts, patterns, and control policies in the European Union and beyond*, Springer, 2004, p. 809

[16] Ilic Goran *Oduzimanje imovine stečene kriminalom*, Revija za bezbednost, Centar za bezbednosne studije, godina II br.5, Beograd, 2008, p. 10

Except, Article 5 of the Vienna Convention of the UN in 1988, which was previously mentioned, art. 12 of the United nations convention against transnational organized crime, also requires states parties to consider the possibility that offenders demonstrate the lawful origin of alleged income from crime or other proceeds liable to confiscation, the degree to which such request is consistent with the principle of their national legislation and the essence of the lawsuit. This possibility predicting that, because of the difficulty of proving the connection between the criminal proceeds with the offense today is gradually introduced into national legislation.

In criminal proceedings in the Republic of Macedonia, there are no special rules, so that proof of lawful or illicit origin of property is identical to the establishment of other legally relevant facts in criminal proceedings. But when the property, proceeds or instrumentalities shall be confiscated by a third party, a legal presumption of unlawful origin of the property was created. In that case, the third person is obliged to prove that he gave full compensation for it.[17]

The current legal provisions (before the Criminal Code/2009) this opportunity was only possible. In this case and. In Article 359-a where expressly in paragraph 2 is provided to highlight that the property which significantly exceeds the income and income before tax, revenue perpetrator who conceals the true source, will be taken away from him, but also from third parties for whom was taken without compensation. This means that the property will be deducted disproportionately to the legitimate income of the offender (art. 2 Framework Decision), which as an assumption should be toppled by defendant or a third party. Otherwise the measure will be applied based on the previous assumption about the origin of property offenders.

With this, new legal provisions are erased and added a new offense unlawfully obtaining and concealing property (art.359-a of Criminal Code No.114/09), due to harmonization of legislation with the UN Convention against Corruption, adopted in Merida, Mexico in 2003 (art. 23), which contains a provision for the application of confiscation and transfer of the power of proof from prosecutor to defendant.

Thus, in p. 5 of this Article it is determined that assets exceed revenues which offender lawfully exercised and for which has given false or incomplete information or data which does not provide or conceal with its true sources will be confiscated, and if confiscation is not possible, of the offender will be confiscated any property that matches its value. Property of paragraph 5 of this Article will be confiscated and from members of the offender family for which is derived or transferred, if it is obvious that they didn't gave compensation

---

[17] Камбовски В., Калајџиев Г., Зиков С., Митревска И., *Конфискација и привремени мерки: хармонизација на домашното право со меѓународните стандарди*, Македонска ревија за казнено право и криминологија, ISSN, год. 13, бр. 3, 2006, p. 245–267, p. 257

corresponding to its value and from the third person if he didn't prove that the object or property given compensation didn't correspond to their value. Pursuant to the provisions of international documents signed by our country for confiscation and the difficulties of proving the criminal origin of property today, with the changes in 2009, in our criminal legislation is introduced law institute transfer of the power of burden proof, for certain offenses.

Thus, the article 273 is changed also, with a new paragraph 10, which stipulates that if there are factual and legal obstacles to establish the previous offense and prosecution of the perpetrator, the existence of such offence is determined on the basis of the factual circumstances of the case and the existence of reasonable doubt that the property is acquired by such offence. Paragraph 11 of the same Article provides that the duty and the opportunity to know that the property added by the offense can be determined based on objective factual circumstances of the case. This means that we adopt the provisions of the Vienna Convention in this regard, Article 3 of the Convention which stipulates that the knowledge that it was for previous acts of money laundering or the intent or purpose of money laundering may be inferred from objective factual circumstances.

Such provisions shall address the problem of determining the previous offense and its proof, without existing of the major money laundering offense.

Just as an illustration, in the previous period (2006/2007) for example, for the offense, money laundering and other criminal proceeds from art.273 of the Criminal Code, are brought requests for gathering the necessary information against one person, submitted requests enforcement investigations against 8 persons, filed indictments against 3 individuals passed first instance ruled for 23 persons (judgments regarding the objects of 2006, which was charged in 2006), a verdict has been brought for 3 persons (Annual report by Public Prosecution of R.Macedonia for 2007, 11.06.2008).

A report from 2006 however (Annual report by Public Prosecution of R.Macedonia for 2006, 16.05.2007), provided that investigations were filed against 33 people, filed charges against 6 persons filed applications for collecting necessary information against 10 persons, but in the statistics on the number of convictions for this offense is not nor a one. This situation speaks for difficulty of proving the prior offense, facing the authorities responsible for implementation of legal provisions, which can be removed or mitigated with the new legislation. In this direction the possibility is discussed of adopting the Framework Decision of the Council of Ministers of the EU in 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property. The Framework Decision includes expanding the power of confiscation (according to Art. 3, paragraph 1 and 2 of the Framework Decision) not only for property derived from the offence in charges, but also other property which has been derived from similar criminal activities of the convicted person (money counterfeiting, money laundering, human trafficking, trafficking in

immigrants, sexual exploitation of children and child pornography, trafficking in narcotic drugs). The court will impose such a measure when it is established that the value of the property is disproportionate to the lawful income of the convicted person.[18]

Expanding use of confiscation applies to person or legal person that is closely related to the perpetrator of the aforementioned offences which have an impact on them. The application of this measure should be provided with legal guarantees (right to defense, compensation, etc...) of the persons concerned.

As is provided in the Framework Decision, the existing instruments in this area did not produce a satisfactory degree of effective cross-border cooperation on the given confiscation because there are still many of the which Member States who cannot confiscate the proceeds of all criminal offenses punishable by deprivation of liberty for more than one year. Its main goal is to ensure that all Member States have effective rules governing the confiscation of proceeds of crime, among other things, in terms to the onus of proof regarding the source of the assets held by the person convicted of an offense related to organized crime.

Amendments to the Criminal Code in this direction, arising from the need to align the matter of confiscation with the latest international standards in this area and to overcome the weaknesses of the existing provisions that were the reason for its failure to apply in practice. One of the key reasons for the changes in Criminal Code is precisely the introduction of expanded confiscation in criminal legislation. This is an law institute that has already been successfully applied in modern European legislation in dealing with organized crime. So after all the international recommendations and suggestions of experts, with the mentioned changes of Criminal Code in 2009, introduces a new Article 98-a, which includes expanded confiscation.

Accordingly, the perpetrator of an offense committed within a criminal association which is realized profit and for which is provided a sentence of at least four years and a criminal offense in connection with the terrorism of the articles 313, 394-a, 394-b, 394-c and 419 for which it is provided a sentence of five years or more severe punishment or is linked to money laundering offense for which is provided a sentence of at least four years. Also it will be confiscated the property acquired in the period before the sentencing which is determined by the court from the circumstances of the case, but not more than five years before committing the offence, when based on all the circumstances the court is satisfied that the grounds of the property exceeds the statutory income of the offender and comes from such offence.

---

[18] Strategy for the reform of criminal law, Ministry of Justice of Republic of Macedonia, Skopje 2007, p. 79

Property under paragraph 1 of this article can be confiscated, as was mentioned earlier, and from third parties which is achieved with the offense, as well as members of the offender family, if they did not give adequate compensation. In terms of expanded confiscation and the conditions for its application, the new legal solutions are based in the Framework Decision of the EU Council of confiscation of income, assets and property-related crime (2005/212/JNA) of 2005, which as a rule of EU action is not obligatory, but as an instrument of harmonization has special significance for member states, and countries that are candidates for EU membership.[19]

This legal provisions follow the recommendations of international documents and comparative experience of developed countries that apply this measure. This prescribing should help in combating these forms of crime, with another additional tool though it touches the human rights and freedoms and principles of criminal procedure and can be of great benefit in achieving the goal of this measure. The introduction of such provisions in Criminal Code necessarily requires, first, as soon as possible, to comply with the procedural provisions in the Criminal Procedure Code, and create conditions for their realization and secondly warns of careful implementation in practice because of the broad powers of judges in its application and observance of human rights. Hence, in the upcoming legislative changes, it is necessary to specify the terms that Article 98 operates in Criminal Code, and to implement appropriate training which would avoid different interpretations of the provisions covering the expanded confiscation (the court is reasonably satisfied, the circumstances of case etc). Remains to wait and see how this measure will really be applied in practice and bring expected positive results.

Conclusion

Obviously, we can conclude that this tendency of affirmation and expansion of application of the measure of confiscation of property and proceeds acquired by criminal offence, bring into question the traditional principles of criminal law, the principle of guilt, the proportionality of the measures committed criminal offense and presumption of innocence.

However, acceptance of principle in dubio contra reum, in the conflict of two legitimate interests to protect private property and to protect society from organized economic crime, with involvement of criminal proceeds in legitimate economic and other activities, obviously favors the second.[20] Hence, logical and justified seems the idea of acceptance and implementation of expanded

---

[19] Камбовски Владо *Кривичен Законик*, Интегрален текст, ЈП Службен Весник на Р. Македонија, Скопје 2009

[20] Камбовски Владо, *Основни методолошки проблеми на економското казнено право*, Годишник на Правниот Факултет Јустинијан Први во Скопје, том 41, 2004/2005

confiscation and the institute transferring the power of burden of proof in Macedonian criminal legislation, in terms of ideas for introducing and applying a new concept for dealing with contemporary forms of crime, following the example of most countries today.

BIBLIOGRAPHY

Alessandri, A., *Confisca nel diritto penale, Digesto delle Discipline Penalistiche*, III, UTET,Torino, 1998

Bowles Roger, Faure Michael and Garoupa Nuno, *The Scope of Criminal Law and Criminal Sanctions: an Economic View and Policy Implications*, http://www.wzb.eu/mp/conf/io08/papers/bowles.pdf

Gilmore William, *Dirtu Money*, The evaluation on money laundering Counter-measures-Council of Europe, 1995

Fuller N., *Oduzimanje i delje je imovine*, Međunarodna konferencija o oduzimanju imovi nestečene krivičnim delima, Specijalno, tužilaštvo za organizovanikriminal, U.S. Department of Justice OPDAT U.S. Embassy of Belgrade i Misija OEBS-a u Srbiji, 15–16. mart 2007, Beograd

Fijnaut Cyrille & Paoli Letizia, *Organised crime in Europe: concepts, patterns, and control policies in the European Union and beyond*, Springer, 2004

Levasseur, G., Chavanne, A., MontreuiL J., Bouloc B., *Droit pénal general et procédure pénale*, Sirey editions, 1999

Jeschek H. & Weigend T., *Lehrbuch des Strafrechts*, Allgemeiner Teil, Duncker & Humblot, Berlin, 1996

Ilic Goran, O*duzimanje imovine stečene kriminalom*, Revija za bezbednost, Centar za bezbednosne studije, godina II br.5, Beograd, 2008

Камбовски Владо, *Нови казненоправни одговори на предизвикот на организираниот криминал*, Зборник на трудови на Правниот факултет Јустинијан Први Скопје, Актуелните прашања за државата и правото на Р.Македонија и Руската Федерација, том 1, Скопје 2007

Камбовски В., Калајџиев Г., Зиков С., Митревска И., *Конфискација и привремени мерки: хармонизација на домашното право со меѓународните стандарди*, Македонска ревија за казнено право и криминологија, ISSN, год. 13, бр. 3, 2006, p. 245-267

Strategy for the reform of criminal law, Ministry of Justice of Republic of Macedonia, Skopje 2007

Камбовски Владо, *Кривичен Законик, Интегрален текст*, ЈП Службен Весник на Р.Македонија, Скопје 2009

Камбовски Владо, *Основни методолошки проблеми на економското казнено право*, Годишник на Правниот Факултет Јустинијан Први во Скопје, том 41, 2004/2005

Masciandaro Donato, *Combating black money: Money laundering and terrorism finance, international cooperation and the G8 role*, 2004

Pradel Jean, *Droit pénal comparé*, Dalloz, 1995

Pradel Jean & Corstens Geert, *European criminal law,* Kluwer Law International; 1 edition, February 1, 2002

Peter Joseph Loughlin, J.D, *Does the Civil Asset Forfeiture Reform Act Bring a Modicum of Sanity to the Federal Civil forfeiture System?*, The Mallet Street Gazette, 2000, http://www.malet.com/does_the_civil_asset_forfeiture_.htm

Ruback R. Barry & Bergstrom Mark H., *Economic sanctions in criminal justice Purposes, Effects, and Implications*, 2006, http://www.sagepub.com/hanserstudy/articles/11/Ruback.pdf,

Evaluation Report on Italy Adopted by GRECO at its 43rd Plenary Meeting, Strasbourg, 29 June – 2 July 2009, www.coe.int/greco

John Murray v. the United Kingdom, *European Court of Human Right*s, 18731/91 [1996] ECHR 3 (8 February 1996) URL: http://www.bailii.org/eu/cases/ECHR/1996/3.html

Phillips v. the United Kingdom, *European Court of Human Rights*, 5.07. 2001§ 42 и 43

IRINA CUDOSKA

Immigration in the European Union, Definition of Social Problems and Problem Solving Methods

A great number of people arrive in European Union Member States in search of a better every day future. In 2003, at the joint EU conference in Brussels dedicated to current international migration issues, a conclusion was reached that "the EU, as well as the USA, is a region attracting an enormous quantity of migrants – close to one million people a year in the course of the last ten years. Moreover, illegal immigration to EU countries accounts for around half a million immigrants a year[1]".

With such mass immigration, the most severe problem is illegal immigration. According to the widely accepted definition in EU, illegal immigrants are persons who are "citizens of third states not fulfilling or no longer fulfilling the entrance and residence requirements on the territory of EU Member States[2]". The exact number of illegal immigrants who have entered the EU territory is unknown. European statistics mostly use a very loose number – over 3 million illegal immigrants. This data has been presented by the International organization for migration (IOM) as early as 2000, and now, ten years later, that number may be much higher.

Obviously, European countries face most of their problems concerning border protection along the long coastal line. More specifically, the South of Europe is for the most part a constant point of entry for incoming immigrants. Every dawn European border patrols often find dozens of bodies of people who have tried, but not succeeded to reach the European coast with the help of traffickers. This is a well organized business which the border police cannot fight alone. It is common knowledge that there are entire fleets dealing in smuggling refugees and economic immigrants from the Near and Middle East and Africa to the shores of the distant, but ever attractive Europe. The continental borders also need to be specifically protected, especially the border along Balkan countries and in particular the borders with Macedonia, Serbia, Bosnia and Herzegovina and Albania.

This may be best expressed by ex UK Prime Minister Tony Blair, who once stated: "Europe is now facing one of the most complicated problems of

---

[1] From Opening Video Address, Economic aspect of migration by Anna Diamantopoulou, Join European Commission/OECD Conference, The economic aspects of migration , Brussels, 21–22 January 2003

[2] Council Regulation determination obligations as between the member states of the re-admission of third-country nationals [Official Journal C353 of 7.12.1999].

modern times – mass immigration and asylum seeking[3]". Hundreds of people cross the border and embark on a long and often dangerous journey seeking a better life. Asia, Africa and lastly Europe – these are the points each family of immigrants must cross when taking on the risk of embarking on their "European Odyssey". On that journey each immigrant deals with the deprivations and joys which accompany them, regardless of the reason for which they decided to embark on that journey and leave their previous place of residence.

The authorities of corresponding countries try, first and foremost, to decrease the migration flow using traditional methods: tightening of migration policies and encouraging political end economic growth in emigration countries, signing bilateral economic treaties, joint financing of projects. The end goal of using these methods is to improve living conditions in emigration countries, decreasing of unemployment which should lead to lessening of the intensity of factors pushing people out of their countries.

The first instrument in the fight against illegal immigration, despite being welcomed by the European population, is often criticized by both the opposition inside several European countries and non-government organizations for human rights protection outside of their borders. In any case, the tightening of European legislation is a tendency noted throughout European countries. Such measures have been taken by authorities in France, Italy, Spain, Germany, Austria, Denmark, the Netherlands and the UK.

The results of providing economic and social assistance and stimulation of economic growth in emigration countries are less than optimistic.

Obviously, European countries are unable to stop the migration flows separately or one by one. There are problems which may be resolved effectively only on a European level, by using all organizational, legal and financial possibilities of the European Union. The necessity to develop a closer, more dynamic general European cooperation regarding the migration policies issues and asylum granting has been welcomed by both most European politicians and European citizens. "As per polls taken throughout European countries, seven out of ten EU citizens favor the implementation of a unified policy on immigration and granting asylum[4]".

European leaders meet increasingly more often in order to resolve migration problems – in Tampere in 1999, where the basic contours of the general migration policy were outlined and in Seville in 2002, where immigration was the only issue on the agenda and was viewed as a component of general European safety. For a long time, agreement couldn't be reached on fundamental issues, such as joint financing of borders or the mutually agreed wording of the term "refugee". These disagreements are now in the past. Currently, the

---

[3] Tony Blair, E*U signals action*, 2002/05/21, http://news.bbc.co.uk/2/hi/europe/default.stm

[4] Петров. Г *Последний форум под оливами*. Европа, №7 (30), июль-август 2003, с. 5

basis for a general European cooperation in the given area is prescribed in the Treaty establishing a Constitution of Europe in 2005. Article III dealing with freedom, security and justice confirms the right to uninhibited movement on the territory of the whole European Union. Moreover, Article III points to the necessity to further develop the cooperation between European countries in the area of migration policy, policy of granting asylum and protection of outside Union borders[5].

In the autumn of 2004 the European parliament agreed on the Hague programme, which was a result of difficult discussions on the contents of the new programme on development of policies in the area of internal affairs and judiciary, which was to replace the "Tampere plan" and begin a new era in the development of freedom, security and justice in the European space. This 5 year programme is a plan for closer cooperation in the migration policy and granting asylum. The aim of the Hague programme, accepted at the European Council session in Brussels, was the development of a joint European policy by 2010, when a special unit for migration policy and asylum was to begin functioning in the EU. This program represents a real agenda on the future development of migration and asylum policies. The European Council comprised of Prime Ministers of 25 Member States decided on this programme, thus turning it into more than just a "wish list[6]". The bringing of the plan to political life entails three bodies: the European Commission, the Justice and Home Affairs Council and the European Parliament.

The program is based on four concrete benchmarks: 1. reinforcement of freedom; 2. strengthening of security; 3. strengthening of justice; 4. foreign affairs, where the first benchmark is directly connected to the issues of asylum, migration and borders.

The fact that it clearly states that international migration shall continue is very important for the programme. Such realism shall enable providing assistance to the EU, so that it better handles the effects of migration. The Hague programme outlines the following tasks[7]:

- development of a joint European system for political asylum, including the general procedure for granting asylum;
- determining the possibilities the foreigners work in the European Union, in accordance with the needs of the labor market;
- setting joint European standards for integration of immigrants in host countries;

---

[5] Treaty establishing a Constitution of Europe, European Communities, 2005, (Article III–257), p.119

[6] Joanne van Selim, *The Hague Program Reflects New European Realities*, http://www.liberyandsecurity.org

[7] http:// www.aes.org.ru/show.php?doc=231

- strengthening partnerships with third countries in order to stop illegal immigration;
- development of the policy on returning illegal immigrants to their native countries;
- more efficient use of biometric information systems.

Speaking of economic immigration, it is important to realize that it is an irreversible process. The movement of people from poor countries with a lower level of economic and social growth towards reach and stable societies is inevitable. The sad truth is that "no matter how efficiently the wealthy Europe equips and closes its borders, no matter how many new technologies it uses and how fast the border police boats – it all comes down to nothing in the face of the undefeatable striving of people to get away from hunger, epidemics and poverty[8]". Even if dozens do not make it, a small group will still reach the continent and will do whatever it takes, using all legal and illegal means, to stay in Europe. At the same time, the more obstacles they encounter on their way, the more illegal routes they find towards the fortress called Europe. This fact is corroborated by a history of immigrants successfully avoiding the system for migration control, invented by industrially developed countries, over the last twenty years. There are no limits to the decisiveness and skill of the people determined to leave their countries.

This is not difficult to grasp when taking a look at the situation in the Mediterranean, where most immigrants penetrate Europe. Not only has the difference in social, economic, and what is especially important, demographic situation on both Mediterranean sea coasts (northern and southern) not decreased over time, but it continues to grow, presenting a potentially serious threat to regional stability. The proximity of Europe to hot spots of excessive population in the Near East and Northern Africa is the fundamental cause for worsening of the migration situation on the old continent. "According to some estimations, the high population growth (over 2% a year) will lead to the increase of population in the region to 400 million by 2035, or twice that of today, and further increase of the discrepancy between the level of development of the south and the north in the Mediterranean points to the fact that the immigration pressure on Europe in the next ten years will not lose its intensity[9].

Upon reviewing the general state of the immigrants in the EU, it is necessary to pay attention specifically to Muslim immigrants and above all the existence of the Muslim confession, whose representatives they are, in the EU. Researches of the topic identify two opposed points of view regarding the developments of Islam in Europe: "heaven on earth and hell in one's own

---

[8] Ключников Б. *Исламизам, США и Европа: война объявлена!*/ Б.Ключников, М.2003.С.218

[9] Dubois G. *The EU and the Mediterranean: Where are we today?* / Dubois G., Europe – T*he Mediterranean – Russia*: *Perception of strategies*. Moscow. 1998. P.15.

backyard[10]". In the pessimistic version, the domestic political analysis and the academic literature agree when recognizing the limited possibility for inter-confessional dialogue or Muslim integration[11]. They speak of an inevitable clash of modern states with the ambitious fundamentalist religion, whose worshippers prepare to convert the continent into "Euroarabia" (a name used to address the EU in order to point out the widely spread presence of Muslims on its territory)[12]. The authors base this pessimistic prognosis on the lack of legitimate representatives of Muslim communities in Europe[13]. On the other hand, those scientists siding with the reformed "euro Islam" are optimists who base their optimism on two hypothesis. Firstly, due to the diminishing of the importance of institutions of the country of immigration for the integration of immigrants, and secondly, the resigning of emigration countries from the religious influence of the Muslim Diaspora[14]. But, neither the pessimistic nor the optimistic prediction of the development of the situation with the Islam in Europe has come true, even though they were published over a decade ago.

It is surprising that only a very limited number of researches compare the degree of utilization of political and institutional possibilities of Ministries of internal affairs in the process of building a relationship between the state and the Islam confession[15]. The period between 1974 and 2004 boasts the most active interaction between western European countries and the Islam. This time frame has been studied by R. Grillo who concluded that resolving the problems connected to the religion of its citizens is a sovereign right of European national countries[16]. Thirty years of contiguous interaction with organized Islam in Europe demonstrates the unfoundedness of the notion that the countries are now swamped with unplanned and unwanted masses of Muslims[17].

---

[10] Lorens.D, *How to cope with transnational islam:muslims and the states of Western Europe*, Prognosis Journal, www.journal.prognosis.ru/a/2007/04/02/148.html

[11] Fetzer, Joel S., and J. Christopher Soper 2005 *Muslims and the State in Britain, France, and Germany*. Cambridge: Cambridge University Press. Shore, Zachary 2004 *Breeding New bin Ladens: America's New Western Front.* Watch on the West (A Newsletter of the Foreign Policy Research Institute's Center for the Study of America and the West) 5 (11) (December) www.fpri.org / ww / 0511.200412.shore.newbinladens.html.

[12] Ferguson, Niall 2004 *Eurabia?* New York Times, Sunday, April 4, 13.

[13] Political Theory. Cambridge, MA: Harvard University Press. Rémond, René 1999 Religion and Society in Modem Europe. Oxford: Blackwell Publishers. 2002.

[14] AlSayyad, Nezar and Manual Castells 2002 *Muslim Europe or Euro-Islam: Politics, Culture, and Citizenship in the Age of Globalization*. Lanham, MD: Lexington Books.

[15] Dassetto, Felice, Brigitte Maréchal, Jurgen S. Nielsen and Stefano Allievi 2001 *Convergences Musulmanes: Aspects Contemporains de L'islam dans l'Europe Elargie*. Paris: Harmattan.

[16] Grillo, R. *Islam and Transnationalism.* Journal of Ethnic and Migration Studies 30 (5) (September), 2004, 861–78.

