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### Short Biography

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Saše Gerasimoski

# THE CHARACTER OF CONTEMPORARY SECURITY RISKS IN THE REPUBLIC OF MACEDONIA

## INTRODUCTION

Today, the world is witnessing a time of globalization and postmodern social viewpoints. The developing dynamics does not show any linear progression, but is characterized by ambivalent processes, out of which, perhaps, the key one is related to the constant interchangeability of security and freedom as fundamental values. Namely, social conditions create an atmosphere and culture of living that strive towards greater liberty and attainment of people's individual freedom as an all-encompassing social, cultural, and civilization value. However, the complex network of social relations and interdependence in the age of globalization, which has greatly contributed towards the breakthrough in the

sphere of freedom, has at the same time caused developments in the sphere of security, and more specifically, in the preoccupation with security risks.<sup>1</sup>

The Republic of Macedonia is not, and cannot be, outside this complex network of social relations that alter the character of current security risks. It is expected for this country to reflect these tectonic movements in the security sphere, particularly when it comes to security risks. Due to this fact, but also due to fact that, in the Republic of Macedonia, there has not been any serious and comprehensive scientific research or study in the field of security risks, we decided to close a significant gap in our security theory and practice, related to the study and handling of security risks.<sup>2</sup> There actually is a growing need to conduct a serious research and get a clear insight into the level and manner in which the fundamental changes in the character of security risks affect the scope, structure, and type of security risks in the contemporary Macedonian society. This particularly refers to the security institutions that should have a clear perception of security risk developments, as well as of how to provide the most appropriate evaluation and treatment. It is exceptionally interesting to see whether the public, state, and private security institutions in the Republic of Macedonia apply scientific methodology in their security risk assessment, and if they do, to what extent it is represented in relation to practical experience, i.e. in relation to relying on human experience when assessing security risks. This would make it easier to determine the most appropriate approaches towards prevention, dealing with, managing, and assessing the security risks by the policy-makers in the Republic of Macedonia.

We started conducting our research guided by two fundamental hypotheses, the first one being that, regardless of the level of familiarity or acceptance of contemporary risk paradigms, also in the Republic of Macedonia, there has been a change in the risk concept from a neutral to a security paradigm, and the second, that there is a change in the risk structure from external towards manufactured, i.e. that manufactured risks prevail over external risks. The aim of these two hypotheses was to find out whether these two changes, from the point of view of representatives of the security institutions, affect the character and structure of the risks that are reflected in the Macedonian society. We applied quantitative methodology in this scientific research project, which consisted mostly of processing and interpreting the results from a survey as a primary instrument for data collection for the requirements of this study. The survey consisted of 12 open and closed questions and covered 151 respondents,

1 Zigmund Bauman. *Fluidni vremenja: Životvo doba na nesigurnost*. (Skopje, Slovo, 2016); Zigmund Bauman: *Postmoderna etika*. (Skopje, Templum, 2005); Ulrich Bek: *Rizično društvo*. (Beograd: Filip Višnić, 2001); Entoni Gidens. *Zabegan svet: Kako globalizacijata gi preoblikuva našite životi*. (Skopje: Filozofski fakultet, 2002); Žan-Fransoa Liotar. *Postmoderna sostojba: Izveštaj za znaenjeto*. (Skopje, AZ-BUKI, 2007); Oliver Godard, Claude Henry, Patrick Lagadec et Erwann Michel-Kerjan. *Traité des nouveaux risques*. (Paris: Gallimard, 2002); Lars Fr. H.Svendsen. *Filozofija na stravot*. (Skopje: ViG Zenica, 2010).

2 For all other relevant research covering the issue of security risks, see more at Cane Mojanoski, Zlate Dimovski, Marjan Gjurovski, Ice Ilijevski. *Bezbednosta i bezbednosnite zakani vo Republika Makedonija: Istraživački izveštaj*. (Skopje: Faculty of Security Studies, 2015).

mostly persons employed in public, state, and private security institutions, who are closely related to risk analysis and assessment in their work. Our priority goal was to obtain relevant scientific knowledge from respondents in the security field, although we were aware of the limitations for drawing broader conclusions on the risk situation in the Republic of Macedonia. This could be overcome in the future, by research that focuses on analyzing and studying the attitudes and perceptions of the citizens about the character of security risks.

### DETERMINING THE CONCEPT, CHARACTER, STRUCTURE, AND THEORETICAL BASIS OF CONTEMPORARY SECURITY RISKS

In order to understand what is currently happening in the risk sphere, we have to determine the etymology of the term 'risk', the character of risks, whether and what kind of change takes place in the structure of contemporary risks, and the theoretical basis for further risk studies. This is necessary in order to better understand the possible reflection and the impact these changes have on defining the character and the shifts in the structure of security risks in the Republic of Macedonia. Science does not offer a single viewpoint on the meaning of 'risk', which is why we offer the three most influential and most frequently quoted etymological explanations. According to the first explanation, the etymology of the word 'risk' is related to the Spanish or Portuguese language, where it, according to Anthony Giddens, initially implied sailing in uncharted waters.<sup>3</sup> A similar viewpoint shows that the etymological background of the word 'risk' originates in the word 'risco', which literally means 'steep rock' or 'ridge', used mostly by sailors and certainly related to the history of marine insurance.<sup>4</sup> Deborah Lupton considers that the word 'risk' most probably derives from the Latin word 'risicum', and that it emerged with the development of trading and accounting activities of the early capitalist economy from the XIII century onwards.<sup>5</sup> In that sense of the word, the emergence of double-entry accounting is not only a symbolic allusion, but also a practical characterization of the modern concept of 'risk' as an objective, factual, neutral, and susceptible to management. This implies that little time has passed since the term 'risk' transferred its meaning from a spatial to a temporal frame. The heavy development of capitalism created the need for companies trading with faraway countries to develop ways, strategies, and mechanisms for anticipating and assessing risks. This gave rise to insurance as a dominant rationalistic strategy

3 Antoni Giddens. Zabegan svet: Kako globalizacijata gi preoblikuva našite životi. (Skopje: Faculty of Philosophy, 2002), 20. See more about Giddens' views on risk in Antoni Giddens i Vil Haton. "Nove mogućnosti ili kontinuitet rizika". In Giddens, Antoni i Haton, Vil (urednici). Na ivici: životi sa globalnim kapitalizmom. (Beograd: Plato, 2003): 14-21; as well as in Anthony Giddens. *The Consequences of Modernity*. (Cambridge: Polity Press, 1990).