[17] Cal dwell, Christopher 2004 *Islamic Europe? When Bernard Lewis Speaks.* The Weekly Standard, October 4. www.weeklystandard.com / Content / Public / Articles / 000 / 000 / 0_04 / 685ozx-cq. asp.

In this respect it is necessary to point out three existing points of view in the academic literature defining the attitude of EU states towards Islam.

The fist stance describes the policy of European national countries as a predictable attitude towards the attempt of European governments to adapt the requirements of the Muslim immigrants towards the national integration models.

According to the second position, the Islam doctrinally is incompatible with democracy, where the main reason for it is the separation of state and religion. The authors who favor this position claim that it is impossible to integrate Islam into the system of modern states; they emphasize the challenges brought on by the Islam doctrine and set apart the lack of willingness to accept the basic liberal principle-secularism[18]. The authors support this claim with the inability to create one organization or representative group which would negotiate with the governments of European countries on behalf of all Muslim living in the corresponding country. From this point of view, the declining of Muslim leaders to personalize Islam is accompanied by the systematic inability to nominate centralized representatives the government may address, in particular one organization which would debate and negotiate with governments on behalf of all Muslims in the country[19]. Thus, any buckling down by the state regarding the recognition of Islam or the building of a multicultural policy favorable to the religious identity of Muslims weakens the foundation of liberal democracy because of the inclination of Islam to equate religion with politics[20]. Some advocates of this position take a radical stand, pointing out that governments should disregard the demands of Islam communities and avoid the integration of Muslims in their societies. These authors foresee an inevitable and continuous conflict between the Islam and the state.

The third point of view embodies the stance that adaptation of the Islam towards the new conditions will only occur through vanishing of national states. The conducted research included immigrants who have been employed in western European social systems towards the end of 1980 and the beginning of 1990, which led to the theory of post-national rights[21]. According to the research conducted by J. N. Soysal, "the state is no longer an autonomous and independent organization of the national, decides population" and with that the immigrants become international participants who gain a right to acquire a citizenship through debilitating the national regimes of the state.

---

[18] Modood, T. *Multiculturalism, Secularism and the State.* Critical Review of International Social and Political Philosophy (CRISPP) 1 (3) (Autumn): 1998, p. 79–97

[19] Rémond, R. *Religion and Society in Modem Europe*. Oxford: Blackwell Publishers., Laurence, Jonathan 2001 (Re) constructing Community in Berlin: Turks, Jews, and German Responsibility.» German Politics and Society 19 (2) (Summer): 1999,p. 22–61.

[20] Sartori G. Pluralisme, *Multiculturalismo e Estranei: Saggio Sulla Società Multietnica*. 1 edn. Milano: Rizzoli. 2000

[21] Soysal, Yasemin Nuhoglu 1994 *Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago: University of Chicago Press

After the elaboration and classification of the positions of the Islam and the Muslim immigrants in Europe by European scholars who deal with this issue, it is necessary to analyze the policy of governments of European countries so as to directly define their strategies on integration of Muslim immigrants.

From 1974 to 1989 a change in the policy of European governments occurs towards the implementation of an open policy of states with regard to Islam. Due to this, between 1989 and 2004 European countries strive towards including Muslim diplomats in the relationship between the country's Government and the Muslim community so as to win over the "official" Islam on one hand, and the "political" Islam on the other. The end of the 90's is a time when the policy of external negotiations is replaced with the policy of actually including Muslims in the negotiations process. Thus, the interaction between state and the Islam became the foundation of the integration policy.

As far as the attitude of European governments towards Islamic organizations is concerned, it should be emphasized that they support the use of donations and other funds from foreign countries. They justify this with the existence of political problems in state-sponsored financing of the religion. For electoral purposes, financing of the religious needs of immigrants from foreign countries was considered to be most appropriate in the short run by political parties and the local government. That is why it made sense to leave the financial care for religious building to the governments of countries native to the immigrants, seeing as how they had the necessary hands-on experience in this matter. During that period the construction of large classical mosques in Europe was justified with the necessity to satisfy the practical needs of local Muslims. That time period created an impression with European governments and citizens that this provided a certain type of protection from terrorist attacks organized by radical Islamists.

When defining the position of European countries towards the representatives of the Islam, two stages become apparent. The first stage is defined by minimal adaptation and reaction of the European governments towards the Muslim immigrants and their integration in society. So, with the exception of prayer rooms in some companies, the governments' role was restricted to the recommendation to maintain contact between the Islam communities and embassies and consulates of emigration countries, as well as the regional center of influence-Saudi Arabia. For example, when in the early 1990s local authorities in Bavaria introduced lectures in basic Islam and the Turkish language in public schools, the Turkish consular employees and diplomats were responsible for the schedule and the lectures[22]. The French government set funds for broadcasting radio programs in Arabic through the social fund,

---

[22] Wright, Lawrence *The Terror Web: Were the Madrid Bombings Part of a New, Far-reaching Jihad being Plotted on the Internet?* The New Yorker, August 2004, p. 2.

and the Ministry of foreign affairs implemented theological education of foreign imams according to the programme for teaching Arabic language and culture[23]. Although those steps resemble integration activities, the real connection between the host country and the Islam was established in order to simplify the return of immigrants to their countries of origin[24].

The second stage in the relationship between European countries and Islam begins in 1989 with European governments' attempt to control the transnational Muslim networks.

To this end the Ministries of foreign affairs of European countries began establishing relations with a broader circle of Muslim representatives, and not only representatives of official Islam. This required delicate negotiations, where government officials had to act gradually because these included not only diplomats, but also civil society organizations as well as international non-government organizations related to Islam. This stage of the integration of Muslims presumed a "detransnationalisation", meaning abandoning the mechanisms of influence when dealing with religious issues in Europe, both of emigration countries and organizations of transnational political Islam acting on European territory. The Ministitries of foreign affairs established an incentive for the organization of Islam as a national religion, and the negotiations with the Governments lead to the establishing of numerous Muslim organizations-Councils. In 1989 the Council of the Muslim faith was established in France; in 1992 the Islamic commission was established in Spain; in 2000 special Councils for dialogue between the state and Islam communities were established in seven German provinces; in 2002 the United Council of Muslims was established in Great Britain and in 2003 the establishment of the Italian council as a negotiator between Islam communities was initiated.

When reviewed separately per each country, these processes are not identical. One, as in Belgium for example, pay more attention to official Islam and the representatives of foreign branches, and others put the emphasis on specially selected civil society organizations on a local level, as is the case in Italy.

The communication process between countries and Muslim organizations differs from country to country. For example, the French administration is focused solely on religious representatives – the French Council of the Muslim Faith represented by 6-8 % of the most religious Muslims[25]. Italy suggested a less official form than a Council: unofficial meetings and consultations

---

[23] Noiriel, Gerard *Le Creuset Français: Histoire de l'Immigration, XIXe-XXe siècles*. Paris: Seuil. 1988

[24] Rudolph, Susanne Hoeber 1997 *Introduction: Religion, States, and Transnational Civil Society in Transnational Religion and Fading States,* Susanne Hoeber Rudolph and James P. Piscatori (eds). Boulder, CO: Westview Press. ; Eickelman, Dale F 1997 *Trans-State Islam and Security* in Transnational Religion and Fading States Susanne Hoeber Rudolph and James P. Piscatori (eds) Boulder, CO: Westview Press.

[25] Laurence, Jonathan (guest editor) *The French Council for the Muslim Religion.* French Politics, Culture and Society 23 (1). 2005

which would have not only a religious goal, but also a social and political representation of the Muslim minority, while in Germany Councils decide upon concrete tasks, such as the organization of education in Islam schools.

Apart from the existing differences pertaining to the attitude of every European country towards Islam, there are also many similarities in mutual activities of states and the Islam. The similarities can, first and foremost, be seen in the initiated gradual institutional process of detransnationalisation of Islam in European countries. The Governments moved towards the integration of Islam in the relationship between the religion and the country, simultaneously continuing the process of institutional integration of immigrants. The relationship between religion and state is vital because the institutional connection with religious communities is key for political integration of immigrants. By taking upon themselves the initiative for integration and nationalization of Islam into an appropriate institutional framework, the European countries in fact attempted to understand which Islam the young actually support – religion as a reaction against the European society or religion as taking interest in their origin and the place of family tradition. The Governments recognized the consequences from their earlier policies of lack of official stance towards the Islam religion in their country and studied the development of the immigrant population, realizing that this population had not returned to their native countries, and the influence of embassies and non-government organizations which deal with religious Islamic activities is greater than they had assumed.

Having defined the phases of attitude of European counties towards the religion of the Muslim immigration, it is clear that the policy of European countries is gradually changing. The European countries become active participants in resolving the issues of the Islam faith which became a major factor of personal and collective identity of generations of Muslim immigrants who are a part of these European countries.

DRAGANA CHIFLIGANEC, MARKO ANDONOV

SMEs in the Republic of Macedonia – a Brief Review on the Legal Regulation

Abstract

The purpose of this study is to examine How SMEs operates in the case of the Republic of Macedonia. The main objectives of this research are to examine overall economic situation in which SME operates and which factors have a direct impact on SMEs in Republic of Macedonia.

The overall assessment of this research is briefly presented of overall macroeconomic situation in the Republic of Macedonia, Definitions of SMEs in EU and Macedonia, Statistical data in Macedonia of SMEs as well Legal framework and Issues of SMEs in RM. In addition the overall economic situation in the Republic of Macedonia has direct impact of SMEs. The entire research are drawn, and the benefits of conducting this study are presented, also recommendations for better position of SMEs in the Republic of Macedonia.

1. Introduction

The main purpose of this research is to give a clearer picture of the conditions in which the Small and Medium Enterprises – SMEs in the Republic of Macedonia operate. In this research is also consists of the definition, characteristics and an overview of SMEs in different countries compared with those in the Republic of Macedonia, issues concerning SMEs and effectiveness of SME promotion. Finally, the last part of the third section has recommendations for promotional activities of SMEs in Republic of Macedonia based on other researches, studies and articles, from different countries around the world.

2. Macroeconomic Overview of R. Macedonia

Republic of Macedonia, located in the center of the Balkan Peninsula connecting the North – South and the East – West of the peninsula, has an important geo strategic location. After the dissolution of Yugoslavia, on 8th September, 1991 Republic of Macedonia declared its independence. According to Dana (1998) and Fouche (2001), the Republic of Macedonia is the only country in the region that accomplished independence in a peaceful way. Ever since, Macedonia has played an important role in achieving stability in the entire Balkan region. The underlying effect of this has also been the promotion of more economic stability.

3. Definition of SMEs in EU Compared to Republic of Macedonia

The formulation of the definition for the SMEs varies from country to country. How SMEs are defined depends on a country's needs and the course of particular macro-economic politics (European Commission, 2003). In the economic literature there are numerous definitions all of which are correct. A clear definition of the term SMEs will shed light on the characteristics that will allow the creation of a fundamental strategy and support methods for the most crucial sector in the world's economy overall.

According to European Commission database (2003), the number of employees, the annual income, the annual turnover and the assets of the company are the most common criteria for defining the term SMEs worldwide. In addition, in the definition of The Committee for Economic Development, it is maintained that the management must be independent and at least a further two criteria from the above mentioned should be fulfilled in order to classify as SMEs.

In 1995 within the European Parliament Report, the Court of Author raised the question of the need for a common definition of SMEs inside the EU (UNECE).

- In 1996 the Commission for Recommendation adopted the first official definition that was generally accepted among EU members. The three criteria included the number of employees, turnover and balance sheet. Thus, they are divided into three categories:
  1. Micro enterprises with less than 10 employees and with no further constraints;
  2. Small-sized enterprises with less than 50 employees, maximum 7 million Euro turnover also maximum 5 million Euro balance sheet in terms of ECUs.
  3. Medium-sized enterprises are defined as less than 250 employees, 40 million Euro turnover and 27 million Euro balance sheet also in ECUs.

In addition, to the above criteria the SMEs are not allowed to have more than 25% of the capital in other enterprises or large corporations.

After the economic development of the European SME market from 1996 to 2004, the Commission recommended a new definition with only small changes; and on January 1st, 2005 these new regulations were put into effect.

Today the official definition of SMEs in the EU is the following:

"*The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding 50 million euro, and/or an annual balance sheet total not exceeding 43 million euro*."

(Source: European Commission, 2005)

Due to the fact that no economy is the same as well as the fact that conditions within a country vary, many nations, including those in the EU, create

the definition in correlation with their own domestic market conditions. For example, in France SMEs are defined as a maximum of 200 employees.

Even though Republic of Macedonia has aspirations of becoming a member of the EU, and many regulations, standards and even laws have already been changed to fit EU criteria(not to mention the fact that more are waiting to be changed in the future) the current EU definition of SMEs is not yet compatible with that of the situation in Republic of Macedonia . For this reason, Republic of Macedonia has had to apply its own modified version pertaining to SMEs at present.

In the Republic of Macedonia the Ministry of Economy is responsible for all activities regarding SMEs. However, the term SMEs is not clearly defined in Republic of Macedonia 's economic literature. In 1993, revised in 2002, for the first time the Law of Accounting in Republic of Macedonia divided enterprises into small, medium and large:

1. Small Enterprises include three criteria, of which at least two are required in order to belong to this classification: to have less than 50 employees, average income to be less than 8 000 denars (1 Euro = 61.5 denars) and 6 000 denars for value assets for each employees per month.
2. Medium Enterprise are less than 250 employees, the monthly average of the salary to be 40 000 denars and value assets by the end of the year to not be less than 30 000 per employee (Law for Accounting), Agency for Promotion of Entrepreneurship of the Republic of Macedonia – APPRM, 2004.
3. Large Enterprises are more than 250 employees and no further criteria for classification.

With the reforms that were implemented and with the changes of the Law for Medium Enterprises small firms were abolished during the period from 1993 to 1998. However, in 1998 with the additional change of the Law for Accounting they were included again. According to APPRM, 2004 after the implementation of the Law for Trading Companies the definition of the Law of Accounting is no longer officially used.

Hence, in 2004 the Law for Trading Companies incorporates the definition of SMEs in Republic of Macedonia, which is different to that of the Law of Accounting. In the Law for Trading Companies the definition is created in correlation to the classification of the EU and the number of employees is identical, but the other parameters are changed. In the Law for Trading Companies:

1. Micro enterprises are included in the definition with less than 10 employees with an annual turnover of not more than 50.000 EUR, and the gross income per customer around 80%.
2. For Small-sized enterprises usually up to 50 employees but with less than 2 million EUR of annual turnover and 2 million EUR for the total balance sheet.

3. Medium-sized enterprises incorporate 250 employees, less than 10 million EUR annual turnover, and a balance sheet total of less than 11 million EURO.

4. SMEs in Republic of Macedonia Compared to Other Countries

Nowadays, with the fast growth of technology access to information is easier than ever before. Above all, with the best known phenomenon of this century, globalization, the SME sector plays a crucial role in the world economy, claims in Lages and Montgomery, 2004.

In the previous section the economic situation of SMEs in the Republic of Macedonia was mentioned along with the important role they play in the economy. Furthermore, experience has proven that regardless of a country's classification, in terms of economic development, whether it is a developed, developing or a country in transition, they all share one common view for the SME sector, i.e. SMEs are the key element of a successful economy (Lages and Montogomery, 2004; Winer, 1998). SMEs are perceived as a development for new opportunities, economic wealth as well as job creators. These are the three key common views for the SME sector that constitutes them as crucial components of every economy in the world. In addition, never before in history, have governments worldwide made such special efforts for the creation of a strong SME sector.

Generally, the main goals of government are: development, efficiency and increasing the number of SMEs. By achieving these goals it not only has the sole ability but also the instruments for the creation of a good economic environment with stable fiscal and monetary policies. In addition, successful governments are those who are in a position to generate all the conditions for the creation of a proper SME sector, the benefits of which will be felt by the entire society.

Hence, each government formulates on its own the strategy for SMEs. Despite the fact that some countries are members of the EU or other international organizations, they nevertheless have the opportunity to prepare their own separate strategy. This is the case even though the EU has commonly accepted policies. In most cases, countries choose to add their own policies in order to achieve maximum effectiveness as well as having a better adaptation to the domestic market. In the sections that follow, greater depth of the various aspects of the SME sector worldwide will be presented.

5. Statistical Analysis of SMEs in Republic of Macedonia

In this section some fundamental data for the SME sector will be presented, in order to understand their influence and importance on the overall economic and political situation in the country.

According to the State Statistics Office (2006) of Republic of Macedonia , the number of SMEs has increased rapidly in the last 5 years, from 123, 072 in 2000 to 172,297 in 2004. However, this is the total number of registered small and medium firms, the actual number is different and was 49, 552 in 2004. A better infrastructure, the "one stop forum", plus the fact that half of the population of Republic of Macedonia is concentrated in the capital, give the results of 34% or 22, 780 of the total active enterprises as operating in Skopje. According to APPRM, in Skopje for every 30th citizen there is one small firm compared to Berovo where for every 312th citizen there is one small firm.

In the Central Registry, 2005 (cited in State Statistic Office, 2006) of Republic of Macedonia , 97% of the firms are listed as private and 99% of them are small which in total number 48, 130. Next are joint ventures with just 571, followed by state owned companies, which are 247, and unions, which are 150, all small-sized companies.

From the statistics of the Central Registry we can see that around 50% of the total active small firms belong to the retail and wholesale sectors. In the top ten sectors there are also the following: Agriculture; Manufacturing; Construction; Hotels and Restaurants; Transport, Storage and Communications; Real Estate and business activities; Education; Health and social work, also Social and Personal Services.

6. Legal Framework if SMEs in Republic of Macedonia

The re-definition of the Legal Framework is a complex process that requires time as well as experts who know both the domestic situation and the European Laws and regulations. In order to create laws according to European standards and at the same time to have them suitable for Republic of Macedonia 's economic situation, a lot of knowledge in both fields is required.

The process of the integration of Republic of Macedonia as a member of the EU has contributed towards the change of many legal frameworks. In 2004 several old laws for SMEs were replaced with new ones that are in accordance with the standards of the EU. In that period 8 new laws for SMEs were passed, such as: The Law on Trade Companies, The Law on Craftsmen activities, The Law on Customer protection, The Law on Catering, The Law on Tourism, The Law on Public Procurement, The Law on Publish Procurement and The Law on the Establishment of the Agency for Foreign Investment, Ministry of Economics (cited in APPRM report 2005). With all these laws the government has continued to work on the formation of a well-structured SME sector.

7. Issues that the SMEs Encounter

According to Cawood et al. (2004), in spite of the different supportive incentives to develop the SME sector, such as reduction of taxes in the short term,

SMEs are still faced with more complex issues, such as infrastructure, lack of financial resources and some strategic problems. For this purpose these issues require more than just government involvement in the form of legislation, and some countries, also make successful use of public funds to support long term activities involving aid in terms of promotion, domestically as well as internationally. Moreover, in Republic of Macedonia many non governmental organizations, NGOs such as SEAF, MRFP and some international organizations such as OECD, PHARE and EAR programs(SEED, 2000), are implementing various supportive mechanisms, especially for non developed countries (Keogh and Stewart, 2001).

In Republic of Macedonia the function of SMEs has to deal with many issues. Despite support from the government for SMEs, claims Zarezankova – Potevska (2000), many serious problems still exist. In the past the main problem was bureaucracy i.e. the actual registration of the firms that required many administrative papers, licenses for many institutions, and a lot of inefficient procedures which were time consuming. In order to overcome the first barrier in opening a firm, the government in 2004 implemented a so called "one stop forum" where the registration of a firm can be done in one institution within a maximum period of seven working days. This is an important step for SMEs, which also contribute greatly to gaining FDI, since the time spent on registration has been significantly reduced. However, this "one stop forum" exists only in the country's capital city, Skopje. In the remaining part of the country this has not yet been implemented.

Another problem of SMEs in the Republic of Macedonia is an access to information. The day to day operation of a firm requires different types of information, which is an integral part of the functioning of every company and plays an important role in the working process of SME firms, (Meldrum and Berranger 1999). For this reason according to Mitreska – Lazarevska (2002), information must be accurate, reliable, complete and above all delivered on time. Government is responsible for publishing these types of information as well as introducing easier access to information rather than producing one publication at the end of each year in limited editions.

It is said that SMEs have a lack of resources in educating human capital and providing better managerial skills claims Szamosi et al. (2004).Indeed, the main issue is the lack of financial resources. For this reason many organizations, such as OECD, implement supportive seminars from time to time, in order to provide better education of the employees of SMEs. In addition, nowadays in Republic of Macedonia there are several organizations, such as SEAF, also providing some financial help.

To conclude, despite the fact that governments have started to encourage growth of the SME sector, many problems still remain. There are many issues, which indirectly have a great influence on SMEs, one of them is the education system, which should be changed in order to produce more successful

SME managers and employees who are more open-minded. Moreover, governments must give a better incentive to SMEs to be more innovative, which is as an important part for the SMEs' successful operation especially in the long term Georgelli et al (2000).

8. SMEs in Republic of Macedonia in the 21 Century

In fact current difficult economic situation in the last 10 years in Republic of Macedonia, in recent years the government has focused on the improvement of the SME sector, which is the key element in the whole economy. For this reason, the government has established many institutions to assist the SMEs, in terms of financial help as well providing knowledge-based support (Willia et al. 1994). Besides this, however, the government should encourage SMEs to be more innovative, competitive and flexible in order to respond effectively to the variations of market conditions both on the domestic front and in foreign countries (Kleindl, 2000).

Today with the fast-pace of globalization, many opportunities arise and the prospects of SMEs in Republic of Macedonia are excellent, given the fact that the labor force is cheap and also the cost of production is lower than that of many other countries (Mac Invest, 2005). Through governmental financial help a lot of new technologies could enter the SME sector which will significantly help SMEs to be more competitive globally and to make good use of the advantages of the excellent geographical position (Petkovska, 2002).

Conclusion

Due to the fact that SMEs are an important part of economic growth, the government needs to create some support programs and to also provide more incentives for the creation on new SMEs, as has been done in countries such as the USA, the UK, France, the Czech Republic, which have provided the small and medium business sectors with various programs (Cawood et at, 2004 and Keogh and Stewart, 2001).

ALEKSANDRA SRBINOVSKA DONCEVSKI

Professional Development Opportunities for Local Administration Staff in the Republic of Macedonia

Abstract

Most successful companies attribute their success to the expertise and knowledge of their staff. Human resources, human potential, human capital are what make these companies exceptional. The issue of human resources is of crucial importance to the operation of the municipal administration. *Municipal administration is to serve its citizens, while their staffs are the key and invaluable resource in the provision of services.*

In order to ensure a proper execution of the functions and tasks of the municipal administration, it is important to have highly qualified staff. The need to meet international standards and criteria only intensifies the pressure that municipalities feel, forcing them to make radical changes in the organizational culture and practice. It further urges them to avoid bureaucratic habits and to increase the efficiency of all administrative procedures. Considering the fact that municipalities are in the forefront in the provision of services and have immediate contact with citizens, they also need to change the tedious bureaucratic style and to accept their newly developed roles of service providers.

Key words: Municipal administration, civil servant, local self-government

Introduction

The number one criterion that a country has to meet in the process of the European integration is to have a government that is highly professional and depoliticized, and that has legality and legitimacy. It should reflect a pyramid of professional civil servants who are committed to their jobs, not to the political power centres. These experts should demonstrate their quality and professionalism by understanding and abiding the existing laws, not by demonstrating party discipline motivated by prospects of career advancement.

Governing parties come and go, but the work of civil servants must be constant and remain unchanged even long after elections are over. The world today requires a relatively small and well-paid management, which will be technically well equipped and will promptly respond to all tasks. Needless to mention, it will be free of corruption, abuse of power and conflicts of interests. The more complicated the society is, the more complicated the tasks are. These tasks should be executed promptly and efficiently, using as little capital/resources as possible. Therefore, the municipal administration should be entrusted only with matters of public importance and tasks which cannot be executed by any other public organization. The efficiency of the

administration does not depend on the number of people employed. In other words, the size of the administration does not necessarily imply an efficient one. However, it is believed that it should be professionally trained and should be kept relatively small, particularly in reference to its cost efficiency in the gross social product.