4 Mitchell Dean. "Risk", In Bennett Tony, Grossberg Lawrence, Morris Meaghan (eds.). *New Keywords: A Revised Vocabulary of Culture and Society*. (Oxford: Blackwell Publishing, 2005), 312.

5 Deborah Lupton. *Risk*. (London & New York: Routledge, 1999), 8.

for risk management in economy, with risks seen as an objective category, as a facticity, and as a neutral concept. Now, this meant that a prospective positive or negative outcome of the risk should be assessed for a specific time in the future, of course, if the risk emerges. This concept of risk was dominant until the end of modern society and the rise of the society of globalization (glocalization), when risk became a more significant sociological, cultural, and security issue and problem, because it is seen from its negative (security) side, as a possible danger.

Defining the term 'risk' is complex because of its polysemy, and its protean, hardly conceivable, and sometimes even inconceivable meaning, which derives both from its structure and from the social and cultural entities that assess its value and meaning.<sup>6</sup> In relation to this, Felix Redmill lucidly stated: "the risk is a concept that everyone thinks they understand, however, there is still no universally accepted definition for it".<sup>7</sup> Due to the influence of the differences in the modern or security concept of the term 'risk', we can provide two definitions of the 'risk' and of the 'security risk'. Thus, the term 'risk' implies a possible, anticipated, expected event, most probably an occurrence with the possibility of a positive or negative outcome, although most often a negative one (possible danger: security risk). The 'security risk', meanwhile, represents a possible, anticipated, expected event, which, under certain circumstances (risk factors), can pose a certain kind of threat or danger to the values.<sup>8</sup> It is typical for the contemporary understanding of risks that they are most frequently seen as negative (security) risks, which are omnipresent and thus cause anxiety. If the state of anxiety is prolonged, it can cause the emergence of the so-called *risk culture*, which means perpetual living with the preoccupation and fear of security risks.

There is a close relation between the definition of 'risk' and the determination of the *risk character* in the contemporary societies and cultures.<sup>9</sup> We can understand it as *the content and appearance of the risk in specific societies and cultures, the perseverance of its characteristic in relation to the origin and type of risk, the degree of anticipation, the scope and intensity of appearance*. The character of the risk sublimates all of its essential features, characteristics, and determinants that define its identity.

There is an inevitable connection between the shifts in the structure of risks and the change of the concept and character of contemporary risks. Thus, the most important change was brought about by the prevalence of manufactured

6 Saše Gerasimoski. "Rizicite i privatnata bezbednost". *Horizonti*. 5 (5). Bitola. (2009): 193-203. For defining the term 'risk', see more at Zoran Keković, Oliver Bakreski, Stevko Stefanovski, Slavica Pavlović. *Planiranje i procena na rizik: vo funkcija na zaštita na lica, imot i rabotenje*. (Skopje: Chamber of Republic of Macedonia for Private Security, 2016). In the context of our language, the term 'risk' is defined more like a security, rather than a neutral concept. See more at Zoze Murgoski. *Rečnik na makedonskiot jazik*. (Skopje: Faculty of Philology "Blaze Koneski", 2005), 465.

7 Felix Redmill. "Some Dimensions of Risk not Often Considered by Engineers". *Journal of System Safety*. 38 (4) (2002): 8.

8 Jordan Spaseski, Pere Aslimoski, Saše Gerasimoski. *Osnovi na privatnata bezbednost*. (Skopje: Faculty of Security, 2017), 129.

9 Peter J. Burgess. *The Ethos of Risk*. (Oslo: International Peace Research Institute, 2005), 6.



(fabricated) risks in relation to external risks. This division of risks is based on the role they play in people's everyday lives. External risks are those that derive from a relatively known nature and social tradition, for which people have developed relatively successful strategies to deal with and manage. Examples of such risks are those that derive from the cyclical (regular) weather influences on certain territories, those related to everyday social living and communicating in social groups (family, school, peers, colleagues, friends), some minor health risks that have been known for a long time (cold, flu, minor body injuries, etc.), the routine traffic risks, etc. Manufactured risks are those that derive from inappropriate decisions made during human intervention in nature and the contemporary social relations, when people are not able to provide successful enough strategies to deal with and manage risks. Examples of such risks are the contemporary health risks, ecological risks, contemporary and complex economic and financial risks (investments, loans, monetary as well as fiscal, operational, insurance risks, etc.).

The division of risks into external and manufactured was first made by the notable German social theorist Ulrich Beck in order to provide an explanation for his *Theory of Risk Society*, and was further elaborated by the English sociologist Anthony Giddens in his *Theory of Ontological Security*.<sup>10</sup> Although not explicitly mentioned in the context of Beck and Giddens, the British sociologist and philosopher Zygmunt Bauman, in his *Theory of Liquid Modernity*, points out that we are living in an age of insecurity, marked by the advance and the preoccupation of people with security risks.<sup>11</sup> All three theoretical viewpoints on risks are part of the grand theoretical paradigm of risk known as *reflexivity* or *reflexive paradigm of risk*.<sup>12</sup> We are basically applying the reflexive paradigm of risk as a theoretical background of our research. This is not only due to the theory's compatibility with the design of our research, but also to the compatibility of these theoretical approaches with the contemporary conditions and the character of security risks.

The reflexive theoretical paradigm, viewed chronologically, is the latest one, and it emerged in the period of late modernity and globalization. The most significant concepts and changes that we have observed in the character of risks in the Republic of Macedonia are in accordance with this theory. The term 'reflexive' is used because of two significant meanings of the very term, as one of the fundamental characteristics of contemporary society. Namely, 'reflexive', on the one side, implies an increased awareness, knowledge, thoughtfulness, insightfulness, as well as noticing and deducing about reality, about the new

<sup>10</sup> Engoni Gidens. Zabegan svet: Kako globalizacijata gi preoblikuva našite životi. (Skopje: Faculty of Philosophy, 2002), 24-25.

<sup>11</sup> Zygmunt Bauman. *Liquid Modernity*, (Cambridge: Polity Press, 2000), 182-184; Zigmund Bauman. *Fluidni vremenija: Život vo doba na nesigurnost*. (Skopje: Slovo, 2016), 11.

<sup>12</sup> For more information on risk theories, management and assessment, see Saše Gerasimoski. "Application of Methods of Risk Assessment in Private Security". In *Private Security in the XXI-st century: Experiences and Challenges*. (Skopje: Chamber of Republic of Macedonia for Private Security, 2016): 327-338.

social reality and the risk as one of the most significant problems in that reality. With this connotation, reflexivity implies that our thinking is actively affecting the events in which we take part and which we take into consideration. On the other side, reflexivity denotes a certain degree of skepticism, a lack of confidence and criticism at an epistemological level, at the level of the impossibility to really, correctly and fully know the world, which emerges due to the very character of the contemporary society and the contemporary risk. Through reflexivity, we can uncover the key points of the proponents of this theoretical paradigm. These are the processes of reflexive modernization, individualization, and institutional revision, as processes through which the character of risks in today's society is attempted to be revealed, in order to find ways to manage it. The main representatives of this theory are Anthony Giddens and Ulrich Beck.

Beck claims that, in the period of the industrial society or the first modernity, the solid structure of society contained the logic of production and distribution of goods, with a dominance of the so-called external risks, i.e. risks that mostly originate in nature and its known social reality. As modernity advances, the character of risks changes: next to external risks, there are more and more manufactured and more numerable, diverse, unpredictable and omnipresent risks.<sup>13</sup> Thus, living with risks has become one of the fundamental determinants of the second modernity, where the previous logic of production and distribution of goods is replaced by production and distribution of risks, threats and evils. The multiplication of risks has caused the world's societies to transform to risk communities, which has caused changes in the value systems of these societies, from a value system of an unequal society towards a value system of an insecure society.

Relating to Beck's sociological study of risks, Giddens talks about the reflexivity of the risk as a typical strategy for dealing with, and living in, a risk society.<sup>14</sup> Namely, adopting the division of risks into external and manufactured, he considers the attitudes of experts, the public, and individuals crucial in understanding and dealing with risks. Thus, Giddens defines three different attitudes, which, at the same time, represent strategies to tackle risks: threatening, concealing, and the so-called "principle of caution". Although he deems it impossible to guarantee the success of any of these strategies in certain risk cases, due to the very nature of risks, Giddens mostly focuses on the need for redefining and re-examining the institutional and mutual attitude of experts, the public, and individuals in the choice and use of the most appropriate ways, strategies, and actions to deal and live with the omnipresent risks and their chameleon nature. In his risk theory, Giddens particularly stresses the study of

<sup>13</sup> Ulrich Beck. "Living in the World Risk Society". *Economy & Society*. 35 (3) (2006): 329-345; Ulrich Bek. *Rizično društvo*. (Beograd: FilipVišnjič, 2001), 31.

<sup>14</sup> Entoni Gidens. *Zabegan svet: Kako globalizacijata gi preoblikuva našite životi*. (Skopje: Faculty of Philosophy, 2002), 26-33; Anthony Giddens. *The Consequences of Modernity*. (Cambridge: Polity Press, 1990), 131-133.

the social and cultural risk foundations and implications, especially by studying the relation between *risk and trust* and *risk and ontological safety*. Increased trust reduces the anxiety and fear that contemporary risks cause, and it acts as a strong social, cultural, and psychological mechanism to deal with even the most dangerous risks. For Giddens, risk is one of the defining concepts of contemporary society.

### RESEARCH ON THE CHARACTER AND THE CHANGES IN THE STRUCTURE OF CONTEMPORARY SECURITY RISKS IN THE REPUBLIC OF MACEDONIA

Contemporary theoretical and empirical research on risks and security risks mostly derives from sociological, cultural, philosophical, and economical circles, and surprisingly less from security studies. This is mainly due to the prevailing classical worldview on security in modern societies, according to which endangerments, rather than risks or threats, are the main security issues. With the explosive dynamics of security risks in postmodern societies of the globalization era, the need to tackle risks, especially security risks, is increasing, since there has been a shift from the dominating neutral risk concept towards the concept of security risks. Moreover, as we have already seen, there has been a change in the very structure of security risks, so that manufactured risks have become more dominant in relation to external risks. This development has been endorsed not only by empirical, but also by theoretical research within sociological and security paradigms of risks, out of which the most productive seem to be the social and cultural constructivist, and, in particular, the reflexive approach.<sup>15</sup>

In relation to the above, it seemed to be a logical consequence, as well as a scientific challenge, to examine the security risk situation in the Republic of Macedonia in the light of the latest theoretical and empirical attainments of worldwide security risk studies. It seemed interesting, on the one side, to see whether there was sufficient necessary familiarity with and acceptance of these contemporary theoretical and empirical scientific viewpoints on risks in our country, and on the other, to provide an insight into the current situation by understanding and defining the concept and character of contemporary security risks and the changes in their very structure. Thus, we started from the hypothesis that, regardless of the level of familiarity with and acceptance of the contemporary risk paradigms, even in the Republic of Macedonia, the concept of risks has changed from a neutral to a security concept, and the structure of risks has shifted from external to manufactured.

15 Saše Gerasimoski, Snežana Mojsoska, Vesna Trajkovska. "Theories of Risk as Contemporary Sociological Paradigma in the Era of Globalization". Proceedings from the International Scientific Conference "Sociology and the Challenges of the Global Age", (Skopje: Faculty of Philosophy, Institute of Sociology, 2013): 214-225.

Based on these premises, in 2017, the research team of the Faculty of Security Studies in Skopje engaged in a scientific research project by conducting a survey on experts' opinions about the current security risks in the Republic of Macedonia.<sup>16</sup> The survey covered the views and opinions of public experts representing security institutions about issues related to security risks in the Republic of Macedonia. The respondents were selected from the state institutions whose competence is security:

- the President of the Republic of Macedonia's Cabinet;
- the Intelligence Agency;
- the Ministry of Defense – Security Organs;
- the Ministry of Internal Affairs (Security and Intelligence Department, Public Security Bureau, Crime Police and the Uniformed Police Forces); and
- the Chamber of the Republic of Macedonia for private security.

The goal of the research project was to obtain valid scientific data about the existence of security risks, their concept and character, changes in the structure of security risks, risk assessment, as well as the process of dealing with and managing security risks, based on current views and opinions of public experts on security risks.