Normative Frame for the Status of Civil Servant in Local Self-Governament State Institutions

With the newly adopted Low on Self-Government Low (2002) and the amended Low on Civil Service (2002), **employees at the local self-government units and the City of Skopje have become civil servants**.

A civil servant is a person who executes tasks of professional, normative, legal, executive, managerial and supervisory nature, all according to the existing laws outlined in the Constitution. Civil servants execute tasks related to state functions, according to the law, and they do so in a professional, politically neutral and unbiased manner[1]. All professional, managerial and other tasks, related to the status, rights, duties and responsibilities entrusted to civil servants, are governed by a *Civil Service Agency*, which is an independent state organ and a legal entity. A civil servant is expected to do their job in the most possible professional and objective manner, without being coerced by any political party. They should not be guided by their personal political beliefs or seek opportunities to gain personal financial benefits. They should in no way abuse their authority and status as a civil servant, always protecting the image and reputation of the state institution. Meanwhile, the Agency develops a code of ethics for civil servants[2].

The fundamental principles of this code are the following[3]:

A civil servant shall execute all their functions and tasks according to the laws outlined in the Constitution. In executing their duties, a civil servant shall serve only the public interest;

In the course of their work, a civil servant shall treat all citizens and legal entities fairly and equally;

A civil servant executes their tasks and duties in a highly professional level, continuously improving the quality of their service;

A civil servant executes their tasks in a faithful, simple and efficient manner, promptly and above all protecting the interests of the citizens and other entities;

---

[1] Articles 2 and 3 of the Low Civil Service (fair copy), The Public Enterprise Official Gazette of the Republic of Macedonia, No. 76, from 07.06.2010.

[2] Article 18 of the Civil Service Act (fair copy), The Public Enterprise Official Gazette of the Republic of Macedonia, No. 76, from 07.06.2010.

[3] Article 2 of the Code of Ethics for Civil Servants, No. 08-1715, November, 2001, Skopje.

A civil servant shall not be engaged in any activities contrary to the correct execution of their professional tasks. Furthermore, they shall do their best to avoid any situation or behavior which may harm the reputation or interest of the state organ they serve or the public administration in its entirety;

In communication with citizens and other legal entities, a civil servant shall work on establishing a relationship of mutual trust and collaboration between these subjects and the public administration. Furthermore, the civil servant shall demonstrate kindness, understanding, politeness and willingness to help and assist the citizen/legal entity, and shall never violate the clients' rights or interests.

The success of the municipal administration greatly depends on its staff and their readiness to contribute to fundamental changes in the way the public administration operates. Employing, motivating and keeping competent staff are the three key points in achieving success in all segments of public administration. These strategies guarantee a clear classification of all work positions and enable valid assessment of job performance. Furthermore, they facilitate fair treatment and respect of the adequate payment structure, and enable trainings at purpose-built institutes.

It is very apparent that in the area of local self-government, there are numerous issues and positions which require professionals from various fields (lawyers, economists, engineers…) and with various educational backgrounds. The concept of a good strategy for staff education and professional training implies that one should be well aware not only of the tasks and duties, but also of the relevant and necessary qualities of the executors of these tasks[4]. If we make a proper analysis of certain aspects (which tasks and duties fall in their scope of work, the manner in which they will be executed, the conditions under which they will be conducted…), and if we make a good assessment of the relevant qualities (competence, personal characteristics, level of motivation…) of the individual entrusted with these tasks and duties, we can determine the type of training this individual needs, the length of the training, etc.

Both theory and practice indicate that training and gaining experience in any area of work will not eliminate all differences between the staff, regardless of how balanced the job demands are with the qualities of the employee. This means that no municipality can aim to train its staff to achieve the same level of success. Other than differing in their skills and capacities, staff members differ in their motivation levels, personal qualities (self-confidence, assertiveness, predominance...), their attitudes, etc. All this contributes to differences in the training itself.

---

[4] Breakwell, G.M., Hammond, S. and Fife-Schaw, C. Research Methods in Psychology, Sage Publications, London-Thousand-Toronto, 1995

The Republic of Macedonia has firmly set the goal of creating and developing legal and institutional mechanisms in order to implement a coordinated policy in the area of training and professional development of civil servants. This will facilitate the creation of the following strategic priorities[5]:

- Integration of the Republic of Macedonia in the EU;
- Government decentralization;
- Improving the adequate and fair balance of the minorities in the public administration;
- Curbing and prevention of corruption;
- Reforms in the public administration.

Professional Develoment and Trainings of Civil Servants

Accordingly the laws of the Republic of Macedonia, civil servants are entitled and required to professional training and development, respecting the principle of equal opportunities for all civil servants.

The professional training and development of civil servants is of the utmost importance and priority for all stakeholders involved in the process of decentralization. At the same time, the goal is to foster the development of professional, competent, efficient, dependable and civil oriented public service, which will be guided by high moral principles and will be trusted and respected by the citizens. Investments in the professional training and development of civil servants are of crucial importance to the future development and achievement of the strategic goals of the Republic of Macedonia.

It seems that the capacity enhancement of the municipal administration has been given priority in order to prepare the staff to face the challenges with the newly awarded authority and responsibilities. This, in turn, ties horizontally all sector reforms in the course of decentralisation. There is a two-fold benefit to this: it nurtures the culture of continuous education and positive attitude towards professional development of both civil servants and managerial staff, and it contributes to exploring the separate and total potential of the civil service sector within the public administration.

The capacity enhancement of the municipal administration will be performed by creating and implementing continuous training schemes. These schemes will be designed to cater to the needs in improving the managerial and work capacities on both general and sector level. Therefore, the following activities seem to be of high priority[6]:

---

[5] Popovski V., Borota, M. Project Report: Supporting the training system of the local government administration staff. Ministry of Local Self-Government, June, 2005. Skopje. Page 8.

[6] Popovski V., Borota, M. Project Report: Supporting the training system of the local government administration staff. Ministry of Local Self-Government, June, 2005. Skopje. Page 14.

Consistent implementation of the rules and regulations to ensure a professional, politically neutral and objective operation of the public administration staff.

Designing and implementing a modern management system, as well as a system for delegating tasks, and managing and developing all human resources within the administration of the Self-Government Units;

Implementing an assessment system to evaluate the work of civil servants;

Designing and implementing a training strategy for civil servants at various Self-Government Units, as well as annual training schemes;

Introducing mechanisms for higher-level mobility of the public administration.

All this indicates that, when selecting potential staff, it is not enough to find only an individual who has enough potential to execute tasks. In order to develop and properly use this potential, it is important to provide that individual with a systematic training scheme – to guide them in acquiring special skills and knowledge. In other words, the development and application of new technologies in the professional world impose the need for further education and training.

Having special skills facilitates the process of the strategic planning of local development. In addition, there are numerous prerequisites associated with the mentality of the local politicians and officials who need to be appointed, or at least stimulated. The following are skills and knowledge they lack[7]:

Expertise and knowledge in strategic planning – local politicians and officials need to be trained how to assess, design and develop innovative programmes which will cater to local needs. This means that they need to be more strategically oriented – to become more approachable and flexible in terms of the new demands, and to carefully set their priorities based on the existing goals and resources.

Integrated skills – local officials have to be able to coordinate and integrate the input data, both within and out of the local government. The integrative capacity implies managing the capacity and resources both within and outside of the municipality in order to achieve joint and structured action plans.

Community Orientation – local officials must be aware of the importance of involving the citizens in the process of decision making and the development of local strategies. Local officials should develop mechanisms for communication with the community members. This should help officials determine the necessary services and set priorities, as well as to determine which community resources can be utilised better.

---

[7] UNDP "How to make local development work" Selected Practices from Europe and The CIS. United National development programme. Bratislava September 2002. p.25

Continuous and permanent training of local administration staff is important and necessary in order to build a professional and dependable public management, considering that its primary task is to serve the wider public, not itself. Therefore, any training shall address the new role of the public administration: it shall benefit both sides – the public administration and the citizen.

Conclusion

The adequate operation of any public administration requires considerable dedication on the part of the staff – their time, efforts, loyalty, competence and talent. The human resources are possibly even more important for the operation of the municipal administration than the material resources. Municipalities are responsible for actively enhancing the capacities/skills of their personnel. Although professional training is the key strategy to attaining this goal, any considerable improvement in the area of human resources requires much more than mere training. It requires integrated strategy in the management of human resources. This strategy should cover all areas of community action, and it should involve laws and regulation, staff motivation and tools for solving internal issues, i.e. issues within the municipal administration.

DUSICA ATANASOVSKA

Types of Non-Pecuniary Loss and its Compensation Under the Macedonian Law

The word *damage* has a lot of different meanings. In Law, it refers to material damage which some name material or patrimonial, and non-material or moral – non-patrimonial loss. In law-related literature, loss is regarded as a source of obligations created with impermissible behavior of a person (tort) which includes diminishing someone's patrimony (damages for loss of earning and damages for loss of amenity), lost interest as well as infringement of personal rights. These terms are defined in Article 142 of the Macedonian Law on Obligations.

In layman's terms, the scope of meaning of the word *damage* is much wider. In everyday speech this word is used to define a variety of different situations which in fact are not included in the legal concept of material damage and non-pecuniary loss, such as inconvenience or loss of convenience.

Under the above cited legal provision there is material and non-material damage.

The determination of the term *material damage* does not create any particular difficulty since it implies diminution of someone's patrimony or its loss of amenity. The essence that makes this term coherent is the economic or material character of the interest whose damage causes pecuniary loss. The term *pecuniary* means interest that can be expressed in monetary compensation[1].

It is far more complicated to establish the definition of *non pecuniary loss or moral damage*. Nevertheless, it is of great importance because without the right comprehension of the term it would be difficult to determine its legal nature, and without this it is impossible to clarify the basic questions regarding the claim for recovering damages for non-pecuniary loss.

Particularity Of The Non Pecuniary Loss

There is a school of thought which says that non pecuniary losses are less worthy of compensation than pecuniary ones, that they are inherently arbitrary and irrational and that they should be abolished or restricted in order to release funds for the compensation of the more important losses.

---

[1] See art. 174, 2001 *Zakon za obligacioni odnosi* (Macedonian Law on Obligations)

Nevertheless, when something does not involve a loss of money, it does not put it outside the legal domain?

The non pecuniary loss represents a unique phenomenon and therefore its compensation must be done in an adequate way that expresses the importance of the protected interest. Life, bodily or mental integrity, human dignity and liberty enjoy the most extensive protection[2].

This is a core idea which is found in every legal system in Europe and probably the great majority of those in the world (dommage moral, danno alla salute, Schmerzensgeld, pain and suffering). This means that certain matters are properly regarded as worthy of compensation even though they do not involve loss of monetary wealth or expense and cannot be assessed scientifically or by reference to a market. Loss of a leg or infringement of liberty or invasion of privacy amount to "damage" in the eyes of the law quite apart from any financial consequences they may have[3].

According to Art. 142 of the Macedonian Law on Obligations *a non pecuniary loss* is considered infringement of personality rights. That is a specific type of loss embraced with one general clause: *personality rights*. Therefore, it is very difficult to determine a specific list of these rights, but according to the Macedonian legal system the protection of life, health, liberty, privacy, freedom of speech, honor can be considered as part of personality rights.

However, in assessing the damages, the nature of the loss is not automatically determined by the type of the injured good. The non-pecuniary loss can be caused with injury of the victim's body, honor, reputation, liberty, privacy and other rights guaranteed by the law, but also it can be caused with the destruction of objects that have great emotional values.[4] So the loss here can be both patrimonial and non patrimonial.

The non patrimonial or non pecuniary loss can appear as disruption of the psychological balance of personality, disturbed emotional state, suffering from physical or emotional pain. The impossibility to compensate this type of loss with monetary equivalent cannot be considered as reason for not recovering the damages and leaving the personal goods outside the field of civil liability.[5]

Types of Non Pecuniary Loss Under the Macedonian Law

Legal basis for recovering damages for non pecuniary loss can be found in Art. 189 of the Macedonian Law on Obligations.

---

[2] Art.2:102, *Principles of European Tort Law*

[3] www.riad-online.net

[4] See Komentar na zakonot za obligacioni odnosi , 2001 godina, p. 359

[5] Decision of the Supreme court of Yugoslavia R. 277/66, 1966

According to this legal provision the Court will assess fair monetary compensation for non pecuniary loss if the circumstances of the case and especially the intensity of the pain and the suffering and their extent justify it. If before 2008 the non pecuniary loss was a subjective category defined as physical or psychological pain or fear; the revised law left this conception and considers the non pecuniary loss as a purely objective category, saying that it represents an injury of the personality rights. Regarding subjective categories of physical or psychological pain or fear that made the essence of the non pecuniary loss, they do not represent anymore a special type of injury of these rights, but they only appear as facts or measurements that the Court should take into consideration when determining if a personality right has been injured and in what extent, so the plaintiff can claim damages in a form of fair monetary compensation.

The damages can be claimed for:

- Suffered physical pain
- Suffered psychological pain for diminished life activity
- Suffered psychological pain for defamation, disfigurement, violation of liberty, honor and reputation
- Suffered pain for death of a loved one
- Fear

Damages can also be assessed in case of extremely difficult disability of a loved one.[6]

Considering the case law we can conclude that the Court will not assess damages for causes not contemplated by Art. 189.

Namely, for physical injury, on the basis of **fear** the Court can assess damages if it establishes that the fear caused damage to the personality of the victim and if the victim's mental state justifies this. Also important is the intensity and the extent of the fear. The assessed amount refers, primarily, to the fear of the possible complications from the acquired physical injury. On the basis of **suffered physical pain and suffered psychological pain for diminished life activity** the assessed damages will depend on their degree, intensity and extent. Diminished future life capability as a basis for non pecuniary loss will be considered by the court if during the procedure the judge establishes that after the acquired physical injury the victim has compromised integral or partial organ functioning so he became disabled or he was exercised his everyday life activities with great effort and difficulty, such as movement for example[7]. The compensation for non-pecuniary loss on the basis of diminished life activity can be given as a single monetary compensation or as

---

[6] See art. 190 Zakon za obligacioni odnosi

[7] General opinion No.3/85, 06–07.11.1985, Zb. IV/49 p.

a monetary annuity, if considering the circumstances of the case, this kind of compensation represents adequate satisfaction[8].

On the basis of **disfigurement**, which is a specific basis for the request of non pecuniary damages, the court will assess monetary compensation if established that the injury of the body of the victim or part of his body or some visible disfunction, mainly on the victim's face or some other visible part of the body damages his esthetic appearance. As a result of this, the victim has disturbed emotions such as bad mood, psychological tension, anxiety, and on the other hand this kind of state provokes curiosity, compassion and sometimes repulsion by the society. In evaluating the cases of disfigurement, the Court does not take into consideration the subjective (personal) opinion of the claimant, but the objective (social) conception of the deformity or loss of organs or other body parts.[9]

The claimant, who has been wrongfully convicted with a court sentence, wrongfully arrested and **deprived of his liberty**, suffered psychological pain which represents a unique kind of loss that includes all the consequences of the non pecuniary loss related to the victim's personality. When assessing the damages on this basis, the Court will take into consideration the social **reputation** of the person, his relationship with the society after the conviction, the nature of the "committed" crime, the duration of the sentence and all the other circumstances that inflicted the nature, the extent and the duration of the caused pain.[10]

The supposed **shame** from society as a basis for non pecuniary loss is not specifically defined in the law because it is already implied in the suffered psychological pain. If the Court assesses certain compensation on the basis of suffered psychological pain correspondent to the intensity and the extent of the suffering, the part of the claim regarding the supposed shame will be reduced because assessing damages on this basis would mean paying double compensation for the same reason.[11]

The most specific legal basis for recovering damages for non pecuniary loss is the case of **death** of a loved one. Here, the Court can make substantial compensation for damages to the members of the close family (spouses, parents, and children) for their pain and suffering. Such an award can also be made to the brothers and sisters of the deceased person if continual union existed between them. Damages can also be claimed in case of great disability of loved one.[12]

---

[8] General opinion No. 1/18, Zb III/168 p.

[9] VSM Rev. 300/85 – 06.07.1985, Zb IV/54

[10] Art. 190, par. 1, 2, 3 and 4 Zakon za Obligacioni odnosi

[11] Conclusion of the Conference of the Highest courts of the former SFRJ, 15–16.10.1986

[12] VSRM Rev. 274/93–08.04.1993, zb. V/69

Fair monetary compensation claimed for suffered pain for parents' death, represents a compensation not only for the pain caused with the knowledge of the death, but also for the further pain that the child will suffer for the lack of love, care and attention that it did not feel as a result of the loss of his/her parents.[13]

Damages can also be claimed by the illegitimate partner of the deceased or disabled person in question, if the relationship between the victim and the partner existed as a continual union. This right of the illegitimate partner is confirmed by the Art. 13 of the Macedonian Family Law, according to which a union between a man and a woman, not concluded under the law (illegitimate union) that lasted at least a year is regarded as equivalent with the marriage in the part of the right to mutual maintaining and acquired property/estate during the time of the union.

In assessing the right and the amount of the compensation, the Court will take into consideration the assumption of the intimacy between the claimant and the victim. For example, damages will not be recovered to brothers or sisters who hated the victim or had serious argument with him or her.

According to Art.190 paragraph 3, damages can be claimed by persons close to the disabled victim for the suffered psychological pain. However, this does not forbid the victim himself to claim certain monetary satisfaction for the suffered pain and fear, as affirmed before in the Art. 189.

The Macedonian law has extensive interpretation about the relative's right to request damages in case of great disability and death. Apart from spouses, parents and children, the grandparents are also allowed to request damages for the nephew if they lived together and they substituted the parents in raising the child. Also the step-parents are entitled to remuneration of the damages for the injury or the loss of their stepchild if they lived in a family union. The remuneration will depend on the intensity of the pain and the grief that each person suffered, as well as on other circumstances that have to be examined and evaluated by the court.[14]

In addition, if we make comparative analysis, not every country regulates this matter in the same way. For example, only Portugal makes substantial compensation for damages for non pecuniary loss to the estate of a person killed in accident rather than just his relatives. Germany does not provide any compensation to the relatives of a deceased person for their non pecuniary loss. Austria occupies a sort of middle ground. The relatives are compensated for the bereavement if the defendant caused the death intentionally or acted with gross negligence, but not if he is guilty only of simple negligence. A person may suffer injury to his health, post traumatic stress disorder or similar, as a result of a fatal accident to a loved one. In this case the relative

---

[13] OGH 12 June 2003, Ob 111/03t (a non fatal accident case)

[14] Art. 189, p. 3 Novela na zakonot za obligacioni odnosi 2008 (Revised Law on Obligations 2008)

himself is a victim, albeit an indirect one, of a personal injury as a result of the defendant's act. Such a situation may arise even if the victim is injured rather than killed. Some systems allow this kind of claims only if the claimant witnessed the accident to the direct victim and others go further. For example, the French and the Belgians call this *prejudice d'affection,* the right to recover damages for grief at bereavement not amounting to injury to health, to recover for the disruption of the family relationship. Austria recognizes, in case of a simple negligence, a claim of the first type, but not of the second. The German position would be similar. England has a mechanical rule: the only person who can claim is the spouse (this is to be extended to same sex registered civil partnerships) and parents of minor children. There is no assessment of grief.

In all the cases mentioned above, the damages for the non pecuniary loss can be expressed in monetary compensation. Some systems make the degree of the defendant's fault a relevant factor in the assessment of damages for non pecuniary loss, though in personal injury cases the influence is marginal.

Under the Macedonian law the degree of the guilt has influence in assessing the damages. According to the Art.180 of the Law on obligations, the court will take into consideration the circumstance if the injury was caused intentionally or with negligence, but when assessing the amount the court will consult experts in order to determine the fairest adequate award for the claimant.

The Recovery of Damages for the Non-Pecuniary Loss

Since the non pecuniary loss is related with violation of the personality rights and it is expressed with physical or psychological pain and fear, one can ask how something that cannot be expressed materially can be compensated!?

Usually, the damages for the non pecuniary loss are recovered in a **non material way**. However, a certain amount can be assessed not as compensation but as satisfaction for the caused damage so the victim can use this money for some "pleasures" that would mitigate the consequences of the caused injury.

The non material recovery of the damages for non pecuniary loss is possible only in certain situations where establishing the previous state of affairs is possible. This is the case in the injury of some personal goods such as reputation, honor or freedom. Here the recovery is made with the announcement of a verdict or correction of a verdict. According to Art. 188 of the Macedonian law on obligations the court can order the person who caused the damage to withdraw the statement that caused the injury of the victims' personality rights. This kind of recovery of damages only has a moral or satisfactory function.

Establishing the previous state of affairs has in fact proved to be difficult to achieve. For example, the announcement of the revised verdict may not be read from the same people who were familiar with the injury of the personality right so there is no certainty that all doubts about the victim will be removed.

The recovery of the non pecuniary loss can also be realized via – obligation of the person who caused the damage to pay a certain amount of money.

There are opposed points of view around the issue of whether the non pecuniary loss can be compensated monetarily. According to the first point of view, the non pecuniary loss cannot be monetarily compensated since the injury of the personal goods is already protected with the penal law, so there is no need for civil-law protection. This would only mean commercialization of such goods. Personal goods cannot be evaluated in money and consequently it is not possible to determine the monetary compensation for their injury, and if done so the amount cannot be adequately assessed.

According to the second point of view the monetary compensation for the non pecuniary loss is acceptable for several reasons: the property goods enjoy both penal and civil-law protection, so the personality rights being protected only under the penal law would give them minor value. The monetary compensation would not mean commercialization of these goods since it would not have a compensatory but a **satisfactory function**.

The impossibility to assess an adequate amount does not imply that this kind of loss cannot be monetarily compensated.

This raises a fundamental problem. How much is enough? One can construct a scale of relative severity. Loss of a leg is obviously a more serious matter than loss of a little finger of the non-dominant hand. One may construct that scale as a matter of disability or impairment expressed as percentage points, as a number of countries do; or one might create it in a more "descriptive" manner on the basis of judicial decisions. Everyone seems to agree that there should be a reasonably predictable "tariff" so that identical cases are treated equally (though some systems even now fail to achieve this). But there still remains to decide what the bottom and the top ends are to be. A question has been raised whether the amounts of non-pecuniary loss damages should be harmonized throughout Europe. One response in the European Tort Law Group's survey of this area ran as follows: „It is our firm conviction that non-pecuniary loss awards for personal injury should be harmonized and standardized throughout Europe. Pain and suffering caused, e.g., by the loss of an eye is likewise felt whether it happens in Belgium, Greece or Germany. And in particular, mobile people … will not understand that their pain and suffering for such a loss is adjudicated differently when they are injured in one European country or the other." But even then, the problems are formidable because of differences in living standards, increased by the accession of eastern countries.

In the Republic of Macedonia, it is not questionable if the non pecuniary loss should be materially compensated, but what should be the extent and the amount that should be given to the claimant.

According to the Macedonian law, theory and practice, the Court, evaluating the circumstances of the case, and more specifically the intensity and the duration of the injury and its consequences, will assess a **fair monetary compensation** independently from the compensation of the patrimonial loss or its absence. In doing this, the Court will take into consideration the nature and the meaning of the injured good as well as the purpose of the requested compensation (this compensation should not be used for purposes not related to the nature of the injured good).

Right to request compensation of non pecuniary loss for injury of a personal good besides the individuals mentioned above (parents, brothers and sisters, grandparents, close relatives and illegitimate partners), according to the latest change in the Law on obligation in 2008, also have the entities, for injury of personal rights such as right of good reputation, freedom of entrepreneurship etc.[15]

Another important question that arises when talking about the recovery of the non pecuniary loss is the possibility to transfer or to concede the right of indemnity. The Macedonian law on obligation answers this question in Art. 193, according to which the request for the recovery of the non pecuniary loss can be transferred to the legal successor of the claimant, can be subject to cession or compensation, but only if this is recognized in/with a valid court decision or stipulated agreement. This means that the monetary compensation requested by the deceased claimant recognized in a court decision or in agreement, can be transferred to the legal successors , but they cannot continue the legal process pending in front of a court or start new process for the recovery of the non pecuniary loss for injuries of the deceased claimants' rights and goods.[16]

Conclusion

From the general concept of the non pecuniary loss, as well as from the mentioned individual cases, we can conclude that it is impossible to determine in an exhaustive way what exactly is considered as a non pecuniary loss. The human personality is very subtle and complex, so the possibility, with an injury of some of its manifestations, to cause pain or suffering is quite significant. For these reasons the legislator leaves it to the courts' discretion to assess certain monetary compensation for non pecuniary loss in every justified case.