The questionnaire contained several groups of questions:

- biographical data;
- defining and understanding the concept of risk;
- ways of gaining knowledge about risks;
- assessment of the level of endangerment of the society by types of risks, i.e. assessment of the kind of society we live in, in relation to risks;
- listing the most significant security risks and their gradation in accordance to their importance;
- the intensity of the risks' influence on the personal safety of the citizens as well as on the security of the most vital state interests;
- the causes of current security risks in the Republic of Macedonia;
- assessment of the quality of creating and implementing security policies;
- the methodology of assessing security risks (its existence and quality, particularly concerning the scientifically founded methodology for assessing security risks);

<sup>16</sup> To learn more about other findings from the scientific research project, see more at Nikolovski Marjan, Gerasimoski Saše, Gjurovski Marjan, "Upravljanje so bezbednosnite rizici vo nadležnite institucii vo Republika Makedonija", Zbornik na trudovi od Megjunarodna naučna Konferencija 40 godini visoko obrazovanje od oblasti na bezbednosta (koncepti i praktiki), (Skopje: Faculty of Security Studies, 2018): 35-48.

- the treatment of security risks, and the application of security strategies in dealing with and managing security risks.

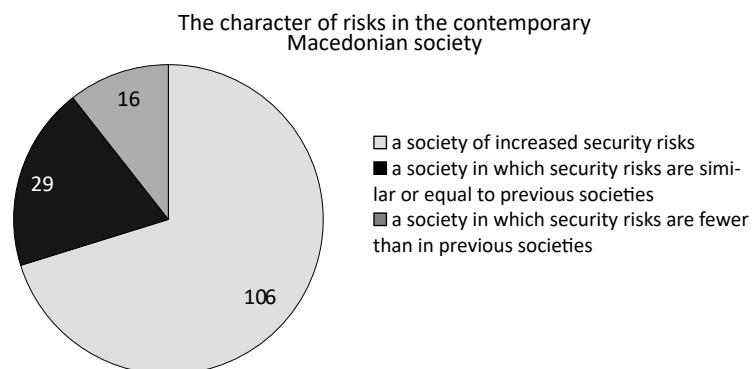
At the end of the questionnaire, there were open questions for commentaries to enable the public experts to express their personal viewpoints on certain issues related to security risks that might not have been covered by the survey, but might be relevant for further similar research.

The survey was conducted with 151 respondents representing the above mentioned security institutions from several cities in the Republic of Macedonia, including Skopje, Kumanovo, Bitola, Vinica, Kičevo, Kratovo, Ohrid, and Struga.

For the requirements of this paper, we will review and analyze three questions from the survey, based on the results of which, and by cross-checking the obtained responses, we will try to provide answers to the questions about the character and the changes in the structure of contemporary security risks in the Republic of Macedonia.

Question number 3 from the survey was: “Is the society we live in today (according to the number and type of security risks it is facing): a) a society of increased security risks (risk society), b) a society where the security risks are fewer than in previous societies (the modern and the traditional society), or c) a society where the security risks are similar or equal to those of previous societies (the modern and the traditional society)?” Respondent could choose only one answer. The answers to this question are represented in the image below, Graphic 1.

**Graphic 1. The character of risks in the contemporary Macedonian society**



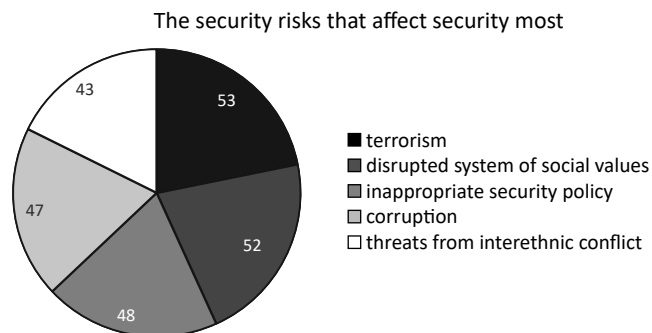
From the responses to this question, we can clearly see that the respondents from the security institutions clearly recognize that we live in a society of increased security risks, and that the risk, by its very character, is a security risk. With their answers, the respondents actually confirm the thesis by Ulrich Beck

that we live in a risk society. At the same time, refraining from generalizing the conclusion that we previously made, we can say that the result confirms our first hypothesis: that even in our society there has been a shift in the character of risks from neutral to security risks.

However, we have to be very careful when we interpret the responses to this question, and to keep in mind that the respondents are experts in the field, employed in the security sphere, which implies that their expertise in defining the concept and the character of risks as security risks should be taken into consideration. Namely, it is well-known that persons who work in the security sphere are more inclined, due to the very character of the matter, to perceive risks as security risks rather than neutral risks. Additional research should be conducted in order to determine to what extent persons employed in the security sector are influenced by their expertise in defining and understanding the character of risks as security risks. Moreover, additional research should be done in relation to the viewpoints and opinions of the wider public (the citizens), which could reaffirm the hypothesis and provide the basis for a broader generalization.

Question number 4 from the survey was: "In your opinion, which from the list of security risks affect your security most?" Respondents could pick several answers, as shown in the image below, Graphic 2.

#### Graphic 2. The security risks that affect security most

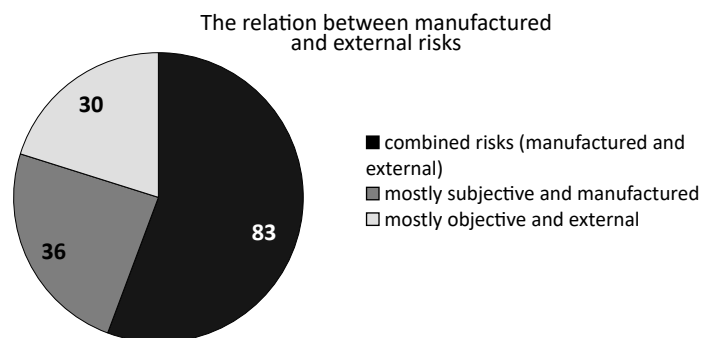


For the question "Which security risks affect security most?", the respondents could choose from 19 possible answers, and they also had the possibility to list a security risk that was not covered by the survey. Moreover, the respondents had the possibility to choose several security risks from the items on the list. Based on the answers of the respondents, we identified 5 security risks from the items on the list which were most often selected. Thus, out of 151 respondents in total, 53 (or 1/3) selected terrorism as the most serious security risk in the Republic of Macedonia, followed by the disrupted system of social values (52 respondents).

48 of the respondents selected inappropriate security policy as the third most important security risk, followed by corruption (47 respondents) and the threats from interethnic conflict (43 respondents).

Question number 8 from the survey was: "In your opinion, are the security risks we are facing today: a) mostly subjective and manufactured (as a result of incorrect decision-making), b) mostly objective and external (as a result of factors we cannot control), or c) combined (both manufactured and external)?" Respondents could pick only one answer. The aim of this question was to determine whether there has been a change in the structure of security risks, i.e. whether manufactured risks are more represented than external risks, or vice versa. The results show that most respondents selected the third option, i.e. 83 respondents or 55% think that the risks are mostly combined. Graphic 3 below displays the answers to this question.

**Graphic 3 The relation between manufactured and external risks**



When cross-checking the answers to this question with the answers to question No.4: security risks that affect security most, we come to some interesting findings. There is a notable discrepancy in the answers, since, according to the answers to question No.4, four out of the five security risks that affect the security most can be considered as fully manufactured, i.e. security risks that are the result of inappropriate decision-making when dealing with and managing security risks. Manufactured security risks are: inappropriate security policies, threats from interethnic conflict, corruption, and the disrupted system of social values, whereas only one, terrorism, can be considered as a combined risk (manufactured and external).

Comparing these results with the answers to question No.8, we can see a significant discrepancy, since, according to them, most of the security risks we are facing today are combined (manufactured and external), less are manufactured, and the least are external risks. We think that this is due to the evident lack of familiarity with the latest scientific findings in the field of

security risks, particularly about the changes in the security risk structure, where the dominance of manufactured over external risks is most significant. We trace back some of the causes for this disparity in the answers to these closely related questions to the degree of integration of our society into postmodern and globalization currents being relatively low, which, in turn, is one of the preconditions for the shift in the structure of security risks from external to manufactured being more significant. Therefore, we can conclude that our second hypothesis, that manufactured risks prevail over external risks, was not confirmed, notwithstanding the fact that the first hypothesis was confirmed, according to which the character of security risks has changed from neutral towards security risks.

Based on the obtained and interpreted results, we can provide the following recommendations to security policy decision-makers dealing with, managing, and assessing security risks in the security institutions:

Security institution employees should be aware of the fact that the risks they are facing are distinct security risks in today's globalized and postmodern society, as compared to previous societies (traditional and modern society), which can help them create security policies that address these risks;

When determining the character of risks in the security institutions, it should be differentiated whether the characterization is a result of true awareness about the changes in the risk character and familiarity with scientific findings in the field of risk studies, or whether it is a result of the tendency among persons employed at security institutions to explicitly conceive, define, and perceive them rather as security risks than as neutral risks;

Terrorism, the disrupted system of social values, inappropriate decision-making in security policy, corruption, and threats of interethnic conflict are the main security risks that should be taken into consideration by the security institutions in the future when creating security policies, as well as when managing and assessing security risks;

Although the five most important security risks are mostly manufactured and subjective (results of inappropriate decision-making) rather than being external and objective (results of factors we cannot control), the security institutions, however, do not assess that manufactured risks prevail over external risks: a contradiction which might be due to a lack of understanding the division, as well as a lack of familiarity with the latest scientific findings in the field of security risks, which indicates the need for all employees of these institutions to establish good cooperation with scientific institutions regarding all issues related to contemporary security risks.



## CONCLUSION

The study of the character of contemporary security risks in the Republic of Macedonia is extremely important in order to understand the concept and definition of contemporary risks and the changes in their structure. Applying a contemporary theoretical framework based on the reflexivity paradigm of Anthony Giddens, Ulrich Beck, and Zygmunt Bauman, we made an attempt to determine the character and the changes of risks in a research on security risks, which covers the opinion of persons employed at security institutions of the Republic of Macedonia. Interpreting the results lead to the clear confirmation of the first hypothesis, according to which, even in the Republic of Macedonia, there has been a change in the risk character from a neutral to a security concept, while the second hypothesis, according to which manufactured risks prevail over external risks, could not be confirmed. Based on the obtained results, we have provided some recommendations for further research, as well as for the application of the results in the creation of security policies and for managing and assessing security risks.

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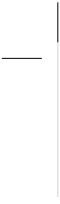
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### Short Biographies

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Прегледна научна статија

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# THE ROLE OF THE EU AND THE UNITED STATES IN THE PREVENTION OF CONFLICTS IN THE WESTERN BALKANS

## INTRODUCTION

With a view to solving the most pressing problems and challenges the world is facing today, which are certainly reflected in the Republic of Macedonia, the strong, abiding partnership and permanent dialogue between the EU and the United States play a major role, including the continuing expansion and enhancement of institutional and contractual cooperation with attempts to fully synchronize most of the common international obligations and responsibilities.

The USA and the EU cooperate in the sphere of foreign policy, crisis management, conflict prevention, and capacity building within the framework of a shared global responsibility and partnership targeted at establishing peace, stability, security and prosperity to stabilize the Balkans. They also strive to resolve a range of issues in the area of foreign and security policy, including the

Middle East peace process, regional conflicts, terrorism, Syria, Iraq, Afghanistan, South Korea, ending the arms race, etc.

To begin with, let us recall that the United States and the UN have a long history of conducting operations for the promotion of peace, security, and stability in the world. The UN has undertaken over 60 peacekeeping missions since 1948 and taken part in negotiations to reach more than 170 agreements, which eventually helped end a series of regional conflicts. Since June 2007, there have been 15 UN peacekeeping operations in Africa, Europe, the Middle East, Asia, and America.<sup>1</sup>

Since the end of the 1990s, these two major institutional players on the international political scene have dominated international peacekeeping operations. While NATO organized the major military missions in the Balkans and Afghanistan, the UN led nearly all other missions around the world, especially the ones that focused on Africa and the Middle East. As for other organizations, the African and European Union were the most notable, also playing active roles in maintaining peace, but NATO and the UN remain uncontested as far as deployment is concerned. At the end of 2011, approximately 260,000 soldiers and police officers were engaged in peacekeeping operations around the world. More than 140,000 of them were under NATO command (the majority of them in Afghanistan), while nearly 100,000 served with the UN.<sup>2</sup> Some UN members are afraid of the “Westernization” and “NATOization” of UN peacekeeping operations, so that sincere attention should be paid to this issue at the level of member states.<sup>3</sup> The establishment of a civilian NATO liaison officer at the UN headquarters, in addition to the military one, should significantly improve the flow of information and mutual understanding.<sup>4</sup> Another milestone for effectiveness is the new UN liaison office in Brussels, aimed at enforcing mutual information sharing between the UN and NATO.<sup>5</sup> So far, the United States is the largest financial sponsor of UN peacekeeping operations, with payments above \$ 1 billion in 2006 alone. In total, the US is paying for 25 or more percent of the annual peacekeeping budget.<sup>6</sup>

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<sup>1</sup> Joseph A. Christoff, ‘Testimony before the Subcommittee on International Organizations, Human Rights and Oversight, Committee on Foreign Affairs House of Representatives,’ June 13, 2007.