---

[15] Art. 189, p. 3 Novela na zakonot za obligacioni odnosi 2008 (Revised Law on Obligations 2008

[16] See Art. 193, Komentar na Zakon za obligacioni odnosi 2001

The determination of the framework in which the institute compensation of non pecuniary loss will operate, should not be done in a way that the legislator will exclude *a priori* the possibility to compensate certain types of non pecuniary loss. Therefore, the legislator should leave this to the Court which will duly complete the procedure, in accordance with the general legal requirements for the realization of the right to indemnity, regarding the criteria for the extent of the suffered damage and legitimacy of the injured interest.

BIBLIOGRAPHY

Abraham K.S., *The Forms and Functions of Tort Law:an Analytical Primer on Cases and Concepts,* New York, 1997

Von Bar C., *A Common European Law of Torts,* Roma, 1996

Blackie J., *The Tort Provisions of the Study Group on a European Civil Code, European Tort Law,* Stampfli Publishers Ltd, Berne, 2007

Calabresi G., *The Costs of Accidents, Perspectives on Tort Law,* Little Brown and Co. 1995

Cavdar K., *Zakon za obligacioni odnosi (komentari, objasnuvanja, praktika i predemten registar),* Agencija AKADEMIK Skopje, 2001

Crnic I., *Neimovinska steta,* Organizator, Zagreb, 2006

Dobbs D.B., *Torts and Compensation: personal accountability and social responasability,* St. Paul, 1992

Dabovic Anastasovska J., Galev G., *Obligaciono pravo,* CEPPE, Skopje, 2009

European Group on Tort Law, *Principles of European Tort Law*

Faure G. M. , *Compensation of Non-Pecuniary Loss: An Economic Perspective*

Fedtke J., *Germany, European Tort Law 2002,* Wien New York, 2004

Franklin M.A., Rabin R.L., *Tort Law and Alternatives – Cases and Materials (*sixth edition), New York, 1996

Galev G., Dabovic Anastasovska J., Koevski G., Zdraveva N.,Gavrilovik N., *Razvoj na obligacionoto pravo vo Republika Makedonija (od osamostojuvanjeto do 2008 godina), Zbornik radova "Trideset godina Zakona o obligacionim odnosima – de lege lata i de lege ferenda",* Kragujevac, 2008

Galev G., *Pricinska vrska kako opst uslov za nastanuvanje na obligacionite odnosi so pricinuvanje na steta,* Godisnik na pravniot fakultet "Justinian Prvi" vo cest na Todorka Orovcanec, tom 42, Skopje 2006

Gavroska P., *Praven osnov na odgovornosta za steta vo francuskoto i germanskoto pravo,* Godisnik na Praven fakultet vo Skopje 1990/91, Skopje, 1991

Kidner R., *Casebook on Tortys*, 9th Edition, Oxford University Press, Oxford 2006

Lindenbergh S.D., van Kippersluis P.M., *Non pecuniary lossess,* Cheltenham 2009, Vol.1

BESIM VESELI

Comparison of Multiethnic Model and the Political System Between Bosnia and Herzegovina and the Republic of Macedonia

Abstract

The implementation of the Dayton model for Bosnia and Herzegovina and the model of the Republic of Macedonia emanating from the Ohrid Framework agreement are showing vast differences of functionality of these two models. Their comparison is another confirmation that the Balkans is a multiethnic region, populated by various ethnic communities, where no entity dominates over the others, and where the citizens of both countries have a dream, and that dream is to live together and be a part of the European family.

Introduction

Bosnia and Herzegovina and the Republic of Macedonia are two ex-Yugoslavia countries, the first one managed to escape the bloody wars that happened during the 90', whilst the other paid the dissolution of SFRJ bloodily[1]. Between 1992 and 1995, there was warfare on all sides, no one knew who is in war against whom, but the International community was the one that managed to force the involved parties to sit doun at the negotiation table in Dayton[2], where the involved parties after 15 days of negotiations signed the "Dayton agreement". With this agreement, Bosnia and Herzegovina firstly managed to avoid the territorial division on the ethnic plan, and the country managed to keep its borders as when Bosnia was part of ex-SFRJ, recognized by the International law, and became the most multiethnic country in the region up until the crises in Republic of Macedonia in 2001. Republic of Macedonia managed to escape the bloody Yugoslav whirl, but did not manage to escape the multiethnic conflict that started somewhere at the beginning of 2001 which lasted up until the signing of OFA on August 13 2001, accompanied with long hard talks[3]; but at the end, the parties agreed to sign this agreement, by which the Republic of Macedonia managed to stay Unitarian and served as an example for many states in the region, speaking from the multiethnic aspect.

What these two agreements contain in fact?

---

[1] Open Society Foundations, *Мултикултурализмот во Македонија модел во настанување*, Skopje 2005

[2] Holbrook Richard, *Put u Dejton*, Belgrade, Dan Graf, 1998

[3] Ljatifi Veton, *Преговарање за постигнување на Охридскиот Договор*, Skopje, ФИООМ, 2008.

A. The Dayton Agreement foresees Bosnia and Herzegovina to function as a federation divided in two parts, one Federation of Bosnia and Herzegovina that will affect 51 % of the total territory of this country, where the Bosnians and Croats live in and Republika Srpska which affects 49 % of remaining territory, predominantly populated with Serbs.

   With this Agreement, the Bosnia and Herzegovina political system functions with 1/3 majority where the three ethnicities enjoy the same rights both in aspect of human rights and in aspect of political system, state institutions and so forth.

B. Framework Agreement foresees the sovereignty and the territorial integrity of the Republic of Macedonia, as well as the Unitarian character of state to be inviolable and protected. There are no territorial decisions for ethnic issues[4].

Both countries after the crises adopted new Constitutions although Macedonia made only constitutional changes. The Constitution of BiH in the part of human rights article 2 foresaw: Bosnia and Herzegovina will provide both ethnicities the highest level of internationally recognized human rights and fundamental freedoms[5]. For that reason, the supremacy is given to the Convention for the Protection of Human Rights and Fundamental Freedoms over all other law in Bosnia and Herzegovina. In addition, this article is states that the enjoyment of the rights and freedoms is secured to all persons in Bosnia and Herzegovina without discrimination on any grounds, race, sex, religion, political affiliation, and national origin and other. With this article it is guaranteed that all refugees and internally displaced people can freely return home. All respective organs within BiH should collaborate and should provide unlimited access to the ICTY or any other organization authorized by the UN Security Council. Moreover, the Constitution of the Republic of Macedonia from 1991 in Article 9 as regarding the human rights foresees that: Citizens of RM irrespectively of race, sex, religious or political persuasion are all equal before the law and Constitution[6]. As I mentioned at the very beginning, both countries are not the same in the aspect of political systems, so I will start with the legislative body of BiH which is bicameral, consisting of two homes:[7]

a) The house of people of Bosnia and Herzegovina

b) House of Representatives

Home of people is consistuted by 15 Members of Parliament out of which 2/3 come from BiH Federation and 1/3 from Republika Srpska. The Bosnian

---

[4] Ohrid Framework Agreement, *Собрание на Република Македонија*, 15.08.2001, Skopje

[5] Constitution of Federation of Bosnia and Herzegovina, "*Official Gazette*" of Federation of Bosnia and Herzegovina, 1/94, 13/97

[6] Constitution of Republic of Macedonia, Official Gazette, 1991

[7] Office of High Representative, "Bosnia and Herzegovina", 2000

and Croat MPs are elected from the Bosnian parts actually from the Croatian parts of the Federation Assembly, whilst the MPs from Republika Srpska are elected by the National Assembly of Republika Srpska. Nine members from the House of people represent the quorum, under condition that there are at least 3 Bosnians, 3 Croats and 3 Serbian MPs.

The House of representative consists of 42 representatives out of which 2/3 are coming from the Federation of Bosnia and Herzegovina and 1/3 from Republika Srpska.

Members of the House of Representatives are elected on direct elections from the electorate, in accordance with the electoral law where the law should be adopted by the Parliamentarian Assembly. All elected members constitute the quorum.

The legislative authority of the Republic of Macedonia is one house only, where the Parliament of RM is constituted by 120 MPs, elected at the citizens on direct free elections with four years mandate. The representative and the legislative character enables the Parliament to be fundamental or central organ of parliamentarian democracy in the Republic of Macedonia[8], but also to be the highest state body.

Regarding the executive power in Bosnia and Herzegovina, long talks took place in Dayton whether the executive power should be with 1/3 majority[9], but at the end, the parties agreed that there should be a Council of Ministers, so: the Presidency appoints the President of the Council of Ministers, who can take the function with a priori approval of House of representatives. The chairman can appoint almost all the ministers, and they are responsible for implementation of policies and decisions of BiH. They submit to the Parliamentarian Assembly an annual report at least once a year. Not more than 2/3 of Ministers can be appointed by the federation territory. The chairman can also propose deputy-ministers who can accept the function with prior approval by the House of People. Council of Ministers will resign if the Parliamentarian Assembly votes no confidence.

The executive power in Republic of Macedonia functions differently than Bosnia and Herzegovina, so if in BiH we have Council of Ministers, here we have Governmental cabinet from where the winning party from the parliamentarian elections has the right to appoint mandatory to form Government. With 1991 Constitution, the State President gives assent to the new mandatory to form a Government.[10]

The history of various governments indicates that within the Government, besides the Macedonian political parties, winning Albanian political parties

---

[8] Skaric Svetormir, Siljanovska-Davkova Gordana, *Уставно Право*, edition УКИМ, Скопје, 2007

[9] Dejtonski Sporazum, *Proximyty Peace Talks* , Nasa Borba, Beograd, 1996.

[10] Skaric Svetormir, Siljanovska-Davkova Gordana *Уставно Право* edition УКИМ, Скопје 2007

are also participating for an, which means that there is no written rule the Albanian party to participate within the Government coalition, but, in order to avoid misunderstandings on the ethnic plan, the practice insofar the shows that besides the Macedonian political parties, the Albanian parties do participate in the Government along with other minor parties from various ethnic communities. The difference in the aspect of appointing ministers from both sides is big, as in Bosnia and Herzegovina the number of ministers within the Council of Ministers should be equal, whilst in the Republic of Macedonia, the ministers are appointed with a prior agreement between the coalition partners.

As far as the judiciary is concerned, I have to emphasise that the Dayton Agreement foresees the Constitutional Court to consist out of nine judges. Four out of nine judges, come from the Federation side, and the other two constitutional judges are appointed by Republika Srpska, however, the three remaining judges are appointed by members of the European Court for Human Rights (with its HQ is Strasbourg), neighbouring countries of BiH.

The mandate of the judges is five years with the right for reelection. The constitutional judges can run their mandate up until they turn 70 years of age. Majority of judges represents a quorum.

In the Republic of Macedonia, according to the law on Courts from 2006, the judiciary is executed by the following courts: Supreme Court, Appeal court, Basic court and the Constitutional Court. We took as an example the Constitutional Court in both countries as it is the unique organ that has authority to adopt decisions every time the constitutionality in these countries is violated. The Constitutional Court in the Republic of Macedonia is comprised of nine judges, elected by the Parliament of RM. According to the Constitution of RM, the Parliament elects six judges with absolute majority. The Parliament also elects three other judges with majority of votes of MPs belonging to the other ethnic communities in RM. The procedure to elect judges in RM differs from the one in BiH, since here, many organs propose names of Constitutional judges[11], as for example: according to the law, the State President has the right to propose two judges, the Court Council two, whilst the Assembly proposes five other judges with nine years mandate, with no right to be reelected.

Bosnia and Herzegovina, as mentioned at the very beginning is a country with three dominating entities. According to the national census conducted in 2005, 43 percent of the population are Bosnians, 34% are Serbs, and 17% are Croats. We are all witnesses today that guarantee for their human rights is the Dayton Agreement.

---

[11] Ibid

By this agreement, the territorial division is divided into cantons, so the Federation is comprised of:

Canton Una-Sana
Canton Posavina
Canton Tuzla
Canton Zenica – Doboj
Canton Bosnian Podrinje
Canton Central Bosnia
Canton Central Bosnia
Canton West Herzegovina
Canton Sarajevo
Canton 10, Livanj

Republika Srpska is more centralized and divided into regions and not cantons. These are the following regions:

Region of Banja Luka
Region of Doboj
Region of Bjelina
Region of Sarajevo and
Region of Livanj[12];

There are no border crossings between the regions and the cantons, but there are also none between the Federation and Republika Srpska, which means that citizens of BiH can move freely throughout the whole territory. As we speak about the official languages, Bosnian, Serbian and Croatian language are the official languages on the country level, guaranteed by the Dayton Agreement. The Agreement also guarantee that the three entities to study on their mother tongue, starting from the elementary up to high school education The Agreement allows establishment of parallel relations between the neighbouring countries[13], emphasizing that in 2006, Republika Srpska signed an agreement for joint cooperation with Republic of Serbia. The most interesting fact from this agreement is that the presidency is conducted by rotation. By this agreement, the presidency of BiH foresees four years mandate for each President, thus, the first one is a Bosnian, than a Serb and third one is a Croat, and according to the practice shown insofar, this rotation functions perfectly.

Multiethnic Model of Republic of Macedonia

Situated in Western Balkans, our country passed through various stages, but the most important country event remembered is the crisis in 2001. Since its independence up until 2001, ethnic minorities especially the Albanian

---

[12] Office of the High Representative, " Bosnia and Herzegovina " 2000

[13] "Constitution of Republica Srpska", Official Gazette of Republica Srpska, 21/92, 28/94, 8/96, 13/96, 15/96, 16/96, 21/96

community recurrently requested their fundamental rights to be recognized, i.e. Tetovo's University to become third State University, the Albanian language to become state official language, to open new third Albanian TV channel, and so on. However, the state authorities never considered their requests; protests were organized which resulted in arrestments, riots took place in Gostivar in 1997, Bit Bazaar and so on. The situation escalated in 2001 with arising conflict, which damaged the country with respect to the aspect of Euro-Atlantic integration and with respect to of internal order.

Was this conflict supposed to happen? What are the factors and actors that brought this country to the stage of conflict? Was there a way to escape the conflict? A great numbers of citizens of the Republic of Macedonia are posing these questions to the political actors here. As I mentioned above, the crises arose sometime at the very begging of 2001 up until the signing of OFA on August 13 2001. What was the way to reach this agreement? The international community at the very beginning of the crises sent a clear signal to the involved parties to sit at the negotiation table in order to reach a final decision, because according to them, the place of the Republic of Macedonia is in NATO and EU, without warfare between ethnic communities[14]. The appeals did not touch the sides, resulting with every day's fights, victims, internally displaced people etc. Sometimes at the beginning of July, EU, NATO and USA intensified their visit in RM. The ex-EU High Representative for Common Foreign and Security Policy and NATO General Secretary George Robertson made visits every week to RM, conducting pressure on the involved parties to reach decision as soon as possible. By the end of August, the parties signed OFA, which along with the Unitarian character, the Agreement provided for Macedonia to become the most multiethnic country in the region.

What did the annexes of this agreement bring?

Constitutional changes,
Changes in the legislation
Implementation of confidence building measures

The greatest constitutional changes took place in the Annex A, more precisely Article 7 which highlights the use of language in the country.

Article 7:

1) The Macedonian language, written using its Cyrillic alphabet, is the official language throughout the Republic of Macedonia and in the international relations of the Republic of Macedonia.
2) Any other language spoken by at least 20 percent of the population is also an official language, written using its own alphabet, as specified below.

---

[14] Ljatifi Veton, Преговарање за постигнување на *Охридскит Рамковен Договор*, Skopje, ФИООМ, 2008

3) Any official personal documents of citizens speaking an official language other than Macedonian shall also be issued in that language, in addition to the Macedonian language, in accordance with the law.
4) Any person living in a unit of local self-government in which at least 20 percent of the population speaks an official language other than Macedonian may use any official language to communicate with the regional office of the central government with responsibility for that municipality; such an office shall reply in that language in addition to Macedonian. Any person may use any official language to communicate with a main office of the central government, which shall reply in that language in addition to Macedonian.
5) In the bodies of the Republic of Macedonia, any official language other than Macedonian[15] may be used in accordance with the law.
6) In the units of local self-government where at least 20 percent of the population speaks a particular language, that language and its alphabet shall be used as an official language in addition to the Macedonian population of the municipality, the local authorities will decide democratically on their use in public bodies.[16]

With this agreement, Tetovo University became the third State University within the state, and the agreement foresees the opening of third channel within the frames of Macedonian Radio and Television, dedicated to the ethnic communities.

OFA foresaw the proportional participation of all ethnic communities within the state institutions and opening of the Committee for inter-community relations which functions perfectly until to this day. Annex B foresaw changes in the local self-government requesting the Parliament to adopt the revised law on local self-government within 45 days and the law was adopted just after the signing of OFA, including the municipality autonomy, law on local finances, law on municipal boundaries, laws pertaining to police located in the Municipalities etc.

Annex C from OFA foresaw the total implementation of this agreement and confidence building after the crisis in 2001, as following:[17]

1. *International Support*
   1.1 The parties invite the international community to facilitate, monitor and assist in the implementation of the provisions of the Framework Agreement and its Annexes, and request such efforts to be coordinated by the EU in cooperation with the Stabilization and Association Council.

2. *Census and Elections*

---

[15] Assembly of the Republic of Macedonia, *Охридскиот Рамковен Договор*, 13.08.2001

[16] Assembly of the Republic of Macedonia, *Охридскиот Рамковен Договор*, 13.08.2001

[17] Ibid.

2.1. The parties confirm the request for international supervision of a census to be conducted.

3. *Refugee Return, Rehabilitation and Reconstruction*

4. *Development and decentralized government*

5. *Non-Discrimination and Equitable Representation and*

6. *Culture, Education and Use of Languages*

Conclusion and Future of These Two Ex-Yugoslavia Countries

Besides the threats and the announcements of some political actors that these two countries are faced with division on the ethnic plan, still, those announcements did not get support from their citizens. The future of these countries is in NATO, EU and other international organizations. According to many domestic as well as international experts, these countries should function in accordance with their agreements, i.e. Dayton Agreement for Bosnia and Herzegovina and the Framework agreement for the Republic of Macedonia. Both countries are leading a strong international integrative policy where it is known that due to the reforms of the judiciary, public administration, struggle against crime, trafficking of people etc, both countries managed to have the visa regime lifted by the EU. The Republic of Macedonia even managed to become a candidate country for EU accession. We are all witness and we know about the bad past of these two countries, but we are witness that Governments of BiH and Macedonia are putting efforts for a better future of their citizens. If Slovenia as an ex-Yu country is a member of EU since May 1 2004, and if Croatia is going to become a member of this great family in the near future, than why BiH and Republic of Macedonia not to afford the same right of becoming part of family, if we all know that every citizen of this country share the same dream and that is to provide better future for their children.

BIBLIOGRAPHY

Ljatifi Veton, *Преговорите за постигнување на Охридскиот Договор*, Skopje, ФИООМ, 2008
Рамковен Договор, Assembly of the Republic of Macedonia, 15.08.2001
"Dejtonski Sporazum", Proximity Peace Talks, Nasa Borba, Beograd, 1996
Skaric Svetomir, *Уставно Право*, University St. Cyril and Methodius, Law Faculty, Skopje
Open Society Foundations *Мултикултурализмот во Македонија: Модел во Настанување*, Skopje, 2005
Office of the High Representative, "Bosnia and Herzegovina", 2000
Holbrook Richard., *Put u Dejton*, Belgrade, Dan Graf, 1998
Constitute of Republic of Macedonia, 1991.
Constitution of the Federation of Bosnia and Herzegovina, *Official Gazette* of the Federation of Bosnia and Herzegovina, 1/94, 13/97, 13/97.
Constitution of Republika Srpska, *Official Gazette* of Republika Srpska, 21/92, 28/94, 8/96, 13/96, 15/96, 16/96, 21/96.
"Dejtonski Sporazum", "Proximity Peace Talks", Nasa Borba, Beograd, 1996.

BILJANA PULESKA

The Implementation of the Climate Change Regime in the Republic of Macedonia – Some Aspects of the EU Emission Trading Scheme

Abstract

The Republic of Macedonia has ratified the UN Framework Convention on Climate Change on 4th of December 1997 (UNFCCC), becoming a Party of the Convention on 28 April 1998[1]. The Republic of Macedonia has also ratified the Kyoto Protocol to the UNFCCC July 2004[2] (KP). One of the strategic goals of the country is integration into the European Union up to full membership level. The achievement of this goal is only possible through the fulfillment of national obligations arising from the Stabilization and Association Agreement[3]. With this agreement, Macedonia committed itself, gradually, to take on board the core obligations of membership, start aligning its legal and institutional framework with that of the European Union. The guidelines, contents and dynamics for the process of approximation of national legislation to the EU *Acquis Communitaire*, have been defined in the National Programme for approximation of legislation (NPAA) adopted by the Government of the Republic of Macedonia.

This paper has the aim to discuss some aspects of approximation to the EU Emission Trading Scheme legislation in the national legislation. Starting with the identification of the relevant, national EU and international regulations in order to understand the ratio, the objective and the functioning of the ETS in the context of the EU Climate Change Law and Policy and the implications deriving from the implementation of such a legislative framework for Macedonia, this paper further focuses on the major dilemma how to ensure EU compliance not exceeding the state commitments towards UNFCCC and KP. Its ultimate objective is to suggest a model that does covers climate change issues and GHG abatement actions, provide a proposal of a system for the transposition of the EU ETS in Macedonia, drafted taking into consideration the Country's status under the UNFCCC, the KP and the EU enlargement process. Part of the suggestion shall take into consideration some conclusions of a narrow comparative analysis of the implementation of the EU ETS by some selected EU Member States. As the national legislation currently stands, it does not provide a suitable legal basis for the implementation of the EU ETS in Macedonia.

Keywords: climate changes, EU Emission trade scheme, harmonization of legislation UNFCCC, Kyoto Protocol,

---

[1] Official Journal of the Republic of Macedonia, International Agreements No. 49/2004

[2] Official Journal of the Republic of Macedonia, International Agreements No. 28/01 which came into force in April 2004. See Council Decision 94/69 concerning the conclusion of the UNFCCC and Council Decision 2002/358 concerning the approval on behalf of the EC of the KP to the UNFCCC and the joint fulfilment of commitments there under.

[3] a) achieving stabilization of GHG concentrations in the atmosphere at a level which prevents dangerous anthropogenic interference with the climate system and b) cutting global GHG emissions to at least 5% compared to 1990 levels, by 2012

Brief Introductory Remarks on the EU Status and Duties Under the UNFCCC and the KP

Notably, the EU became party to the UNFCCC (with an Annex I status) and the KP respectively with the adoption of Council Decisions 1994/69 and 2002/358[4]. To this effect, the EU committed itself to comply with the UNFCCC and KP goals[5]. The EU, in its capacity of a Regional Organization, and its Member States (MS), who in their capacity as separate international persons as well ratified the UNFCCC and the KP, decided to fulfill their commitments jointly[6], therefore, both, the EU and the MS are jointly responsible for the fulfillment of its QERC (quantified reduction targets). There are some important consequences that derive from the EU choices of becoming party to the UNFCCC and the KP and to fulfill its commitments jointly with its Member States. Firstly, the EU is committed to curb its GHG emissions to 8% by 2012 compared to 1990 emission levels and, as an effect of the so called *Burden Sharing Agreement* annexed to Council Decision 2002/358, this target has been distributed among the Member States each of which remain responsible towards the EU and the other Member States of fulfilling its own commitments[7]. Secondly, both the EU and its Member States have the duty to develop, periodically update, publish and report to the COP, the national inventories of GHG emissions. Thirdly, each Party to the KP included in Annex I to the UNFCCC, so both the EU and its Member States, shall establish and maintain a national registry for accounting the issues, holding, transfer, cancellation and withdrawal of CERs, ERUs, AAUs, EUAs and removal units[8]. Moreover, they set the rules and conditions for the establishment and management of the EU and the national registries for accounting the issue and transfer of CERs, ERUs, AAUs and EUAs[9]. The monitoring of GHG emissions throughout the EU, the development of GHG emission

---

[4] According to article 4.3 of the EU Treaty, stating the principle of "duty of loyal cooperation", Member States shall individually and collectively take all the measures to ensure the fulfillment of the obligations of the EU for the achievement of its QERC.