<sup>2</sup> Gowan, R., Sherman, J., 2012, “Peace Operation Partnership: Complex But Necessary Cooperation”, *Center for International Peace Operations*, (2012): 1

<sup>3</sup> Coops, J.A., “Peace Operation Partnership Assessing Cooperation Mechanism Between Secretariats”, *Center for International Peace Operations*, (2012): 4.

<sup>4</sup> Ibid: 3

<sup>5</sup> Ibid: 3

<sup>6</sup> Joseph A. Christoff, ‘Testimony before the Subcommittee on International Organizations, Human Rights and Oversight, Committee on Foreign Affairs House of Representatives,’ June 13, 2007.

During the same period (since the late 1990s), the EU has set up a wide range of cooperation arrangements and established direct dialogue and a contact mechanism with the UN. In addition to the Joint Declaration (2003) and the Joint Statement on Cooperation in Crisis Management (2007), the two organizations have established a permanent oversight committee for exchanging information and discussing country specific situations as well as topical and other issues of concern for the interested parties.<sup>7</sup>

Within the framework of building and establishing total peace and stability in the world, the United States and the EU are devoted to the processes of peaceful resolution of the most significant and urgent crises, which they unselfishly participate in, sharing the risks with other countries in the world.

The formal and legal regulation of the use of NATO funds by EU member states, together with the incorporation of the Petersberg tasks under the EU Treaty and the implementation of the idea of an effective EU Rapid Reaction Force, has raised the issue of increasing European participation in NATO. These processes also had an impact on fostering trust among the Alliance partners (especially the United States), as well as on strengthening and advancing the EU's Common Security and Defence Policy, in particular its military component, mainly to be used for the resolution of regional crises.

The launch of the necessary joint and individual military and police missions of the EU and NATO (the US) was a sufficient incentive to increase the operational efficiency of the European Security and Defence Policy and to strengthen peace and security in Europe and the world, which practically began in 2003 when military and police missions in several regions and countries of the world were established.

Throughout their existence, the EU, NATO, the UN, as well as other international organizations, have played a significant role in the implementation of peacekeeping missions, closely cooperating at institutional and operational levels. Jointly conducted missions in Afghanistan, Bosnia and Herzegovina, Macedonia, Kosovo, Somalia, Congo, etc. show that the effective mutual partnership is extremely important for the maintenance of peace and security in the world.

<sup>7</sup> Coops, J.A., "Peace Operation Partnership Assessing Cooperation Mechanism Between Secretariats", Center for International Peace Operations, (2012): 1.

## NATO AND EU MILITARY AND POLICE MISSIONS IN THE WESTERN BALKANS AS PART OF A JOINT MECHANISM FOR SUCCESSFUL SECURITY COOPERATION

The military conflict in the Socialist Federal Republic of Yugoslavia (SFRY), which started in the beginning of the 1990s, was extremely worrying for the EU, NATO, and the United States. It was one of the most severe challenges the European continent has faced since the end of the Second World War.

In the summer of 1991, following a decade-long process of gradual decay, the SFRY disintegrated after the proclamation of independence and separation of two republics, Slovenia and Croatia, followed by Bosnia and Herzegovina and the Republic of Macedonia. As a result of the dissolution of the SFRY, a violent conflict broke out in August 1991 and in January 1992, when Croatian Serbs, aided by Belgrade and the Yugoslav People's Army (JNA), attacked the prospective Croatian state. The war was stopped in August 1995 after three and a half years, during which more than a quarter of Croatia's territory had been under Serb control.<sup>8</sup>

The second war broke out in April 1992 in Sarajevo. It again saw Bosnian Serbs, with the help of Belgrade and the JNA, fight against the poorly equipped Bosnian Muslim forces defending the new independent and internationally recognized Bosnia and Herzegovina (BiH). From mid 1992 until late summer 1995, Serbs controlled almost seventy percent of the territory of the Republic, but after the joint Muslim-Croat offensive and the shelling of NATO forces in early autumn, their share was reduced to almost fifty percent. This situation set the stage for reaching a comprehensive ceasefire agreement, and for the signing of the Dayton Peace Agreement in November 1995.<sup>9</sup>

The UN and EU efforts to resolve the conflict in BiH were ignored, none of the agreed ceasefires was respected, ethnic cleansing was carried out, civilians were massacred and entire settlements destroyed. As a result of strong US pressure for the prevention of further conflicts and survival of the highly decentralized state of BiH, (composed of the Muslim-Croatian Federation and Republika Srpska), the Dayton Peace Agreement was signed. From today's perspective, this Agreement can be seen as an attempt by US and European powers to strengthen Bosniak identity among the citizens of Bosnia.<sup>10</sup>

<sup>8</sup> Gabriel Topor, "Nationalism and Violent Ethnic Conflict: A Theoretical Framework", *The Transformation of 1989-1999: Triumph or Tragedy?*, ECEI, Columbia University, (2000): 23.

<sup>9</sup> Ibid.

<sup>10</sup> Daniel Coders, "Community and Partition in Bosnia: Communitarianism's Flawed Apology for the Division of a Multi-National State", *The Transformation of 1989-1999: Triumph or Tragedy?*, ECEI, Columbia University, (2000): 8.



Regardless of the different interpretations, signing the Dayton Peace Agreement initiated the end of the most violent, deeply controversial, political, diplomatic, and military conflict in contemporary Europe. At the same time, as a replacement for the relatively successful UN Mission (UNPROFOR), the first NATO-led mission of international military forces (Implementation Force, IFOR) was established, headed by the US military. With the official deployment of 24,000 US military forces on 2 December 1995 (on December 20, the United Nations officially handed over the mission to NATO), this unusual US military peacekeeping mission was established, initially named Joint Endeavor, replaced by Joint Guard on 20 December 1996, and renamed Joint Forge on 20 June 1998.