[5] The single EU Member States' targets as envisaged in the Burden Sharing Agreement are also contained in Annex I to COM (1999)230 fin of 19/05/1999.

[6] The EU formally complied with the aforementioned obligations by Council Decision 1993/389 repealed by Council Decision 280/2004 which Sets the obligation for Member States and the EU Commission to devise and implement (national and EU) programmes to contribute to the achievement of the UNFCCC and the KP goals and with Decision 19/CP.7 by adopting Council Decision 2005/166 and Regulation 994/2008, both establishing and setting a mechanism for monitoring GHG emissions in the EU territory necessary for developing national and EU GHG inventories

[7] On the system of registries see infra the paragraph on EC Directive 2003/87.

[8] EC Directive 2003/87 has been thoroughly amended by EC Directive 2009/29 who left unchanged the basic ETS structure having a EUAs market and obliging the Annex I activities to hold the ETS permits but deeply changed other relevant aspects of the EU ETS.

[9] See COM (1999)230 fin *Preparing for implementation of the KP and COM* (2000)87 fin *Green Paper on GHG emission trading in the EU*.

inventories and the adoption of national and EU programmes to mitigate climate change, are essential requirements for fulfilling the reporting obligations under UNFCCC and enabling the assess the level of compliance of the EU and its Member States in meeting the targets set by the UNFCCC and of the KP.

The EU ETS: aim, structure and functioning of the EU CAP & TRADE system (EC Directive 2003/87, EC Directive 2009/29)

The launched EU debate at the end of 90's on how to effectively implement the UNFCCC and the KP and how to comply with them in a cost-efficient manner,[10] led to the conception of a EU wide Emission Trading Scheme (ETS) formally established by EC Directive 2003/87. The ETS Directive, worldwide recognized as a "cornerstone" of the EU climate change policy, aims to establish an efficient EU market in GHG emission allowances with the lowest impact on economic development and employment. The EU ETS represent a key tool in the EU climate change policy and therefore it is significant for the candidate countries such as Macedonia to implement it into its legislative system as part of the process of harmonization of the national legislation with the EU *Acquis*. To this end, the key issues related to the scope and aim of the EU ETS, the role of the national authorities competent for issuing the EU ETS permits as well as their duties have been pointed out, together with the duties of the operators called for applying for such permits and monitoring and reporting their GHG emissions. The understanding of these aspects is of principal significance for setting the EU ETS mechanism in Macedonia, whatever will be the choice of the legal basis for its transposition.

The ETS Directive imposes on the Member States to set a mandatory CAP for CO_2 emissions released by Annex I activities carried out in their territory, established by issuing and allocating to the Annex I activities a defined amount of EUAs correspondent to the right to emit one tone of CO_2 equivalent; then requires that each Member State shall develop per each of the periods a National Allocation Plan (NAP) with the main purpose of identifying the installations falling under the Directive according to Annex I and allocating to each of them a specific quantity of emission allowances(EUAs); issuing a proportion of the total quantity of allowances by 28 February; obtaining

---

[10] The scope of ETS is broadened and its scope of activities and GHG is extended; The NAPs disappear and a EU wide CAP is set by the Commission; The CAP & Trade periods cover 8 years instead of 5 (starting from 2013); the EU wide quantity of EUAs decrease every year of a linear factor of 1,74% in order to achieve a 21% reduction of EUAs allocated by 2020 and to therefore achieve a 20% reduction of GHG emissions by 2020; the main tool of EUAs allocation is through auctioning instead of allocation free of charge. In detail, the new EU ETS still relies on a CAP of EUAs set for the activities identified in Annex I (now broadened), on their duty to apply for an emission permit and to surrender every year an amount of EUAs equal to their real, monitored, reported and verified emissions.

permits for installations performing Annex I activities which specifies, *inter alia*, the obligation for the operator to surrender each year until 30th of April a number of emission allowances correspondent to the CO_2 equivalent emissions reported and verified in the preceding year; If the operator is not able to comply with its emission by using the EUAs allocated by the NAP, it is possible to recur to the market of EUAs where virtuous operators with a surplus of EUAs may sell them and operators in need of extra EUAs may buy them.

In January 2008 the EU Commission put forward a set of legislative proposals aiming at implementing the Conclusion of the European Council and, such a proposal was finally adopted in June 2009, commonly known as the "EU Climate & Energy Package", also known as the 20-20-20 legislative package, composed of four main pieces of legislation with the overall aim of reducing the EU GHG emissions to 20% by 2020 compared to 1990 levels and reducing to 20% the primary EU energy use compared to projected levels. The 20-20-20 package includes: the EC Directive 2009/28 on the promotion of Renewable Energy Sources with the target of achieving a 20% share of renewable energy in the EU final gross consumption of energy by 2020; the EC Decision 406/2009 on the efforts of the EU Member States to reduce their GHG emissions coming from sectors NOT covered by the EU ETS; the EC Directive 2009/31 on Carbon Capture and Storage; and the EC Directive 2009/29 on the revised EU ETS;

The new EU ETS Directive proposes a more streamlined and harmonized ETS system throughout the EU, leaving for some aspects unchanged the basic structure of the previous CAP & Trade system but introducing at the same time some important novelties[11] to improve and reinforce it and to trigger its economic opportunities. Evidently, the possibility to trade EUAs is untouched, and still represents a key mechanism for the functioning the EU ETS.

Considering the requirements of these instruments, it should be emphasized that Macedonia is a non-Annex I Party (i.e., party not included in Annex I).

The status of the Republic of Macedonia as a non-Annex I/Annex B Party in the climate change regime and as a EU candidate country

Crucial for understanding to which obligations Macedonia is committed internationally, is the clarification of the position of the Republic of Macedonia in respect of the current international climate change regime and of the EU regime, with a particular focus on normative provisions relating to GHG

---

[11] Annex I lists the following States: Australia, Austria, Belarus, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, European Economic Community, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

emission trading. Initially, it should be noted that these two legal orders, the international and the European, entail two different levels of regulation, which although being strongly consistent should be considered separately.

At present, on the international level, countries are engaged in reducing their GHG emissions according to quantified reduction targets set by the Kyoto Protocol. At the EU level, Member States are going until December 2012 through the second period of operation of the European emission trading scheme regulated mainly by Directive 87/2003. The current scheme will then be replaced by the abovementioned new "climate – energy package".

The text of the UNFCCC comprises two Annexes where State Parties are listed according to the different commitments they have undertaken: States listed in Annex I[12] assumed more stringent and quantified mitigation commitments compared to other State Parties according to the principle of common but differentiated responsibilities. States listed in Annex II, have other obligations including basically the provision for financial and technological resources to developing countries to help them complying with their own obligations.[13] All other Parties which are not included in neither of the two Annexes are commonly referred to as "non Annex I" Parties. Their commitments are framed in a residual way by referring to the commitments of all Parties. The Kyoto Protocol comprises an Annex A that lists the GHGs and the relevant sectors of activities covered by the Protocol and an Annex B that lists Parties and their respective quantified emission reduction commitments. KP states explicitly that it does not create any new commitment for non Annex I Parties. According to this provision, Parties are required to formulate "cost-effective national, and if appropriate, regional, programmes to improve the quality of local emission factors, activity data and/or models which reflect the socio-economic conditions of each Party for the preparation and periodic updating of national inventories." The requirement to develop and update national inventories is a crucial step for national planning because it provides information necessary to devise effective mitigation policies and allows to monitor their progress.

The Kyoto Protocol stipulates that only Parties included in Annex B "may participate" in emissions trading for the purpose of fulfilling their commitments. These Parties will have access to units of "assigned amounts" and will transfer and acquire these units from each other to achive their quantified emission reduction commitments.

Therefore, the Republic of Macedonia, as a non Annex I/Annex B country, is currently excluded by the International emission trading. At the same time, the country is the only EU candidate country being at the same time a non

---

[12] See article 4.3 of the UNFCCC.

[13] Carbon dioxide (C02)Methane (CH4)Nitrous oxide (N20)Hydrofluorocarbons (HFCs)Perfluorocarbons (PFCs)Sulphur hexafluoride (SF6).

Annex I/Annex B Party to the climate change regime.[14] This leads to a conclusion that the state has two divergent commitments, one according to which "may not" participate in the international emission trading scheme, and the other to establish a mechanism enabling the EU emission trading scheme. At present, as a result of its non-Annex I/Annex B status, it may be concluded that the country does not have at present any quantified GHG emission targets. However, when it will become a Member State of the EU, the Republic of Macedonia will be bound by the obligations set out by the EU legislation, and therefore by the emissions trading directive and its related decisions. The position of the country is exceptional. The main features of this position may be resumed as follows: Macedonia has not been included in Annex I of the UNFCCC, Macedonia has not been included in Annex B of the Kyoto Protocol, and it was not an EU member at the time of reaching the burden – sharing agreement between the EU member states, and at the end, it still is not a member State of the EU, but due to its candidate status and the commitment based on Stabilization and association agreement it has the obligation to implement relevant EU law in view of its accession to the EU.

The dilemma is whether the state it bounded to fulfil the commitments before the formal accession?

Analysis of climate change relevant provisions of the Macedonian law on environment

The core requirements for environmental protection although included in several normative instruments, are based on the Law on Environment[15]. It incorporates the basic principles and procedures of environmental management.[16] The Law regulates the general environmental management issues and places specific emphasis on integrated environmental management, with regard to which it introduces the system of gradual adjustment to the required standards for integrated pollution prevention and control, through the introduction of integrated permits for compliance with operational plans, representing a condition for existing installations in the Republic of Macedonia

---

[14] Energy: Fuel combustion (Energy industries, Manufacturing industries and construction Transport, Other sectors, Other) and Fugitive emissions from fuels (Solid fuels,Oil and natural gas, Other) Industrial processes (Mineral products, Chemical industry, Metal production, Other production, Production of halocarbons and sulphur hexafluoride, Consumption of halocarbons and sulphur hexafluoride, Other) Solvent and other product use, Agriculture (Enteric fermentation, Manure management, Rice cultivation, Agricultural soils, Prescribed burning of savannas, Field burning of agricultural residues, Other), Waste (Solid waste disposal on land, Wastewater handling, Waste incineration, Other)

[15] Looking at the situation of other countries, it can be noted that the other candidate countries, Croatia and Turkey, are listed in Annex I of the UNFCCC. While Croatia is also listed in Annex B of the Kyoto Protocol and has therefore an assigned amount, Turkey is not listed in Annex B.

[16] Official Journal of Republic of Macedonia no 53/05; amended 81/05; 24/07;15/08

to continue their operations. The Law is a framework dealing with all environmental media and areas, including the basic global issues such as climate change. It provides a foundation for the adoption of secondary legislation for the detailed regulation of certain issues related to the management of the environment. It also provides a framework for the regulation of individual environmental media and areas, by the adoption of *lex specialis*. Its chapter XIX (Sustainable development and global issues in the area of environment), articles 187 – 190, contains provisions establishing of a national system aiming at stabilization of green house gasses (hereinafter: GHG) concentrations in the atmosphere preventing dangerous anthropogenic interference with the climate system and mitigating of the effects of climate change. The Article 187 requires preparation and adoption of a National Plan for mitigation of climate change (hereinafter: National Plan on Climate Change), for a period of six years. The preparation is in competence of the Ministry of Environment and Physical planning (upon prior consent of other state administrative bodies, respectively). The adoption of the Plan is in competence within the Government of the RM (the Council of Ministers). However, the stipulation "*particularly contains*", at the beginning of paragraph 2 of the art. 187 refer to the minimum content of the Plan (art 187 (2)), which is:

- national inventory of green house gas emissions[17];
- analysis and projections of greenhouse gas emissions and reduction of the emissions;
- assessment of vulnerability and measures of adaptation;
- information and cartographical presentation of monitoring, research and systematic observation of climate change;
- action plan and measures for mitigation of climate change[18];
- economic analysis of the proposed measures for climate change prevention and mitigation;
- bodies, institutions and other legal entities responsible for implementation of the national plan, action plan and measures for climate change prevention and mitigation;
- description of activities of public awareness raising, education and professional training of the scientific, technical and management staff and results achieved;
- information on the realization of commitments arising from international agreements related to climate change ratified by the Republic of Macedonia;

other issues identified by the Minister heading the department of the state administration responsible for the affairs of the environment. (*BP note: to be elaborated according to art. 187 (6)).*

---

[17] As instrument intended for harmonization of the national legislation with the Acquis Communitaire in Chapter 27

[18] For details on the inventory, see LoE art. 188 paragraph 1 and paragraph 3

Further, the Law (art 187 (6)), requires adoption of a subsidiary legislation by the Minister of Environment and physical planning – an Ordinance[19] – prescribing the methodology on the detailed content and manner of preparation of the National Plan on Climate Change, which means that the content, methodology, manner and procedure of preparation, should be regulated with such sub – legislation.

The above the act is planed as national measure to respond to the commitments of R. Macedonia arising on basis of ratification: 1. of the UNFCCC and Kyoto Protocol ; and 2. the Stabilization and Association Agreement[20]. Furthermore, the Law on Environment defines certain requirements for: adoption of National inventory of GHG emissions (art 188 (1)) as part of the National Plan on Climate Change[21]; adoption of an Action plan of measures and activities for prevention of the causes and mitigation of the negative effects of climate change, as part of the National Plan on Climate Change[22]; adoption of a subsidiary legislation by the minister of environment and physical planning (art 188 (3)) – an Ordinance on the conditions, manner and procedure for preparation of an Inventory of GHG emissions.

The above stipulation also means that conditions, manner and procedure for preparation of an Inventory of GHG emissions, as a subject should not be included in the ordinance referred to in article 187 (6) of the Law, if we deal with the subject matter separately. As summary, aside of the planning documentation, the Law on environment contains two legal bases for adoption of climate change related to subsidiary legislation: the fist is an Ordinance on the methodology on the detailed content and the manner of preparation of the National Plan on Climate Change (art.187 paragraph 6), and the second an Ordinance on the conditions, manner and procedure for preparation of an Inventory of GHG emissions (art.188 paragraph 3) , both in competence of the Ministry of Environment and physical planning.

Some Relevant Experiences

The proposals on the recommendable options for Macedonia may arise from the comparative analysis of the gained experiences for implementing the EU Acquis on Emission Trading in their legal systems. One particular situation

---

[19] For details on the action plan and measures, see LoE art. 189 paragraph 1

[20] Instrument to be adopted by the Minister of environment and physical planning

[21] In particular art. 68 for harmonization of national legislation with the EU Acquis in order to achieve the national strategic objective for integration within the European Union up to full membership level. The guidelines, contents and dynamics for process of approximation of national legislation to the EU Acquis Communitaire, have been defined in the National Programme for approximation of legislation adopted by the Government of Republic of Macedonia and the National Strategy for approximation of environmental legislation.

[22] Provided to be adopted by the Government

involves the position of Cyprus and Malta, which are EU MS and non Annex I/Annex B Parties. Although not having quantified reduction commitments according to the Kyoto Protocol, they are bound by the EU climate legislation, currently as member states, which as well includes the emissions trading scheme requirements. The experience of Malta and Cyprus may provide an useful example for the Republic of Macedonia because the countries were in a similar situation before entering the EU. As non Annex I/Annex B Parties to the climate change regime they did not have any quantitative commitment to reduce GHG and were consequently not eligible to participate in the international emissions trading. However, once they became EU member States they had to comply with the requirements set by the Directive 2003/87 and since then they participate to the EU ETS. For example, the Republic of Malta, joined the EU in May 2004, holds a Non Annex I status under the UNFCCC and has no GHG QELC under Annex B of the KP. Its experience in the implementation of the EU ETS may be an interesting model for the Republic of Macedonia, considering that both countries hold the same status under the UNFCCC. The Malta Environment Protection Act, provides the legal basis for the implementation of the EU ETS in Malta and therefore allows the EUAs trading, provides definitions, sets all the fundamental rules related to the EUAs trade, the establishment of the national registry and the duties of the operators and the National Competent Authority. The competences of the national authority envisages: monitoring the GHG emissions; managing the ETS by receiving the applications, issuing and updating the permits; allocating the EUAs; establishing and managing the national EU ETS registry and acting as Designated National Authority (dna) for Clean development mechanism (CDM) projects and providing guidance on adaptation measures. The Act stipulates that activities falling under the EU ETS scope shall be carried out on the basis of a GHG permit and set the mandatory content and requirements of the permit application as well as the content of the permit. Notably, the duties of the operators mainly consist of submitting the EU ETS permit application, complying with its conditions and surrender every year by April 30th a quantity of EUAs correspondent to their real GHG emissions of the previous year as duly monitored, reported (the so called monitoring and reporting duties) and verified by the verifiers accredited. Notably, all the provisions consider the implementation of European and not the International emission trading scheme.

To what extent the EC ETS Directive requirements are currently transposed in national legislation?

Since concluded that the commitment of the country to create an EU ETS compatible mechanism exists, this paper further examines to what extend the ETS requirements are currently transposed in national legislation. Even a surface analysis would show that large part of the EU requirements are not

existing or are not fully in accord with the stipulations of the EU ETS instruments. There is no clear definition of the scope nor the categories of activities and GHG to be subject to the emission trading have been identified in the Law on environment, and most of the definitions are not in compliance or are not stipulated in the national legislation at all. Although this is true for some of the terms (allowance, GHG emission permit, new entrant, tonne of carbon dioxide equivalent, emission reduction unit, and certified reduction unit), the normative definitions for others arise either from the general definitions in the Law of environment, or from the laws for ratification of the UNFCCC and Kyoto protocol[23]. However, the definitions may be again stipulated in the new normative act – law or sub law, in order to reduce ambiguities. The said Chapter XIX of the LoE devoted to climate changes as global issue does not regulate specifically a system for monitoring and reporting of GHG emissions, specified in relation to the activities from Annex I and verification of the reports. Still, there is a separate chapter in the LoE on Monitoring (chapter V) and information system (chapter VI) that contain provisions in this regard. Chapter V considering the monitoring networks, both state and local, as well as the obligation of the operators for self monitoring, and submission of data. The subsidiary legislation adopted on the basis of these chapters, does not include GHG emissions. There are as well no provisions on effective, proportionate and dissuasive penalties stipulated in the LoE or elsewhere, since the existing stipulations are providing only planning activities and at the same time do not impose any legal obligations for private entities. These requirements in accordance with the EU ETS Directive will take place after the obligations for private parties are imposed. Finally, penalties and other sanctions (including publication of the names of the operators who are in breach of the national provisions, payments, etc) have to be transposed in a Law. The amounts may be conferred to sub-legislation. Access to information on GHG permits and emissions, as well as establishment of registers and access to information on installations and their activities is already part of the overall Information system (Access to environmental information including register of polluters and substances). The directive requires that Member States make the appropriate administrative arrangements, including the designation of the appropriate competent authority or authorities, for the implementation of the rules of this Directive. Where more than one competent authority is designated, the work of these authorities undertaken pursuant to this Directive must be coordinated. According to a Governmental decision, the MoEPP is a competent authority for coordination of all activities related with the implementation of the Kyoto Protocol (DNA). Currently, the R. of Macedonia is eligible for the implementation of the CDM projects. If the national authorities will opt for the transposition of the EATD into the

[23] The normative instrument provided to be adopted by the Minister of environment and physical planning

national legal system, the Ministry of Environment and Physical Planning (MEPP) shall be the main responsible for the drafting of the Law on Greenhouse Gas Allowance Trading. Considering that a measure such as the EATD has a very big impact on the national energy sector, the Ministry of Economy of the Republic of Macedonia, which is in charge of all issues related with the energy supply in the country, has also expressed some interest in the implementation of an Greenhouse Gas Allowance Trading scheme. A proper department on climate change shall be established and officially included within the MEPP itself. Such a department shall serve as an advisory body to the MEPP on issues related with climate policy and the implementation of the Kyoto Protocol, as well as with the EU environmental *Acquis* on climate."[24]

The Way Ahead

The objective of this paper is to give some proposals on the most suitable options for implementing the EU ETS legislation, taking into consideration both the Country's status of Non Annex I Party under the UNFCCC and its EU candidate status. The choice of the model is focused on the most important legal and technical issues to be considered to implement the EU ETS, namely: the legal basis for EU ETS transposition; the National Competent Authorities; the EU ETS permits and operators duties; the National register for GHG emissions records and transactions.

There are few possibilities for transposing the requirements of the directive in the national legislation. The first is to amend the LoE after the accession into EU. The second is to amend the national legislation at this stage, stipulating obligation for administrative bodies and private entities in terms of EU ETS requirements. This amendments may take place in the chapter XIX of the Law on Environment setting the basis for climate. The Ambient Air Quality Framework Law may not, as it currently stands, provide a legal basis since it does not address GHG emissions and climate change issues. It is not recommendable to use the IPPC as a legal basis, since the scope and purpose of this legislation are different and taking into consideration that EC Directives 2003/87 and 2009/29 require coordination between the EU ETS and the IPPC but do not foresee the merging of the two systems.[25] Currently, the most suitable legal basis may be represented by the Macedonian Law on Environment, whose Chapter XIX headed *Sustainable Development and Global Issues in the Area of Environment*, already addresses climate change policy, measures and strategy and GHG emissions stabilization. To this end, it is worthy to mention that a useful legal basis might be represented by articles

---

[24] L.N. 140 of 2005-CAP. 435), as amended by L.N. 73 and 274 of 2006

[25] Since considered as part of the domestic legal system. Again, according Macedonian constitution, international instruments ratified according the Constitution are considered as part of the domestic legal order and can not be changed by law.

187–189 since they already provide for the establishment of the national inventory of GHG emissions (useful for the implementation of the EU ETS), for the adoption of a National Plan on Climate Change and an Action Plan of measures and activities for prevention of the causes and mitigation of negative effects of climate change. Such Action Plan, as an integral part of the National Plan on Climate Change shall contain, *inter alia*: institutional and legal measures; preventive measures and activities for reduction of greenhouse gas emissions, measures and activities for mitigation of negative effects of climate change; measures of professional training of the scientific, technical and management staff; and time frame and financial plan for implementation of anticipated measures and activities.

The third option is to prepare *lex specialis* – Law on GHG allowance scheme transposing all of the requirements of the relevant EU ETS instrument which will enter into force at the moment of accession.

Whatever the choice, the legislative framework has to be further implemented by means of a proper secondary legislation (Ministerial Orders/Decrees) setting technical and/or administrative details (list of installations; permit format and content; methods for monitoring and reporting; criteria and procedures for accreditation of the verifiers; procedures for granting the permit; functioning and management of the national registry; fees to be charged to the operators for the permitting procedure/the managing of the registry's users account).

In order to avoid application of such provisions until the accession opposite to the acts for ratification of UNFCCC and Kyoto Protocol, there should be as well amendments to the Transitional provisions of the LoE, delaying the application of the provisions until the condition of accession is fulfilled.

NIKOLA POPOVSKI

Tax Indicators for Quick Identification of Short-Term Changes in the Dynamic of Nominal GDP

Abstract

This paper explores the dependence of tax revenues in the central budget of Macedonia from the dynamic of nominal GDP in the country during the whole decade, starting from 2000 up to 2010. The analyzed phenomena are monitored on an annual level. The goal is to identify the changes in dynamic of nominal GDP in the country, with a high level of certainty and relatively quickly, based on dynamic of total or some individual tax revenue in the central budget which are determined in real time in the treasury system and that to be done before the estimated statistical data for changes in the growth and dynamics of GDP appear. Positive and high dependence and correlation of the phenomena is determined by using the applied model. Some variation in specific taxes still exist. The correlation of total tax revenue is very high. Separately analyzed, the correlation is relatively high for revenues from corporate tax and excise but low in revenues from personal income tax. The dependence of revenues from value added tax as the most important tax revenue in the budget is medium. The research has shown that with a relatively high degree of certainty, previous estimates could be conducted in advance for the short-term dynamics of nominal and hence real GDP in Macedonia, based on pace of the level of tax revenues in the central budget.