Faced with a possible collapse of the Peace Agreement in case of IFOR's withdrawal, on 15 November 1996, US President Bill Clinton promised to maintain the peacekeeping troops in Bosnia until June 1998 as part of NATO's Stabilization Force (SFOR). SFOR had about 25,000 troops, 7,500 of which were American. On 18 December 1997, Clinton announced his agreement on US military forces participating in the peacekeeping force in Bosnia even after the expiration of SFOR's mandate in June 1998 until the objective peace goals would be implemented.<sup>11</sup> The SFOR mission was in charge of implementing peace, while IFOR's mandate had been aimed at stabilizing peace.

Increased EU engagement began as early as June 2004, when the EU deployed Mission Althea (which is still active and which the Republic of Macedonia participates in, together with 22 EU member as well as other states) which assumed the role of a dominant peace player in the Balkans, attempting to establish complete peace and to implement all the aspects of the Dayton Peace Agreement. The goal of the EU peacekeeping mission is to accelerate BiH's European integration progress and the Stabilization and Association Process.

UN Security Council (SC) Resolution 1575/2004 of 22 November 2004<sup>12</sup> allowed the EU Mission Althea to take on the role of SFOR, referring to the Communiqué of the NATO Summit in Istanbul of 28 June 2004, which suggested the conclusion that the SFOR operation in BiH should be completed by the end of 2004. At the same time, referring to UN SC Resolution 1551/2004, it was noted that the EU intended to start the EU mission in BiH in December 2004, and that the EU's and NATO's letters to the UN SC of 19 November 2004 had been taken into consideration, concerning the issue of how these organizations would co-operate in BiH. They agreed that EUFOR Althea would take on the leading role in the stabilization process, taking into account the Peace Agreement's military aspect.<sup>13</sup>

<sup>11</sup> Bowman, S.R., Kim, J. And Woehrel, S., "Bosnia Stabilization Force (SFOR) and U.S. Policy", *CRS Report for Congress*, Congress research Service, The Library of Congress: 97.

<sup>12</sup> United Nations Security Council, "Resolution S/RES 1575" (2004)

<sup>13</sup> Ibid.

In addition to highlighting the pronounced support of BiH authorities concerning the EU forces and the continued presence of NATO as legal successors to SFOR, the SC resolution embraced the EU's intention of starting a military operation in December 2004. At the same time, the UN SC authorized the member states to cooperate with the EU during the following 12 months to establish a multinational stabilization force (EUFOR) as a legal successor to SFOR.<sup>14</sup> First, the activities of EUFOR Althea were coordinated with the UN (according to the UN Resolution) and NATO (using their operational means), followed by the synchronization of interests within the EU itself, and, eventually, the harmonization of the joint engagement of the EU member states within the framework of the European Security and Defence Policy (which included the activities of the Police Mission).

On 13 December 1995, shortly after the signing of the Dayton Peace Agreement, the international community, led by the EU member states, promoted the Stabilization and Association Process, which was first treated as part of the Royaumont Initiative, reformulated as a regional approach in 1996, and additionally incorporated into the South East European Cooperation Process in 1997. Since mid-1999, these complementary processes have been largely covered by the Stability Pact for South Eastern Europe, representing a serious attempt to prevent and combat further crises, with particular focus on the Republic of Macedonia (which, ever since its independence, is receiving positive assessments on fulfilling the formal criteria for signing a Cooperation Agreement with the EU).

The aforementioned activities of the international community, i.e. the EU, were a serious attempt at promoting dialogue, trust, and tolerance in the region by establishing cooperation and developing regional initiatives and projects, as well as at preventing further military and diplomatic conflicts.

On 12 June 1999, the NATO operation KFOR - Joint Guardian was established in Kosovo, in order to implement the Military Technical Agreement (MTA) signed by the Federal Republic of Yugoslavia (FRY) and KFOR, and to carry out activities for the demilitarization and transformation of the Kosovo Liberation Army (UCK). KFOR's mission was to establish a military presence, deter renewed hostilities, verify and if necessary enforce the terms of the MTA and UCK undertaking, establish a secure environment for the return of internally displaced persons (IDPs) and refugees and international organisations, provide immediate basic life support to IDPs in Kosovo, provide initial basic civil administration and other non-military functions pending the arrival of international organisations and control the borders of the FRY in Kosovo with Albania and Macedonia. On 28 April 2005, the KFOR operation became part of OPLAN 10501 JOINT ENTERPRISE for the

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<sup>14</sup> Ibid.

Entire Balkan Operation Area.<sup>15</sup> It had prevented a further clash between the FRY and Kosovo and had a positive impact on the temporary reduction of tensions in the region. On the other hand, the NATO mission had failed to react quickly in order to prevent the increase of criminal activities and their dispersion outside the borders of Kosovo, which was one of the main reasons for the security crisis in the Republic of Macedonia in 2001.

The abolition of the UNPREDEP Mission in 1998 (caused by the PR of China's veto in the UN Security Council following the formal recognition of Taiwan by the Republic of Macedonia), the NATO military intervention in the FRY and Kosovo in 1999 that initiated a large wave of refugees, and signing the Border Demarcation Agreement between the Republic of Macedonia and the FRY (23 January 2001) seriously complicated the security situation in the Balkan region, especially in the Republic of Macedonia. In 2001, as a result of the uncontrolled spillover of criminal activities from Kosovo, the political leadership and security forces of the Republic of Macedonia were facing immediate terrorist threats and organized resistance provoked by the illegitimate military structures of the UCK. This structure, encouraged by partial military successes in mid-2001 and with the help and intervention of the international community (in the role of a mediator), made a series of demands for revision of the constitutional and political system of the state, which mostly concerned the improvement of Albanian community members' rights in the Republic of Macedonia. The Ohrid Framework Agreement was signed in 2001 and became part of the constitutional and legal system of the country, which is constantly being legally implemented and realized to this day.

In order to prevent further incidents immediately after signing the Framework Agreement, the President of the Republic of Macedonia, Boris Trajkovski, requested the establishment of a NATO Mission in the Republic of Macedonia. The mission was initiated on 22 August 2001 under the title "Essential Harvest"<sup>16</sup> and started on 27 August 2001, with the goal for 3,500 NATO troops to disarm ethnic Albanian groups, destroy their weapons, and support the peaceful resolution of the crisis within 30 days. At the same time, the EU established a Monitoring Mission in order to monitor the political and security situation in the Republic of Macedonia, the condition of the borders, the state of interethnic relations and the return of refugees, as well as the progress in confidence-building among the conflict parties.