Key words: taxes, tax revenues, budget, nominal GDP, growth rates, correlation.

Introduction

The estimates of GDP dynamic in a very short period have always been and are a challenge for the economic science, but also of essential importance for economic policy makers, private investors and the wider public too. In present conditions in Macedonia and yet in the world, the so-called „estimated" or „preliminary" statistic data on GDP for a particular country for a certain month or quarter is usually obtained by a certain time lag, i.e. after the expiry of several months period[1], while the so-called „revised" data become available in period prolonged from 1 up to 6–12 months, so the „final" results to be available after 18–20 months of the period for which they refer to. Due to the complex economic developments in the world driven by high level of economic interdependence and globalization, but also because of the persis-

[1] In developed countries with advanced statistical offices, the estimates data for the dynamics of nominal and real GDP of the country usually are published monthly with delay of one to two months, and in Macedonia that is done quarterly with delay of three months.

tent and often unexpected changes in the dynamic of the growth of national economies, and aimed towards adjustment of economic policy and its measures to the reality to be more appropriate and quicker, the actual governments around the world today, although it is difficult, have a need of quicker and more accurate indirect or direct indicators which suggest the dynamic of the output of their economies in the shortest possible period.

Determination of one or more indirect indicators that will point the trends and even the rough measure of the nominal GDP in particular short-time period is the basic aim of the research in this paper. Sometimes that can be essentially important. "The measurement represents a key part of the scientific study. The accurate measurement is essential for the creation of new discoveries, valuation of competitive theories and forecast of future events and trends." (Абел Е.Б, Бернанк Б.С, Крушор Д., 2009, p.23).

Many types of simplified and more complex models for determination of economic growth in real time such as: „composite indicators" within the OECD; „dynamic factor model" in the United States; „Euro Coin" in the EU and others are already done in the world and they are applied in practice (Matheson, 2011). Also, many dependencies between the dynamics of total economic activity and tax revenues have already been studied for the simple reason that tax revenues in the budget, basically, are proportional part GDP and they largely depend of its scope, structure and dynamics. Thus, for example, it is confirmed that „long-run revenues elasticity (taxes – note of N. P) do not hold well during output contractions and expansions. During recessions, tax revenues collapses more sharply than does the tax basis. Conversely, tax revenues rise more strongly than does the tax base during economic booms. As the long-run revenue elasticity is commonly used in revenue projections, there is thus a tendency to overestimate revenue during contractions and vice-versa." (Sancak C., Velloso R., and Xing J., 2010, page 3). However, the necessity of constant determination of new indirect indicators and check of the usability of already existing ones for the dynamics in economies never stops.

Government representatives and economic experts throughout the world, as well as in Macedonia, are often using the monthly or other periodical data for the dynamic of total or individual tax revenues in central budget as principal argument and indicator for aggregate trends in the economy, in fact, more precisely, for dynamic of GDP within the country based on their practical experience and/or firm economy logics. In this, the necessary difference between nominal content of data that refer to the total or separate tax revenues in the budget, and the possible existence of inflation trends in the economy is not always done and it is the base for differentiation of data for dynamics of real and nominal GDP. Namely, it is known in the economy that due to the existence of inflation, the real GDP of some economy can, though not necessary, decline in terms when its nominal GDP, de facto, rises. There are adequate suggestions in the literature (Miyazaki M., 2010) that higher

growth of nominal GDP most frequently is positively influencing the pace of dynamic of the tax revenues in budget, for which we already mention to have pure nominal content, that sometimes can directly stimulate the pro-inflation tendencies of governments economic policy. From one side, that is done in order to increase the tax revenues of one state in the most possible shortest time and/or to decrease the level of public dept, especially the domestic one, in conditions when the economy is not showing indicators of real growth from the other side.

For those and many other reasons, in order to confirm the real dependence and correlation of budget tax revenues[2] from the growth of nominal GDP, the paper explores the correlation of annual growth rates of tax revenues with annual growth rates of nominal GDP in Macedonia. The results can be used for early detection of growth dynamics of national economy (on monthly and quarterly level) with relative high level of certainty, based on research of these phenomena correlation in relatively long time of ten years (2000-2010).

Data

In order to identify the abovementioned correlation within the Macedonian economy, in the research and for the needs of this paper, two sets of original statistical data are used, which are subsequently used as a base for calculation of its annual dynamic rates and getting more variables for the needs of correlation model. Selection of data is an essential step towards the further development of the model.

The first set are the official statistical data of the nominal GDP (NGDP)[3] for the cited period in the country, on which basis annual rates of its dynamic are calculated (ng). Herewith, just for comparison and insight, official data for GDP – deflator (GDP def) in Macedonia for adequate year are given too, through which, data for the dynamic of real GDP (RGDP) in that year are gotten, based on the following model:

$RGDPi = NGDP_i / GDP\ def._i$

from which official rates of real GDP (g) dynamic are further calculated (Table No. 1). In the concrete Macedonian case, those data are useful so to interpret the calculated level of correlation i.e., the dependence of tax revenues in the budget from the actual dynamic of NGDP easier later on, from one side and actual data of annual nominal GDP dynamic rates (positive or negative) and its transformation in rates of dynamic of annual real GDP from the other side.

---

[2] Tax revenues represent its dominant part in total revenues of the central budget of the Republic of Macedonia on annual level and they participate with around 70–75%, whilst in GDP of the country they participate with around 20%, of which around 15% is a sole participation of the indirect taxes (Тодевски, 2006, p. 16–18)

[3] Nominal GDP represents monetary value of the final production of the national economy measured at current market prices.

Second data set are those for the most important annual tax revenues in the central budget of Macedonia, actually annual revenues from:

– corporate tax, from which the level of profits dynamic of companies and its growth is followed;
– personal income tax, through which changes of revenues level of individuals and households are followed as well as the increase of employment level;

TABLE 1. – **Dynamic of nominal and real GDP in Macedonia (2000–2010)**

Year (i)	Gross domestic product (GDP)			
	Nominal GDP (NGDP) (millions of MKD)	Growth of NGDP in % (ng)	GDP deflator (GDP def.) (%)	Growth of real GDP in % (g)
	1.	2.	3.	4.
2000	236.389	13,1	8,2	4,5
2001	233.841	–1,1	3,6	-4,5
2002	243.970	4,3	3,4	0,9
2003	258.369	5,0	0,3	2,8
2004	272.462	6,3	1,3	4,6
2005	295.052	8,3	3,8	4,4
2006	320.059	8,5	4,4	5,0
2007	364.989	14,0	7,4	6,1
2008	411.728	12,8	7,5	5,0
2009	410.734	-0,2	0,3	–0,9
2010*	427.172	4,0	2,9	1,8

* estimated data Source:
1. State bureau for statistics (SBS): National accounts – Statement No. 3.1.11.04 for GDP, first quarter 2011, since 24.06.2011, p. 2-5
2. Personal calculations
3. Statistical yearbook of Macedonia 2010, p. 307, State bureau for statistics, Skopje, 2010, and www.finance.gov.mk for 2009 and 2010
4. SBS: National accounts – Statement Number 3.1.11.04 for GDP, first quarter 2011, since 24.06.2011, p. 14-17

– value added tax, through which changes of level of new value added in the economy and increase of consumption is followed;
– customs, through which changes in the scope of import as part of the foreign trade of the economy are followed;
– excises, through which the level of changes in consumption of particular types of specific products in the economy are followed; and various taxes.[4]

In principle, the mentioned taxes can explain the economic growth through the growth of NGDP and they are separately selected for each year in particular period, with calculation of their total sum. (Table No. 2). The data are taken from the officially published final accounts of the Republic of Macedonia budgets for each year from that period. Based on this, the annual rates of

[4] It applies on two types of taxes, revenues of the central budget of Republic of Macedonia which are: administrative taxes (for patent protection, customs, consular, traffic, cadastre, environmental and other) and court taxes.

nominal changes in the level of tax revenues in the budgets for each particular tax and their total sum have been calculated, actually: *ct, pt, vat, cus, acc, at* and *tr* according to the above given schedule (Table No. 3).

TABLE 2. – **Budget revenues from separate taxes in Macedonia (2000–2010)**

year	Revenues in the budget from separate taxes (millions of MKD)						total revenues (8 = 2+3+4+ 5+6+7)
	Corpo-rate tax	personal income tax	Value added tax	customs	excises	various taxes (admin. and court)	
1.	2.	3.	4.	5.	6.	7.	8.
2000	2.793	10.793	17.452	7.733	12.281	1.216	52.268
2001	3.006	7.248	17.131	6.111	10.830	1.061	45.387
2002	2.624	7.513	20.521	6.336	10.715	1.092	48.801
2003	3.270	7.502	21.176	6.142	10.565	1.367	50.022
2004	2.362	7.707	25.757	5.815	10.336	1.465	53.442
2005	2.837	8.098	27.082	5.266	11.748	1.657	56.688
2006	4.708	8.414	27.239	5.420	12.174	1.525	59.480
2007	5.898	8.892	32.962	6.199	13.265	1.704	68.920
2008	8.579	8.696	36.173	6.275	14.276	1.880	75.879
2009	4.434	8.710	35.173	5.229	14.533	1.920	69.999
2010	3.590	8.872	37.694	4.712	14.925	1.775	71.568

Source: Final accounts of budgets of Republic of Macedonia (2000 – 2009) according to Official Gazettes of Republic of Macedonia from 2001 to 2010. Data for revenues in 2010 are according to published data for realization of the udget in 2010 by www.finance.gov.mk (July 2011)

TABLE 3. – **Rates of change of budget revenues from separate taxes in Macedonia (2000–2010)**

year (i)	annual rates of change of budget revenues from separate taxes (in %)						
	Corpora-te tax (ct)	personal income tax (pt)	value added tax (vat)	customs (cus)	excises (acc)	various taxes (adm.& court) (at)	total revenue-es (tr)
1.	2.	3.	4.	5.	6.	7.	8.
2000	/	/	/	/	/	/	/
2001	+7,6	-32,8	-1,8	-21,0	-11,8	-12,7	-13,2
2002	-12,7	+3,7	+19,8	+3,7	-1,1	+2,9	+7,5
2003	+24,6	-0,1	+3,2	-3,1	-1,4	+25,2	+2,5
2004	-27,8	+2,7	+21,6	-5,3	-2,2	+7,2	+6,8
2005	+20,1	+5,1	+5,1	-9,4	+13,7	+13,1	+6,1
2006	+65,9	+3,9	+0,6	+2,9	+3,6	-8,0	+4,9
2007	+25,3	+5,7	+21,0	+14,4	+8,9	+11,7	+15,9
2008	+45,5	-2,2	+9,7	+1,2	+7,6	+10,3	+10,1
2009	-48,3	+0,2	-2,8	-16,3	+1,8	+2,1	-7,7
2010	-19,1	+1,9	+7,2	-9,9	+2,7	-7,6	+2,2

Source: Personal calculations based on data from Table 2.

Methodology

Testing of historical performances of dependences i.e. the coefficients of correlation for the selected indicators has been done for the period of 2000-2010 and that is:

- level and dynamics of annual changes in the total and cited separate nominal tax revenues in the central budget; and
- level and dynamics of annual changes in the nominal GDP.

Methodology for construction of indicators is presented for each data category, i.e. for the correlation coefficient and methodological calculation explanations are given too, including some necessary assumptions and limitations. The users of the research results should have that in mind in case of their further use.

The model is constructed so to see how those phenomena and its correlation correspond in order to use them in future for early following of the nominal GDP dynamic in short-time intervals. The mathematical modeling and all calculations are moved in the Appendix of this paper (Table 4 and the additions I, II, III within the Appendix). The level of correlation appeared to be positive and high. In practice, these data could be used for current follow-up of real GDP dynamic in the country as long as the same are crossed with the data for monthly and quarterly inflation dynamic, which are regularly and quickly published by the official statistic. Thus, for example, as long as the level of inflation rates and the rates of changes of the total budget revenues are very close, the probability that the economy in that period is stagnant is very high due to the high positive correlation of the changes at the nominal tax revenues and those of the nominal GDP. As long and if the level of inflation rates are under the growth level of total tax revenues in the budget, than the probability that the economy is realistically growing is big. Finally, in the opposite case, the danger that the economy is in declining phase or in recession is also big.

The correlation has been researched in period when the Macedonian economy went through several different phases and that is: a) recession in two different periods – that of internal security crises in 2001 and in 2009 due to the world economy recession; b) period of slow recovery and low growth in post-recession years 2002–2003 and in 2010; and c) period of relatively high and stabile real growth in the margins of 4,4 percent up to 6,1 percent annually in the period between 2004 and 2008.

Some assumption and limitations are used in the model concerning the revenues of a certain taxes:

- for calculations of nominal GDP growth correlation with the growth of revenues from personal income tax (PIT), a serial of 9 and not 10 years, is used i.e. data from 2001 are not used since the rate of changes amongst this type of tax in 2001 has significant deviation (–32,8%) compared to other annual rates of this tax (see: Table 3, column 3).

– separate correlation of nominal revenues changes from the custom charges with the changes of nominal GDP hasn't been taken into consideration since this type of tax revenue in large scale, amongst other, depend on the dynamic of the country's import and the changes in exchange rates of currencies which the import is calculated in. However, due to the greater precision, these revenues are included in the total tax revenues and variables that are coming out of them.
– separate correlation of changes in fee taxes (both administrative and court) with the changes of nominal GDP isn't taken into consideration and isn't calculated too since these types of tax revenues in the central budget are relatively small[5], but, due to the greater precision, these revenues are also included in the total tax revenues and variables that are coming out of them.
– some minor taxes and the revenues coming from them that almost have no serious importance for the total revenues in the central budget and some taxes that were temporarily implemented in particular time period due to certain fiscal or other goals, as for example the tax on financial transactions in 2001 and 2002 are not taken into consideration at all.

Results (coefficient of correlation) and its interpretation

The research of rates of changes in tax revenues in the central budget and growth rates of NGDP is showing that these variables are dependable and correlated. Though the model is rather simplified, it is transmitting important messages. The calculated correlation coefficients (r) i.e. the dependence of the current changes of the total and some separate tax revenues in the budget from the current changes in the nominal GDP are positive and with exception of one tax (PIT) also high.

– the coefficient of correlation between the dynamic of NGDP (ng) and the dynamic of total tax revenues in the central budget (tr) is positive and very high: ($r_{ng,tr} = 0{,}91$);
– the coefficient of correlation, i.e. the dependence of changes in revenues from the income tax (ct) and excises (acc) with the changes of NGDP are also high and positive ($r_{ng,ct} = 0{,}70$; $r_{ng,acc} = 0{,}73$);
– the coefficient of correlation in changes of value added tax (vat) level with the particular changes of NGDP is positive with medium value ($r_{ng,vat} = 0{,}51$);
– the coefficient of correlation of the changes of level of personal income tax (pt) is positive, but low ($r_{ng,pt} = 0{,}22$).

---

[5] Their overall annual participation does not exceed 0,5% of the value of GDP of Macedonia (Тодевски, 2006, p. 114–116).

The very high value of the correlation coefficient between the dynamic of NGDP and the total level of tax revenues ($r_{ng,tr}$) is pointing to a high dependences and possibility to get indirect but fairly valuable information about the short-term dynamic of nominal GDP in the economy of the country, that is based on monthly and quarterly tax revenues data and dynamic in the budget.

The high value of correlation coefficient between the NGDP dynamic and the changes of the budget revenues from the corporate tax ($r_{ng,ct}$) and the excises ($r_{ng,acc}$) could and should be used as control indicators of the main correlation coefficient ($r_{ng,tr}$), even tough there must be a caution related to the changes of the revenues from the corporate tax. The caution comes from the fact that budget revenues from this tax, apart from the economy dynamic or the level of NGDP in Macedonia are often crucially dependent on the frequent and numerous changes relating to exemptions and incentives for this kind of tax or by changes in its tax base.

The intermediate correlation level of NGDP dynamic and changes in budget revenues from value added tax ($r_{ng,vat}$),, also can and should be used as a control indicator of the main correlation coefficient ($r_{ng,tr}$). In situation of determined high correlation of the changes in revenues of corporate tax and excise tax with those in NGDP, the correlation of changes in the level of revenue from VAT should be studied further[6]. Some explanations for the intermediate level of correlation may arise from the occurrences of relatively greater or lesser efficiency of tax administration in the collection of this kind of tax, depending on election cycles in the state – for example, a relatively small tax collection during the election campaign period and relatively higher tax collection in post-election periods in the country.

Changes in the level of budget revenues from personal income tax can not be taken as the basis for making valuable conclusions about the dynamic of nominal GDP in the country due to extremely low value of the coefficient of their correlation ($r_{ng,pt}$).

Conclusion

The current changes in the overall level of tax revenue in the central budget of Macedonia are showing high level of positive correlation with the ongoing changes in the level of NGDP explored in ten years time. This means that changes in the level of tax revenue, measured annually, but of course in every month or quarter separately, can serve as a reliable indirect indicator for the direction and dynamic the country's economy is moving in the short term, measured by the dynamic of its nominal GDP. That can allow the creators

---

[6] This is important because the participation of the annual value of budget revenues count around 10% of the value of GDP of the country (Тодевски, 2006, p. 68).

of economic policy and the analysts to have rapid and timely indicators, but also relatively reliable assumptions whether the measures of economic policy in the short term are giving the expected results and whether something should be rapidly and currently changed.

Individual correlations of changes in the level of budget revenues from corporate tax, personal income tax, VAT and excises with changes in the level of NGDP are also positive, but with varying levels of correlation. From one side, due to the high level of correlation of the revenues from the corporate tax and excises, and due to the medium level of correlation of VAT revenues, and the great importance of the latest which participate with nearly half of total tax revenues in the central budget during the entire period from the other, the best is to follow the short-term change in the dynamic of NGDP according to the dynamic of changes of level in total tax revenues, but controlled and corrected with the changes of revenues level from the corporate tax, excises and the VAT.

Appendix

TABLE 4. – **Construction of data needed for getting variables used for calculation of correlation coefficients**

Features	data for a adequate years										sum
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	(Σ)
ng_i	–1,1	4,3	5,0	6,3	8,3	8,5	14,0	12,8	–0,2	4,0	61,9
ng_i^2	1,21	18,49	25,0	39,69	68,89	72,25	196,0	163,84	0,04	16,0	601,41
ct_i	7,6	–12,7	24,6	–27,8	20,1	65,9	25,3	45,5	–48,3	–19,1	81,1
ct_i^2	57,76	161,29	605,16	772,84	404,01	4342,81	640,09	2070,25	2332,89	364,81	11751,9
pt_i	–32,8	3,7	–0,1	2,7	5,1	3,9	5,7	–2,2	0,2	1,9	20,9 [1)]
pt_i^2	1075,84	13,69	0,01	7,29	26,01	15,21	32,49	4,84	0,04	3,61	103,19[1)]
vat_i	–1,8	19,8	3,2	21,6	5,1	0,6	21,0	9,7	–2,8	7,2	83,6
vat_i^2	32,4	392,04	10,24	466,56	26,01	0,36	441,0	94,09	7,84	51,84	1522,38
acc_i	–11,8	–1,1	–1,4	–2,2	13,7	3,6	8,9	7,6	1,8	2,7	21,8
acc_i^2	139,24	1,21	1,96	4,84	187,69	12,96	79,21	57,76	3,24	7,29	495,4
tr_i	–13,2	7,5	2,5	6,8	6,1	4,9	15,9	10,1	–7,7	2,2	35,1
tr_i^2	174,24	56,25	6,25	46,24	37,21	24,01	252,81	102,01	59,29	4,84	763,15
$ng_i \cdot ct_i$	–8,36	54,61	123,0	–175,1	166,83	560,15	354,2	582,4	9,66	–76,4	1590,99
$ng_i \cdot pt_i$	36,08	15,91	–0,5	17,01	42,33	33,15	79,8	–28,16	–0,04	7,6	203,18
$ng_i \cdot vat_i$	1,98	85,14	16,0	136,08	42,33	5,1	294	124,16	0,56	28,8	734,15
$ng_i \cdot acc_i$	12,98	–4,73	–7,0	–13,86	113,71	30,60	124,6	97,28	–0,36	10,8	364,02
$ng_i \cdot tr_i$	14,52	32,25	12,5	42,84	50,63	41,65	222,6	129,28	1,54	8,8	556,61

1) the value for 2001 is left out in the sum due to its extreme value

I.

1. Variables of nominal GDP:

$$\overline{ng} = \frac{\sum_{i=1}^{10} ng_i}{n} = \frac{61.90}{10} = 6.19 \;;$$

$$s_{ng}^2 = \frac{\sum_{i=1}^{10} ng_i^2}{n} - \left(\frac{\sum_{i=1}^{10} ng_i}{n} \right) = \frac{601.41}{10} - \left(\frac{61.90}{10} \right)^2 = 21.83;$$

$$s_{ng} = \sqrt{21.83} = 4.67$$

appropriate on this also for:

2. corporate tax:

$$\overline{ct} = \frac{81.10}{10} = 8.11 \; ; \; s_{ct}^2 = \frac{11751.90}{10} - \left(\frac{81.10}{10} \right)^2 = 1109.42 \; ;$$

$$s_{ct} = \sqrt{1109.42} = 33.31$$

3. personal income tax (nine years serial data 2002-2010 is used)

$$\underline{\overline{pt} = \frac{20.90}{9} = 2.32}; \; s_{pt}^2 = \frac{103.19}{9} - \left(\frac{20.90}{9} \right)^2 = 6.08 \; ; \; s_{pt} = \sqrt{6.08} = 2.47$$

3.1. variables of NGDP with nine years serial (2002-2010) for calculation of correlation coefficient of personal income tax:

$$\overline{ng_1} = \frac{63}{9} = 7.00 \; ; \; s_{ng_1}^2 = \frac{600.20}{9} - \left(\frac{63}{9} \right)^2 = 17.69 \; ;$$

$$s_{ng_1} = \sqrt{17.69} = 4.21$$

4. value added tax:

$$\underline{\overline{vat} = \frac{83.60}{10} = 8.36}; \; s_{vat}^2 = \frac{1522.38}{10} - \left(\frac{83.60}{10} \right)^2 = 82.35 \; ;$$

$$s_{vat} = \sqrt{82.35} = 9.07$$

5. excises:

$$\underline{\overline{acc} = \frac{21.80}{10} = 2.18}; \; s_{acc}^2 = \frac{495.40}{10} - \left(\frac{21.80}{10} \right)^2 = 44.79 \; ;$$

$$s_{acc} = \sqrt{44.79} = 6.69$$

6. total tax revenues:

$$\underline{\overline{tr} = \frac{35.10}{10} = 3.51}; \; s_{tr}^2 = \frac{763.15}{10} - \left(\frac{35.10}{10} \right)^2 = 63.99 \; ; \; s_{tr} = \sqrt{63.99} = 7.99$$

II.

Covariance:

$$s_{ng,ct} = \frac{\sum_{i=1}^{10} ng_i \cdot ct_i}{n} - \left(\frac{\sum_{i=1}^{10} ng_i}{n}\right)\left(\frac{\sum_{i=1}^{10} ct_i}{n}\right) = \frac{1590.99}{10} - \left(\frac{61.90}{10}\right)\left(\frac{81.10}{10}\right) = 108.90$$

hence:

$$s_{ng_1,pt} = \frac{167.10}{9} - \left(\frac{63}{9}\right)\left(\frac{20.90}{9}\right) = 2.31;$$

$$s_{ng,vat} = \frac{734.15}{10} - \left(\frac{61.90}{10}\right)\left(\frac{83.60}{10}\right) = 21.68$$

$$s_{ng,acc} = \frac{364.02}{10} - \left(\frac{61.90}{10}\right)\left(\frac{21.8}{10}\right) = 22.91;$$

$$s_{ng,tr} = \frac{556.61}{10} - \left(\frac{61.90}{10}\right)\left(\frac{35.10}{10}\right) = 33.93$$

III.

Correlation coefficients:

$$r_{ng,ct} = \frac{s_{ng,ct}}{s_{ng} \cdot s_{ct}} = \frac{108.90}{4.67 \cdot 33.31} = 0.70;$$

hence:

$$r_{ng_1,pt} = \frac{2.31}{4.21 \cdot 2.47} = 0.22;$$

$$r_{ng,vat} = \frac{21.68}{4.67 \cdot 9.07} = 0.51;$$

$$r_{ng,acc} = \frac{22.91}{4.67 \cdot 6.69} = 0.73;$$

$$r_{ng,tr} = \frac{33.93}{4.67 \cdot 7.99} = 0.91$$

Legend:

$\overline{x}$ – arithmetic mean of variable x;

s_x^2 – dispersion of variable x;

s_x – mean square deviation (standard deviation) of variable x;

$s_{x,y}$ – covariance of variable x and y ;

$r_{x,y}$ –correlation coefficient between the variables x and y.

BIBLIOGRAPHY

Абел Ендру Б., Бернанк Бен С., Крушор Дин: *Макроекономија*, Табернакул, Скопје, Македонија, 2009

Altissimo Filippo, Cristadoro Riccardo, Forni Mario, Lippi Marco, and Veronese Giovanni: *New Eurocoin: Tracking Economic Growth in Real Time*, Working Papers No. 631, Bank of Italy, Rome, June 2007

Barhoumi, Karim, Benk Szilard, Cristadoro Riccardo, Reijer Ard Den, Jakaitiene Audrone, Jelonek Piotr, Rua Antonio, Runstler Gerhard, Ruth Karsten and Van Nieuwenhuyze Christophe: *Short-term forecasting of GDP using large monthly datasets: a pseudo real-time forecast evaluation exercise*, Occasional Paper, No. 84, European Central Bank, Frankfurt, 2008

Evans, Martin D. D.: *Where Are We Now? Real-Time Estimates of the Macroeconomy*, International Journal of Central Banking, Vol..1, No. 2, Web Edition, September 2005

Matheson Troy: *New Indicators for Tracking Growth in Real Time*, IMF Working Paper 11/43, IMF, Washington, DC, February 2011

Miyazaki Masato: *In Search of Lost Revenue – Why Restoring Fiscal Soundness After a Crisis is Harder than It Looks*, IMF Working Paper 10/137, IMF, Washington, DC, June 2010

Sancak Cemile, Velloso Ricardo, and Xing Jing: *Tax Revenue Response to the Business Cycle*, IMF Working Paper 10/71, IMF, Washington, DC, March 2010

Тодевски м-р Димитар: *Карактеристики на јавните финансии на Македонија*, Еуро-Мак Компани, Скопје, Македонија, 2006

MARJAN MLADENOVSKI

Education – a Key to the Integration of Minorities: Focus on the Roma Community in Macedonia

Abstract

In this paper, an accent was given to trends in participation and completion of the educational process of the Roma students in all levels of the education system in the Republic of Macedonia. Dynamics are forwarded based on official data sources, primarily the State Statistical Office of Macedonia, on which an analyzes of the educational inclusion of the Roma has been made. Apart from the participation of the the Roma population in all stages of education: from preschool to high school, there are problems that have been located which are faced by the Roma students in each educational level. The conclusion that arises with regard to education at all levels of the Roma in Macedonia, is that the trend of improving the situation is slowly but certainly moving in a positive direction. This is particularly noticeable during the enrollment, but in the next years it will be visible in the increasing number of the Roma who have completed appropriate education level. Besides the general engagement of the Government in improving the educational status of all citizens in Macedonia, the essential role of positive discrimination against the Roma students must be underlined. Despite this, it must be said that the authorities must work harder to accelerate and facilitate the educational integration of the Roma communities. This would reduce the traditionally large gap between the Roma and all others in the educational sphere, and it would increase overall social integration of this community.

Keywords: education, Roma, students, enrollment, finishing

The Education of the Roma in Macedonia – opening remarks

In the Republic of Macedonia the right to education is constitutionally guaranteed and available to everyone under equal conditions. At the same time, primary and secondary education is compulsory and free. Members of ethnic communities, including Roma, have a right to visiting classes in their native language in the primary and secondary education in the manner prescribed by law.

However, education is mainly conducted in Macedonian and Albanian teaching language, as well as in Turkish and Serbian language in those areas where they are the dominant ethnic group. The Roma attend classes in Macedonian, somewhere in Albanian language (Table 1), but they have the ability to follow the optional classes in their own language, the mother tongue (Romany) since 1996, which currently takes place only in two schools. In recent years, there is the option of elective course in primary schools (Roma language and culture), but even the Roma students themselves rarely choose it.

Generally speaking, the education system is not based on a multi-cultural understanding. Many the Roma use the Roma language as a native language, and for its use in schools, despite the legal options, there is no sufficient conditions in terms of the necessary teaching staff and materials. Probably because of this, most the Roma children are actually bilingual (even multilingual), because despite of the Roma language, they speak a second language, mostly Macedonian. (Memedova 2005, 42)

In addition, the non-Roma children are not able to learn the Roma culture and in such way to change the negative image about it as a less valuable one. Such a perception is transferred to the Roma children, so they begin to lose respect for their culture. With time the Roma community has learned to oppose this situation, but they paid a high price because in this way they increase their isolation.

TABLE 1. – **The Roma pupils in primary schools by teaching language**

Teaching language	1999–2000	2003–2004	2007–2008
Macedonian	96.7%	97.5%	96.9%
Albanian	3.3%	2.4%	3.0%
Turkish	–	0.1%	–
Serbian	0.01%	–	0.01%
in total	100.0%	100.0%	100.0%

Source: State Statistical Office 2001, 2005, 2009

When it came to power in 2006, the current Government of RM announced significant changes and innovations in the educational system in Macedonia. First of all, it promoted the concept of primary education, compulsory secondary education, the concept of lifelong learning, a computer for every child, free school books, changes in curricula, dispersed studies at state universities, constantly emphasizing the need of highly-skilled labor etc. Although some changes were not implemented with the proclaimed dynamics and quality, yet what left an impression was the interest of the government for the education as a process.

Actually, the previously prepared program of education development in the RM from 2005 to 2015 by the Ministry of Education and Science, announced the mighty reforms in Macedonia in the sphere of education: education for all by ensuring equality of education, increasing opportunities for participation, increasing the educational, cultural and economic competitiveness of the Macedonian society.

The Roma and the Preschool Education

Full integration of the Roma children into the education system must have continuity within the four levels: preschool, elementary, middle and high level of education. In fact, it was noted that compared with the non-Roma children,

the Roma children enter the primary school unprepared. In that context the main problems are: lack of knowledge of the Macedonian language, lack of educational qualifications, lack of socialization etc, the result of which are the unwanted effects: poor success in overcoming the educational contents, problems in interaction with other children and teachers, early abandonment of formal education. This is particularly the case with the Roma children from the ghetto environment, who, according to the study of the OSCE, often face the cultural patterns of the non-Roma for the first time on the first school day. (Organization for Security and Co-operation in Europe in 2000, 76)

As a result of this, the preparation for inclusion into the primary school must begin during the preschool period. Yet somehow the preschool education was left at the margins of interest of the governing garniture, without any reforms being implemented, so that it remained optional and not even free. It is probably the reason why only 1.6% of the Roma children of the preschool age are included in public kindergartens in the country. (MLSP 2009, 23). The national average is also not too high (12%) but it is as much as 8 times higher. The reasons why the Roma children are not included in the public municipal kindergartens may be required in:

- The socio-economic status of the families, because in spite subventions by the state, the monthly payment amount is 1500 denars (25 euros), which for most families that exist on social financial assistance of 3000 denars (50 Euro), is a huge amount of expenditure.
- The traditional type of family (family community) which is dominant in the Roma population, and where there is always a family member who can take care of the children.
- The indifference of parents in their children's early involvement in the educational process.

The importance of preschool education for a successful start in elementary education is seen in:

- the impossibility of the parents to prepare the Roma children (because of illiteracy or lack of time)
- the language and cultural barriers
- the stereotypes of teachers, school friends and their (non-Roma) parents.

The reluctance of the children discourages the start of compulsory education process. Roma civic organizations are the first that have seen the importance of preparation of the Roma children for a successful start of primary education in Macedonia, who, with the help of foreign donors in 2000 opened free kindergartens (pilot projects), which showed some remarkable results in terms of success, regularity and mobility of the Roma children in later formal education. The state, i.e. MLSP (financially supported by REF) in partnership with the public child kindergartens and local civic organizations currently implement a project on the inclusion of the Roma children in public preschools.

The project started with an annual free inclusion of 140 children from 10 cities of Macedonia in regular educational groups of local municipal kindergartens. Children stay in the child kindergartens for free, from where they continue with the formal primary educations. Although this measure is so far the only one that the country takes in terms of pre-school education of the Roma children and therefore should be regarded as a pioneering step. However, a number of limitations (the small number of children, the dependence on foreign grants) leave doubt about the success of the project.

The Roma and the Primary Education

The state favors primary education as a necessary precondition for a social integration. That is the reason why it does not give the people without basic education the opportunity to apply for employment within the Agency, or to use a health insurance through the Agency, nor is there a possibility to use the social benefits (welfare, etc.). There is no possibility for extending the education or qualifications for certain trades; there is no possibility of taking the driving test and so on. Although the state in 2009 introduced a free health insurance for those groups of citizens who are not insured in any way, in practice, again the Roma citizens (since the largest percentage belong to this category) have problems because they have no proper documentation.

Primary education is a part of the constitutional regulations of the state and represents a mandatory assignment for all citizens in the Republic of Macedonia. Although the state may apply sanctions to the Roma parents who does not send their children to school and thus deprive them from the above options, this situation is usually tolerated by the educational inspection. According to the date of the Strategy on Roma, the Roma enrollment in primary education is on average lower by 20-30% compared to the non-Roma children, the enrollment dropout is more than twice higher among the Roma than among the non-Roma children, it is even thought that only one of ten of the Roma pupils finish primary school. (MLSP 2009, 15) Available data from 2005 talk about the enrollment of 63% (UNICEF 2007, 58), and those from 2006 talk about 76% of the Roma children who are enrolled in the first grade. (UNDP 2006, 20) This suggests that, in the past few years, the major problem, the enrollment, is slowly transcended with joint efforts.

TABLE 2. – **Students enrolled in primary schools**

The school year	Total	Enrolled Roma	Finished	Female students
1998/1999	255,150	**7,602 (or 3%)**	**372**	**147**
1999/2000	252,212	**7,757(3.1%)**	**400**	**174**
2000/2001	246,490	**7,970 (3.2%)**	**518**	**241**
2001/2002		**7,868 (3.2%)**	**598**	**260**
2002/2003		**7,993**	**627**	**313**

Source: MLSP, 2005

Another "burning" issue is keeping the Roma children in school. The dropout rate of the Roma pupils is exponentially increasing every year. It seems that the key problem is the fifth grade, i.e. during the transition in subject teaching. This situation is very much determined by the legal provisions – the inability to repeat the first four grades where students are automatically transferred from one school year to another. So the real problem with the unlearned teaching materials becomes visible too late – as far as the fifth grade when the subject teaching starts. It is believed that the percentage of the Roma children who do not extend primary education after the fourth grade is about 25%. The percentage of the Roma in school at the age between 7 and 15 years is 70-80%, while the percentage of the Roma children who do not complete eight years of primary education is approximately 45%. (MLSP 2009, 16).

Since the data about the education of the Roma, for various reasons, is not the most precise, a number of civic organizations periodically make field researches. The results confirm most of the aforementioned conditions. Thus, in the research of the NGO Daja, 6.9% of the young Roma at the age of 15-25 years did not visit school at all. The main reasons for that are: lack of money for education, lack of interest, going abroad and disapproval by parents. In addition to these 6.9% of the young Roma who do not have a day of education, an additional 18.1% are leaving primary education from grades 1-7 (most of them in grade 5). So we come to data that today, one out of four Roma is without primary education (An unpublished study available from www.daja.org.mk)

A complete image of the factors for the dropout of the Roma pupils in primary education is much bigger. On the basis of the data from multiple sources, we created a classification into 3 groups, although the reasons and grouping can be displayed in a different way:

Socio-economic reasons:

- Poor socio-economic condition of a great part of the Roma families
- Inadequate domestic learning conditions (bad conditions of the housing)
- Child labor is used in the informal economic sector
- School books and other school equipment are expensive for the Roma families

Cultural reasons:

- Lack of knowledge of the Macedonian language and, as a result of this, inability to follow lessons
- Low level of education (illiteracy) of parents who have no special incentive for their children to attend classes

- Absence of awareness of the importance of education, especially among parents and the communities which they live in
- The appearance of adolescent marriages or other family obligations that are imposed on children (care for the elderly and powerless persons in the family) (Corsi M. at all. 2008, 11-13)
- As a result of a patriarchal education, in some Roma families there is no encouragement for female children to go to school
- Families with many children and families living in large family groups

Socio-psychological reasons:

- The existence of stereotypes for the Roma
- Segregation and discrimination against Roma
- Poor children's success in school discourages the extension of education

There are examples of parents who deliberately enroll their children in schools for children with mild mental disabilities, in order to finish school and get a job. However, in Macedonia it is not a mass trend, but it is estimated that about 27% of the Roma children are enrolled in schools and classes for special education. (MLSP 2004, 16)

However, if we compare the situation between 1997 and 2008, based on reliable data, it can be concluded that the participation of all ethnic minority communities (especially females) in finalizing the basic education increases. Opposing the account of increase in their participation, the percentage is reduced in the participation of the Macedonian majority, but the numbers show that this is a result of a lower birth rate in the majority compared to minority groups.

However, a great encouragement is the higher number of Roma primary school pupils who completed school in 2008, in relation to the base year of 1998 (index 174.8) that show exclusively a positive trend.

Following the number of the Roma who have completed primary school, it can be concluded that the number is constantly increasing. This leads to an increase in the participation of the Roma (and the % of girls) in the total number of completed primary school pupils. But still, the conclusions should be carefully made! In fact, if the participation of 2008 was almost as much as the total percentages of the Roma population (2.5: 2.7), we should not forget that the Roma is the youngest populations in the Republic of Macedonia (due to the high birth rates and mortality) and therefore their participation in the youth population (up to 15 years) is higher than the overall percentage of the population. This means that their participation should be higher than their percentage in the population, especially in primary education.

TABLE 3. – **Representation of ethnic communities and gender in the finalization of primary education**

	1997/1998			2002/2003			2007/2008		
	Total	**%**	**% females**	**Total**	**%**	**% females**	**Total**	**%**	**% females**
Total	30,741	100.0	48.3	30,095	100.0	48.3	27,046	100.0	49.0
Macedonians	20,308	66.1	49.1	18,380	61.1	48.9	15,142	56.0	49.6
Albanians	7,908	25.7	49.0	8,869	29.5	47.7	9,120	33.7	48.1
Turks	1,011	3.3	38.2	1,147	3.8	44.6	1,098	4.1	49.7
Roma	**385**	**1.3**	**37.4**	**627**	**2.1**	**49.9**	**673**	**2.5**	**47.5**
Other	1,129	3.7	43.1	1,072	3.6	44.6	1,013	3.7	47.3

Source: State Statistical Office

TABLE 4. – **The index number of the Roma with completed primary education**

	1997/1998	2002/2003	2007/2008
Index	100	162.9	174.8

Source: State Statistical Office

The Roma and the Secondary Education

When the limits of compulsory education were moved up, the authorities have started from the fact that the active participation in the labor market and in society in general, requires the possession of professional qualifications obtained by completing at least a high school. UNICEF study data confirm a low-qualified labor force in Macedonia. In fact, in Macedonia 3.85% of people over 15 years of age have no education, 10.77% had not completed primary education and 34.77% only receive primary education. The Roma population has the lowest level of results with respect to education – 39% of the Roma do not have primary education, only 44.6% receive basic education and only 17.4% are enrolled in secondary education. (Lakinska 2008, 38). The data in the Program for the development of education 2005-2015 also show an alarming trend, because the percentage of people without education or with incomplete primary education at the national level is about 14%, while the percentage of those who have completed primary education 35%. This means that approximately half of the population in the country has a low level of education or are illiterate.

On the other hand, the unemployment rate in Macedonia in the last ten years is between the values of 30-40% (among the highest in the region and beyond). As a result of this the higher level of education and qualification requirements are imposed as essential in the fight for employment and higher social status. In Macedonia, about one quarter of all companies identify qualified labor as a serious drawback for their growth, while the deficit of qualifications in the dynamic sectors appears as an even more serious problem. Education and training simply did not keep pace with the demand of

the post-transitional society (Ibid, 59). Roma people here are in an unfavorable position, because it is considered that a small number of the Roma who have completed primary school go on to the secondary education. (12.8% according to MLSP 2009, 16). A large part of them leave school after the first or second year, and do not end high school. Those that complete it usually take a three-year school diploma that does not guarantee an attractive profession. Recent analyzes show that of all the enrolled Roma, 56% of them gain secondary education. (Ibid, 16).

In accordance with the duties of compulsory secondary education, the number of students enrolled in secondary schools in Macedonia is constantly growing and in the school year of 2011/2012 it is expected to be 95%. A five-year overview 1998/99-2002/03 shows that the number of enrolled (and those that completed) Roma high school students – is growing.

TABLE 5. – **Students enrolled in secondary schools**

School Year	Total	Enrolled Roma	Enrolled Roma girls	Finished
1998/1999	87,420	450 (or 0.5%)	152	98
1999/2000	89,775	447 (0.5%)	178	121
2000/2001	90,990	499 (0.5%)	216	142
2001/2002	–	569 (0.6%)	213	130
2002/2003	–	637	248	140

Source: State Statistical Office

The effort from the government, at least for the quantitative increase in the educated persons, gives results when it comes to getting high school qualifications, and again, in all ethnic groups, except for Macedonian. This is especially the case with the Albanian and the Roma ethnic groups.

TABLE 6 . – **The representation of ethnic communities and gender in the acquisition of secondary education**

	1997/1998			2002/2003			2007/2008		
	Total	**%**	**% females**	**Total**	**%**	**% females**	**Total**	**%**	**% females**
Total	18,644	100.0	49.2	21,765	100.0	50.6	22,113	100.0	48.3
Macedonians	15,474	83.0	51.7	16,649	76.5	53.2	15,371	69.5	50.2
Albanians	2,178	11.7	37.2	3,868	17.8	42.7	5,084	23.0	44.6
Turks	296	1.6	29.7	354	1.6	44.1	613	2.8	41.8
Roma	**69**	**0.4**	**46.4**	**132**	**0.6**	**36.4**	**276**	**1.2**	**35.9**
Other	627	3.4	38.8	762	3.5	39.2	769	3.5	44.7

Source: State Statistical Office

Indexes show that in the period of 10 school years, the Roma in Macedonia increased the number of completed secondary school students for four times. This is a very positive trend, although again, the proportion of the total number of persons with secondary education is more than twice smaller than the

percentage in the population (1.2 to 2.7). At the same time we should probably highlight the constant reduction in the percentage of the participation of girls from the Roma ethnic community in completing the secondary education. (from 46.4%, 36.4% to 35.9%). The introduction of the concept of compulsory secondary education in 2008/2009, as well as the announcements of rigorous penal sanctions for the parents who do not enroll their children in secondary education, should bring even better results in this field.

TABLE 7. – **Index number of the Roma who have completed secondary education**

	1997/1998	2002/2003	2007/2008
Index	100.0	191.3	400.0

Source: State Statistical Office

The Roma and the Higher Education

The number of students in Macedonia, especially in the last 5-6 years, is constantly growing. The expansion of private universities and colleges, dispersed studies at state universities in almost every city in Macedonia, as well as the easier access to obtaining a diploma with ECTS, caused a massive trend of new students. A statement of the RM Government for 2008/2009 shows that 85% of the secondary school students continued their education at some of these colleges. The number of the Roma students – is also enormously bigger, where the last number calculated for 2008/2009 is 15 times higher than 10 years ago, and is 300 Roma students in Macedonia. (Ibid, 15)

The table below is of an earlier date; however, the period which is displayed (1998/99 to 2003/04) apprehends the trend of increasing numbers of students in Macedonia. Yet we cannot say that this period was highly favorable to the Roma, because their part, despite of the growing tendency, still ranges between 0.2 and 0.3%, which is thirteen times less than their percentage of participation in the population.

There are some specific problems in higher education of the Roma that are mentioned:

- The inadequate use of the quotas (the guaranteed quota for the Roma which is 2% in the public universities, is often abused by the non-Roma students who enroll as Roma)
- High school and student dormitories are not available to the Roma students
- Inadequate implementation of the Roma language in all levels of education (there is no teaching of the Roma language, no study of the Roma language, there are not enough teachers for the Roma language, there is no Department of Roma language for production of teaching staff) (ibid, 15)

TABLE 8. – **Enrolled Students**

School Year	Total	Enrolled Roma
1998/1999	34,850	**19**
1999/2000	36,679	**30**
2000/2001	40,075	**57**
2001/2002	44,575	**126**
2002/2003	45,478	**136**
2003/2004	46,484	**93**

Source: State Statistical Office

Parallel with the increasing number of students enrolled, there is also an increase in the number of graduates in Macedonia, especially in the last few years. The figures show the general trend of increasing the number of academics in all ethnic communities. It must be emphasized that there is an especially growing number of females graduating from tertiary education. The last analyzed year notes that among all nationalities, without exception, the number of female graduates is bigger compared to the male graduates. This trend is also followed by the Roma, with the label that in the starting 1997 they had been far behind compared to the others. The four times increasing number of the Roma graduates in the period of 10 years, talks about the exclusively positive trend, which however has a lower value when compared to the Albanian and the Turkish communities, where we have eleven and six times an increase in the number of graduates in the specified time interval.

TABLE 9. – **Representation of ethnic communities and gender in the completion of higher education**

	1997/1998			2002/2003			2007/2008		
	Total	females	% females	Total	females	% females	Total	females	% females
Total	3,049	1,635	53.6	3,601	2,227	61.8	8,188	5,070	61.9
Macedonians	2,784	1,527	54.8	3,242	2,047	63.1	6,632	4,204	63.4
Albanians	100	40	40.0	172	82	47.7	1,119	603	53.9
Turks	18	7	38.9	30	15	50.0	103	55	53.4
Roma	**3**	**1**	**33.3**	**8**	**2**	**25.0**	**13**	**7**	**53.8**
Other	144	55	38.2	149	81	54.4	303	190	62.7

Source: State Statistical Office

The movement from the „dead point" is obvious when it comes to the production of intellectual personnel in the Roma community. But it is also evident that the same movement is slower than the expansion of highly educated people from other ethnic communities. If we only take into consideration the isolated situation of the Roma ethnic group, we can express the satisfaction with their increased interest in enrollment, as well as the completion of their studies in higher education, particularly in the last 5-6 years.

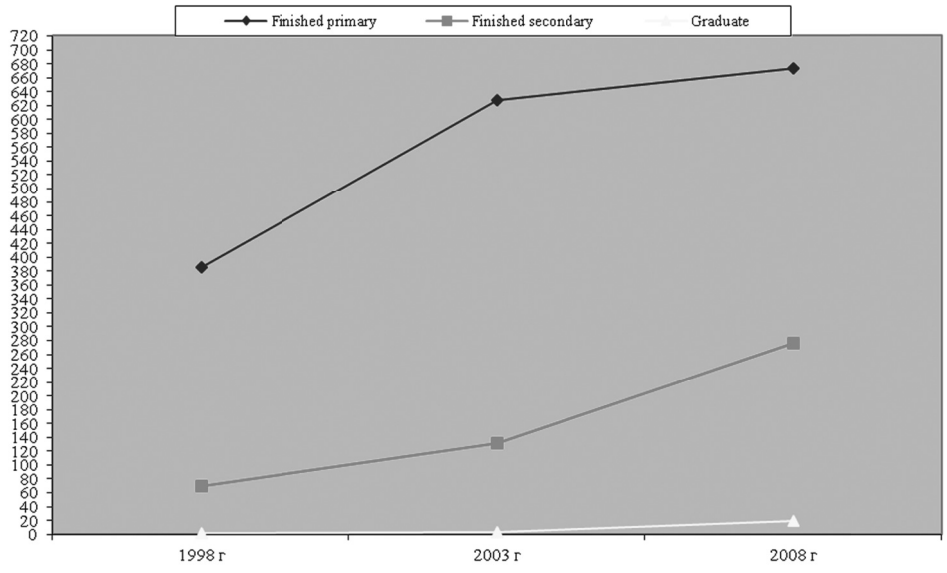
TABLE 10. – **Roma Graduates by years**

Year	Total number of graduates	Total graduated the Roma (%)
1997	3,049	**3 (0.09)**
1998	–	**2 –**
1999	3,687	**2 (0.05)**
2000	3,706	**3 (0.08)**
2001	3,446	**5 (0.14)**
2002	3,603	**8 (0.22)**
2003	4,382	**3 (0.07)**
2007	8,188	**13 (0.16)**

Source: State Statistical Office

Graph no.1 below sublimes the trends in the last 11 years in the field of primary, secondary and higher education of the Roma. It is clear that at all levels of formal education there is a progress, logically most obvious in basic education. If this trend continues, there is no reason for a „return to the past". In 5-10 years we could talk about the high numbers of the Roma in secondary and higher education. If we agree that education is a process which is needed for a longer period, the results achieved in this field of the Roma are sincerely encouraging, because, they are really, beyond expectations.

GRAPH No.1. – **The dynamics of the number of the Roma who have completed primary, secondary and higher education.**



The Roma and the Adult Education

However, not everything is so "rosy". In fact, the adults remain a special problem in the field of education for the Roma for the reason that they stayed illiterate or semi-literate (with the initiated but not completed primary

education). We should remind ourselves that the data show that 24% of the Roma over the age of 25 were illiterate, and that even half of the Roma women are illiterate. (A survey conducted from UNICEF and the World Bank in 2000, listed in MLSP, 2005). Some non-governmental organizations have noted similar conclusions when they made a research of the factual situation of the Roma in education. According to them, more than ½ of the Roma women in Macedonia do not have a diploma for primary education. Most of them left school in third or fourth grade. The main reasons for interruption of education which are usually mentioned are: the lack of money for further education, early marriage and going abroad. Only 16.9% have completed secondary and 0.2% higher / tertiary education. (Unpublished Research, available at www.daja.org.mk).

At this moment we cannot talk about some activities in the field of literacy and completion of emergency primary or secondary education with the elderly. There have been attempts 7-8 years ago to reduce such situations of granting emergency certificates to older people for visiting classes in the existing schools, however, for unclear reasons (financial, political bickering); these attempts have remained the short termed. The announcements of the government, to reactivate the workers' universities and the evening schools for the elderly; as well as the promotion of "lifelong learning"; inspire hope that in the near future we should discuss about the development of the Roma community in this area. My personal opinion is that, this initiative has been delayed for the older generation of Roma (over 50-60 years), and this could only work with the elementary literacy and reduce disparities between the rate of illiteracy of Roma women and Roma men. I think more attention should be given to young Roma who left primary school, and are over 17 years of age, the legal maximum for which they can be in regular classes. To them, these agencies and adult institutions are the only chance to gain at least a basic education, which, as noted earlier, is the precondition for many rights and opportunities.

Conclusions

The conclusion that arises with regard to education of all levels of the Roma in Macedonia is that the trend of improving the situation is slowly but certainly moving in a positive direction. This is particularly noticeable during the enrollment, but very soon it will be visible in the increasing number of Roma who have completed appropriate education level. Besides the general engagement of the Government in improving the educational status of all citizens in Macedonia (free books and schoolbooks, transport and accommodation), the essential role of positive discrimination against the Roma must be underlined. This basically involves the provision of scholarships for high school students, as well as the provided mentoring/ tutoring access for the Roma students. Besides the Ministry of Education and Science, the

Foundation Open Society Institute in Macedonia has an especially important role in this regard, where the most numerous initiatives and funding for the implementation of such activities come from.

Leaving numbers aside, and going directly to the "field", we conclude that the authorities should try harder to encourage and facilitate the educational integration of the Roma communities. Namely, it is evident that in schools where the Roma pupils are numerous, authorities invest less in terms of equipment, physical planning and teaching materials; even at the central and local level there is no clear strategy for educational development of minority groups, which prevents the Roma students to learn about their own culture and their native language. The existing social assistance is not adequately linked to education; the participation of the Roma parents in school structures is negligible; schools easily refuse the Roma children, they do not enroll them precisely because of the lack of a single document (the Birth Certificate). For the Roma students there are lower educational standards, particularly in class teaching because of which the Roma students in higher grades are faced with enormous problems; again, our educational system does not provide additional attention to children with poor performance, or motivate teachers to work with them etc.

BIBLIOGRAPHY

Corsi M. at all. (2008) Ethnic minority and Roma women in Europe: A case for gender equality? European Commission

Gyuris V and Marc A. (2008) Annual Report 2007, Budapest: Roma Education Fund

Institute for Human Rights (2009) Discrimination of Roma in the education-international and domestic standards and practices, Skoplje

Institute for Human Rights Ludwig Boltzmann, Austrian Development Cooperation (2008) The road to the European Union: Contribution of civil society in policy making for social inclusion in the Republic of Macedonia, Skoplje: Next print

Lakinska D (2008) Children in the FYR Macedonia, Skoplje: Office of UNICEF

Memedova A. at all (2005) Roma's identities in Southeast Europe: Macedonia, Rome, Ethnobarometer

Ministry of education and science (2004) National Programme for Education Development in Macedonia 2005-2015

Ministry of Labor and Social Policy (2004) Decade of Roma Inclusion – Macedonia – Action Plans. Available at: / / www.mtsp.gov.mk / WBStorage / Files / akcioneni_planovi.pdf

Ministry of Labor and Social Policy (2005) Strategy for Roma in Macedonia. Available at: www.mtsp.gov.mk / WBStorage / Files / strategija_romi.pdf

Ministry of Labor and Social Policy (2009) Review of national action plans for the Decade of Roma Inclusion 2005-2015 and the Strategy for Roma in Macedonia for 2009-2011

Misic E. Ajanovska – Gligorova T. (2010) Commentary on the right to education in Macedonia with a special emphasis on education of Roma children, Skoplje FOSIM

Official Gazette of the Republic of Macedonia br.44/95, Law on Secondary Education

Official Gazette of the Republic of Macedonia no. 103/08, Law on Primary Education

Official Gazette of the Republic of Macedonia br.07/08, Law on Adult Education

Organization for Security and Co-operation in Europe (2000) Report on the situation of Roma and Sinti in the OSCE Area

Petroska – Beska V. at all. (2009) Study of multiculturalism and ethnic relations in education. Skoplje: Office of UNICEF

State Statistical Office (2008) Macedonia in figures

State Statistical Office (2007) Statistical Yearbook of the Republic of Macedonia

State Statistical Office: Reviews 2001, 2005, 2009

UNICEF (2007) Breaking the cycle of exclusion: Roma children in South East Europe, Belgrade. Available at: www.unicef.org/ceecis/070305-Subregional_Study_Roma_Children.pdf

UNDP (2006) National Report for vulnerable groups in Macedonia, Skoplje

Unpublished research: Factual status of Roma in Macedonia. Available at: www.daja.org.mk

About the Authors

PhD Aleksandra Srbinovska-Donchevski is borne in Skopje on 19.07.1979. She graduates at Low Faculty in "Ss Cyril and Methodius" Univerity in Skopje at the department of political science. On promotion held at 22.05.2002 she takes delivery of reword "Zlaten Justilijan" (Golden Justinian) as recognition for the best results achieved on political science faculty for 2002. At 2003/2004 she starts with the after-graduate studies at "Institute for sociological and political-juridical researches – Skopje", political science department. At 20.06.2007, Aleksandra Srbinovska Doncevski submits the master's thesis and obtains a master degree defending the topic for: "Citizen Participation in Developing the Concept of Self-Government in Macedonia. On 15.06.2010 she successfully obtain an academic degree of PhD presenting and defending the dissertation of the area of: "Civil – serviceable character achievement of the municipality administration in Republic of Macedonia"

At this time, Srbinovska-Doncevski is working on FON University – first private university in R.M as PhD Assistant Professor for Self Government and Public administration.

Tatijana Astalkoska was born on 11 April 1980 in Struga, Macedonia where she completes her elementary and secondary school. She enrolled at the Faculty of Law Justinian I, St. Cyril and Methodius University in Skopje in 1998. The Student Association at the St. Cyril and Methodius University selected her for the Best Student of the academic year 2001-2002 at the award ceremony held on 11 December 2002 in the Rector's Office. Tatijana graduated from the Faculty of Law on 12 February 2003 when received her Bachelor's Degree and in March 2003 enrolled in the same faculty for her graduate studies of Penal Law and Criminology. On 14 February 2007 she successfully defended her master thesis titled Confiscation of property and property profit gained by criminal deed and received a Master' s Degree in Law. She is currently enrolled in the Faculty of Law at St. Cyril and Methodius University and working on her doctor's dissertation Property sanctions and measures in the penal law. On 15.03.2011 the year, successfully defended her doctoral dissertation titled „Property sanctions and measures in criminal law" and thus acquired a scientific degree of Doctor of Law area of criminal law.

Tamara Radovanovik was born in Skopje 13.3.1976. Education: Enrolled on PhD in December 2009 at the Institute for political, legal and social issues, University of Cyril and Methodius, Skopje, Republic of Macedonia. Finished Master of Science of Political Science-international relations 2001–2002, Faculty of Political Science -International relations at the University of Bologna, Italy and Bachelor of Political Science – international relations, 1995-2000, Faculty of Political Science -International relations at the University of Bologna, Italy. Currently is working at the International Balkan University, Skopje as Assistant and Lecturer for the following subjects: History of Civilization, European politics and Globalization, Human Species and Society, Theory of society, European Politics advanced course and Political Philosophy

Dusica Atanasovska was born on 09/11/1981 in Skopje, Macedonia. She graduated at Alma Mater Studiorum University of Bologna, Italy in international science -European studies, and received second level Master degree for International Lawyers at the same University, Faculty of Law. Since December 2008 she has been a PhD candidate at the Faculty of Law Justinian I in Skopje, University St. Cyril and Methodius. Currently she is working at FON University Skopje, Faculty of Law as a teaching assistant in Obligation law and Civil Law subjects.

Irina Cudoska was born on 25 of April 1983 in Skopje, Macedonia. She completes her elementary and secondary school in Moscow, Russia. She enrolled in the Moscow Institute of International Relations (University) –MGIMO (U) in 1999. During the studies she was awarded three scholarships and one of them was for outstanding students. Irina graduated from the Faculty of International Relations and Diplomacy on 26 of June 2003 when received her Bachelor's Degree and in February 2004 enrolled in the faculty of Law "Justinian I" at the St. Cyril and Methodius University in Skopje for her graduate studies of International Law and International Politics. On 23 September 2007 she successfully defended her master thesis titled "Immigration to the EU member states with special accent of the immigrants of Muslim religion" and obtained Master' s Degree in Political science. On 24 December 2010, Irina successfully defended her doctoral dissertation titled "Analysis of the American and European Experience in Integration of the Immigrants – Members of the Muslim Community" and obtained scientific Doctoral degree of Political science. From the year 2005 she has been working at the FON –University Skopje, Macedonia as an Assistant Professor at the faculty of Political science and Diplomacy.

Biljana Puleska was born on 30.09.1978 in Ohrid, Macedonia. She took her bachelor degree in Law in 2000 (LL.B) with Major in Civil Law at the University Ss. Cyril and Methodius in Skopje. From 2001–2003 she attended postgraduate studies in international law and international politics University "Ss. Cyril and Methodius" – Faculty of Law " Iustinianus Primus" – Skopje, R. Macedonia and obtained LL.M in International Law (thesis title: "Responsibility of states for international wrongful acts". In 2009 she defended her PhD dissertation "Conflict of laws for delicts in EU and Republic of Macedonia "(translation from Macedonian) at the University "Ss. Cyril and Methodius" – Faculty of Law " Iustinianus Primus" – Skopje, R. Macedonia. Currently she is Assistant professor at faculty of Law, FON University Skopje in Private international law and Environmental law

Marko Andonov is full time Assistant Professor, at University American College Skopje he is lecture in the field of Business Law, Financial Law and Labor Law. *He received his Ph-D at Faculty of Law, University "St. Cyril and* Methodius in Skopje with *thesis on Related Parties in the Legal System of the Republic of Macedonia*. He studied Master of Law at the University "St. Cyril and Methodius" with research area of *The Position of Minority Shareholders in the Joint Stock.* His previous activities were as well focus on capital market and its participants, including the operations of Macedonian Stock Exchange, The Central Securities Depository, as well as, brokerage houses and banks which have departments that are dealing with securities. He is the author of several papers and articles: "*Complying of the charters of the Macedonian Stock Exchange and the Central Securities Depository with the Company Law*", co-author, Legal journal "Pravnik" No.157, May 2005 ,"*Some aspects about the realization of pledge on securities*" co-author, Legal journal "Pravnik", No.162, October, " *Cross Shareholding*" Legal journal "Pravnik", No.204, " *Some Theoretical Aspects of Collective Agreements*" Business Law Magazine No. 23, *Bankruptcy procedure*" textbook, School of Law, University American College Skopje,

2011and the last article is on " *Taxation of Units Issued by Investment Funds*" Legal journal "Pravnik", No.225, February, 2011.

Dragana Cifliganec is executive director at Adora Engineering, the biggest and fastest growing real estate company in the Republic of Macedonia. She joined the company in 2007 as Marketing manager. She received her education in the Republic of Macedonia and Greece. She was awarded (MA) honours degree for her work on *Promotion of small and medium enterprises in the Republic of Macedonia*, by the University of Sheffield. Mrs. Cifliganec has widened her interests in *managing small and medium enterprises compared to corporate management* and currently works on her PhD research at the Justin First, Law University in the Republic of Macedonia. In 2005 graduated at the University *of Sheffield (*BA) Marketing Management honours degree awarded, and continued her interests in the field of Marketing, Advertising and PR at the same institution. In 2002 graduated at Nova International High School*, Northwest Accreditation Commisson (NWAC)* accredited.

Detailed instruction for authors

The Journal solicits papers which are 8,000 to 10,000 words in length. Shorter papers between 5,000 and 8,000 words will also be considered for publication, especially if they are review articles or if they put forward new, insufficiently explored ideas and approaches (often deemed to be premature by other journals). Book reviews should exceed 2,000 words and reviewers are required to submit a copy of the book reviewed if they initiate a review of the publication.

All submissions must be in English. However, as this journal belongs to the UN family, it encourages the translation of works originally written in other languages into English. Nevertheless, submission to the journal implicates that the paper has not been published elsewhere (regardless of the language of publication) and that it is not submitted for publication in any other medium.

All papers submitted for publication should be sent electronically to the Editor at the following address: zeljko.sevic@gcal.ac.uk or ecpd@eunet.yu.

Submission of a paper will be held to imply that it contains original unpublished work. The Editor does not accept responsibility for damage or loss of papers submitted. Upon acceptance of an article, author(s) will be asked to transfer copyright of the article to the publisher – the European Center for Peace and Development at the University for Peace established by the United Nations (ECPD). This transfer will ensure the widest possible dissemination of information.

Manuscripts should be double-spaced with wide margins. All pages should be numbered consecutively. Titles and subtitles should be kept as short as possible. References, tables and legends for figures should be inserted into the main text and also submitted as separate files with the final version of the paper. This final version should be sent in hard copy form and on a 3.5" diskette or a CR-Rom to the editor at the following address: Zeljko Sevic, Caledonian Business School, Glasgow Caledonian University, Cowcaddens Road, Glasgow, G4 0BA, Scotland, UK, UK or ECPD, Terazije 41, 11000 Belgrade.

The first page of the manuscript should contain the following information: the title; the name(s) and institutional affiliation(s) of the author(s) and an abstract of not more than 200 words. At the bottom of the cover page, please provide the full postal address, telephone number, fax number, and E-mail address of the corresponding author. Please also supply up to five key words with up to three Journal of Economic Literature codes.

In principle, any acknowledgements, and information on grants received should be given in a first footnote, which should not be included in the consecutive numbering of footnotes, and marked with a asterisk (*).

Footnotes should generally be avoided. The Journal's view is that if the material is worth including in the paper, it should be incorporated into the text. However, footnotes can be used for very long lists of references that would otherwise break up the text, or for material that is substantive but takes the reader too far afield to be easily integrated into the

text. Acknowledgments also belong in the footnotes (e.g., "We thank John Long for suggesting this new approach/test/interpretation.") A general guideline is no more than one footnote to every 4-5 pages of text, not including acknowledgments and long lists of references. Footnotes are numbered consecutively in Arabic superscripts. Footnotes must not, under any circumstances, include displayed formulae or tables.

Displayed formulae should be numbered consecutively throughout the manuscript as (1), (2), etc. against the right-hand margin of the page. Section headers are left-justified with Arabic numerals. Only the first word is capitalized. Headers are in boldface type, and subheads are in italics. A period follows the last numeral. As headers and subheads introduce text, it is preferable that they not be immediately followed by additional subheads. References in the text to other sections of the paper are capitalized (e.g., "as noted in Section 2.2").

The first line of each paragraph is indented. The use of the active voice greatly improves the readability of a paper (e.g., "the tests show" or "we show," not "it is shown"), but authors should avoid the use of 'I', since good academic writing should be depersonalised. Italics, quotation marks, and capital letters are considered to be distracting and should be kept to a minimum (although the words a priori, etc., i.e., e.g., et al., ex ante, and ex post are italicised). Special terms can be italicised but only at the first occurrence, and all foreign (non-English) words should be italicised. Abbreviations should be kept to a minimum, and the full text with an abbreviation in brackets should be given when the term is used for the fist time. Do not assume that all readers are familiar with the abbreviations/acronyms that are used in your paper. The use of appendices is discouraged but if they are used, please refer to them as Appendix A, Appendix B, etc.

The Journal endorses full Harvard referencing style. Potential authors are strongly encouraged to consider the latest edition of the Chicago Manual of Style, before submitting their paper. The list of references should appear at the end of the main text (after any appendices, but before tables and legends for figures). It should be double-spaced and listed in alphabetical order by author's name. Everything in the list of references should be cited in the text, with no discrepancies in the spelling of the authors' names or in the date of publication. In the reference list, there are no quotation marks, no underlines, and no italics. The authors' last names and first initials are used. Only the first word of an article title is capitalised. Book and journal titles take normal initial capitals. References should appear as follows:

For Monographs/Books:

Hunt, B. and D. Targett (1995), *The Japanese Advantage? The IT Battleground in Europe, Oxford*: Butterworth Heinemann in association with "Management Today".

For Contributions to Collective Works (book chapters – edited volumes/conference proceedings):

Barsoux, J.-L. and P. Lawrence (1991), Countries, Cultures and Constraints in R. Calori and P. Lawrence, eds. *The Business of Europe: Managing Change*, London: SAGE Publications, 198-217.

For Journals:

Kornai, J. (1993), The Evolution of Financial Discipline under the Post-Socialist System, *Kyklos*, 46(3), 315-336.

For Unpublished material:

Bonin, J. P. and M. E. Schaffer (1995), *Banks, Firms, Bad Debts, and Bankruptcy in Hungary 1991-94*, CEP Discussion Paper No. 234, London: Centre for Economic Performance at LSE

For WWW material:

CATO Institute (1998), *Rita Gluzman, Petitioner v. United States of America, Respondent, Brief of Amicus Curiae the Cato Institute in Support of the Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit*, http://www.cato.org/pubs/legalbriefs/gluzman.pdf [*accessed* 15th March 2001]

Journal titles *should not* be abbreviated. Also, the location of the university or publisher must only be a city. Do not provide information on a county, state or a country.

Citations in the text and footnotes should include the surname of the author(s) followed by the year of publication in brackets, such as (Merton, 1986). If the author refers to a direct quotation, this should be given under quotation marks and page number should be provided, such as (Merton, 1986: 3). If there are more than three authors credited to a single publication, the reference is referred to as the first author's surname, followed by et al. typed in italic, whilst all the authors will be listed at the end of the paper in the list of references. For instance, (Merton, *et al*., 1986). Note that where there are more than two authors, their names should be separated by commas and multiple parenthetical citations should be separated by semicolons.

Use commas in numbers with more than three digits (e.g., 1,234 vs. 1234). Per cents appear as 12.34 per cent (not 12.34%). In principle, avoid the use of symbols in the main text. Decimals are preceded by a zero, as in 0.1234 (not .1234). A number or percent at the beginning of a sentence is spelled out (e.g., "Forty-two of these firms are in the full sample…") but it is preferable to use a different construction (e.g., "The full sample includes 42 of these firms…"). Months and years are written without commas or apostrophes (e.g., 1980s, January 1990).

Any illustrations will be reproduced photographically from originals supplied by the author; the publisher will not redraw them. Please provide all illustrations in duplicate (two high-contrast copies). Care should be taken that lettering and symbols are of a comparable size. The illustrations should not be inserted in the text, and should be marked on the back with figure number, title of paper, and author's name.

Tables should be numbered consecutively in the text in Arabic numerals and inserted into the main text. However, they must also be printed on separate sheets and saved into separate files labelled appropriately in an understandable manner (table 1, table 2, etc.) when the final version of the accepted paper is submitted in electronic and hard copy to the Editor. The legends, axis labels, column and row labels and footnotes for all figures and tables should be clear enough so they are self-contained; that is, the content of the table or the figure must be understandable without reading the text of the article and authors should avoid describing the same material presented in the tables in the main text. Each table must have a title (at the top) followed by a descriptive legend. The source(s) of the table must be given below the table, following the word 'Source:' written in italic script (For example: '*Source*: John, 1992, p. 23'). Authors must check tables to be sure that the title, column headings, captions, etc. are clear and to the point. All graphs and diagrams should be referred to as figures (e.g., Fig. 1), and should be numbered consecutively in the text in Arabic numerals. Illustrations for papers submitted as electronic manuscripts should be in traditional form.

The legends and captions for tables or figures should be complete enough that the table or figure can stand on its own. Large tables and graphs must be presented in landscape format, and tables should be typed in 9 pt script, while the main text is typed in 12 pt script. In particular, the TITLE AND LEGEND of the table or figure must describe the content of the numbers or symbols in the body of the table or the content of the figure. For example, a table legend that says "Descriptive Statistics" is unsatisfactory.

Equations in the text are indented on a separate line with the number of the equation right-justified. All equations are numbered, even if they are never referred to in the text. In general, equations are punctuated as normal parts of a sentence if the sentence continues after the equation, as follows:

Revenue, R is calculated as

$$R = P^*V \tag{1}$$

where

– P is the selling price, and
– V is the volume of sales in units.

Ensure that the letter "I" and digit "1", and also the letter "O" and digit "0" are used properly, and format your article (tabs, indents, etc.) consistently. Characters not available on your word processor (Greek letters, mathematical symbols, etc.) should not be left open but indicated by a unique code (e.g., alpha, @, etc., for the Greek letter "alpha"). Such codes should be used consistently throughout the entire text and a list of codes should accompany the electronic manuscript. Do not allow your word processor to introduce word breaks and do not use a justified layout. Please adhere strictly to the general instructions below on style, arrangement, and, in particular, the reference style of the Journal.

Any manuscript that does not conform to the set instructions will be returned to the author(s) for necessary amendments before being sent to the referees.

Once the accepted paper is ready for going to print, the page proofs will be sent to the corresponding author. Proofs should be corrected carefully; the responsibility for detecting errors lies with the author. Corrections should be restricted to instances in which the proof is at variance with the manuscript. Each author will receive 5 reprints of his/her paper and a copy of the journal issue in which the paper has appeared. All the reprints will be sent to the corresponding author and he/she will be responsible for distributing reprints and copies of the journal to other co-authors.

Potential authors are strongly encouraged to consider the Journal of Financial Economics' style guide as this promotes good academic writing. However, if there is an inconsistency between the above instructions and the JFE style-sheet, the authors should adhere to the above stipulated guidelines. JFE style-guide can be accessed via WWW at http://jfe.rochester.edu.