The second NATO Mission in the Republic of Macedonia, "Amber Fox",<sup>17</sup> also established on the basis of a request by President Trajkovski, started on 27 September 2001 and was prolonged four times until 16 December 2002. This

15 "NATO's Operations 1949-Present", *NATO Unclassified Documents (1949-2009)*: 4.

16 "Operation Essential Harvest", NATO, Last Modified September 2001, <http://www.nato.int/fyrom/tff/home.htm>.

17 "NATO's Role in the Former Yugoslav Republic of Macedonia, Operation Amber Fox", NATO, Last Modified Decemebr 2002, <http://www.nato.int/fyrom/tff/home.htm>

mission was jointly coordinated by NATO, the EU, the UN and the OSCE, and actively supported the EU and OSCE monitoring measures concerning the implementation of the Framework Agreement and the return of the police to the areas that had been occupied by the UCK.

The last NATO mission in the Republic of Macedonia was “Allied Harmony”, which replaced “Amber Fox”, with the Alliance continuing active support to the international monitors and assisting the Government of the Republic of Macedonia in stabilizing peace and improving the security situation.

At the EU Summit held on 15 and 16 March 2002, the European Council issued Presidency Conclusions, which first accented that the Western Balkans remained vital for Europe’s stability, and then recalled the EU’s central role in the stabilization, reconciliation and reconstruction process in the Republic of Macedonia. At the same time, the European Commission expressed readiness and took responsibility for the organization of parliamentary elections and, based on a request from the Government of the Republic of Macedonia, endorsed the readiness to take over the mission in the Republic of Macedonia from NATO, provided that the EU-NATO co-operation arrangements (“Berlin Plus”)<sup>18</sup> are finalized. Meanwhile, the European Council stressed the importance of achieving those permanent arrangement between the EU and NATO, and thus obliged the Presidency and the High Commissioner to establish contacts at the appropriate and highest level.

At the EU Summit in Copenhagen in December 2002, after an agreement with NATO on the Berlin Plus Agreement had been reached by Presidency Conclusion, the European Council confirmed the readiness to take over the military operation in the Republic of Macedonia as soon as possible. In consultation with NATO, the Council appealed to the relevant EU bodies to finalize their work to embrace the operation, including the development of military options and relevant plans.<sup>19</sup>

At the Brussels Summit in March 2003, the European Council declared that the takeover of the military operation in the Republic of Macedonia is further concrete proof of their full commitment to the Western Balkan region and especially welcomed the start of the EU operation in the Republic of Macedonia, which took over operation Allied Harmony on 31 March 2003.<sup>20</sup>

The EU-led Military Mission “Concordia”, supported by UN Security Council Resolution 1371 of 26 September 2001, and envisaged full implementation of the UN Security Council Resolution 1345 (2001) and reaffirmation of the territorial integrity and sovereignty of the Republic of Macedonia and the other countries in the region.

<sup>18</sup> “Presidency Conclusions”, Barcelona European Council, 15 and 16 March 2002

<sup>19</sup> “Presidency Conclusions”, Council of the European Union 12 and 13 December 2002, Copenhagen.

<sup>20</sup> “Presidency Conclusions”, Council of the European Union 20 and 21 March 2003, Brussels.

Within Mission “Concordia”, an appropriate mechanism for cooperation between the EU and NATO was established, with the main goal of implementing the Ohrid Framework Agreement, collecting and handing over illegal weapons, strengthening the democratic capacities of the Republic of Macedonia, and stabilizing the state and the region as a whole.

The military mission in the Republic of Macedonia was a serious indicator of the wide range of mechanisms of the international community, which enabled joint coordinated participation in conflict prevention by NATO, the EU, the UN, and the OSCE, finding the most appropriate solutions, involving preventive diplomacy, and conducting successful joint missions. For the first time since its existence, the EU demonstrated its power to build military capabilities that can be fully operational within the Common Security and Defence Policy.

As a result of the successful military mission and before its completion, the EU Council and the authorities of the Republic of Macedonia jointly stated that there is a need for further participation of the international community in organizing a new crisis management mission (advisory mission), tasked to support the consolidation of the legal order and the practical implementation of police reforms, fight against organized crime, create a border police as part of EU’s overall efforts to promote integrated border management, promote cooperation with neighboring countries and help to reestablish public trust. Thus, on 29 September 2003, the EU Council adopted a Joint Action to establish a European Police Mission (EUPOL “Proxima”), planned to start no later than 15 December 2003 and last until 14 December 2004.<sup>21</sup> With a special decision of the Council, the chief of the police mission was immediately appointed.<sup>22</sup>

In order to strengthen security, peace and cooperation in the Republic of Macedonia, as well as successfully complete the launched projects, the Council of the EU adopted another decision on 22 November 2004 and continued the “Proxima” Mission for another year.

Analyzing previous findings and facts, it can be concluded that the accomplished military and police missions in the Republic of Macedonia were extremely successful, helped to accelerate the implementation of the Ohrid Framework Agreement, to establish state control over its entire territory, to reform the police, to rebuild interethnic trust and foster security among the citizens, and to fight organized crime. In the end, the missions spurred activities for the promotion of the Stabilization and Association Process with the EU and provided strong support to the Republic of Macedonia in acquiring the status of a candidate for EU membership.

<sup>21</sup> “Council Joint Action 2003/681/CSFP on the European Union Police Mission in the Former Yugoslav Republic of Macedonia (EUPOL “Proxima”)", Official Journal of the European Union, L249/66, September 29, 2003.

<sup>22</sup> “Council Decision 23/682/CSFP", Official Journal of the European Union, L249/70, September 29, 2003.

These achievements are strong evidence in support of the argument that preventive actions of the international community can only be successful if there is a coordinated and complementary approach to decision-making and implementation of activities, regardless of the number of participating entities and their (most often convergent) interests. When it comes to preventive action and prevention of conflict situations, the Republic of Macedonia's successful example is final proof that the maintenance of peace, stability and prosperity can only be realized through continuous engagement, strong cooperation and mutual trust among all influential actors of the international community.

## | CONCLUSION

The relations between the EU and the US in the sphere of security, especially in conflict prevention and participation in joint missions, are based on a high degree of understanding, mutual interests, cooperation, and partnership. At their regular summits, security is always one of the most important points for discussion.

Conflict prevention and participation in joint military and peacekeeping missions around the world are often the issues that top US officials and EU member states openly discuss, and these issues are often at the top of their bilateral meetings' agendas, as well as at EU, NATO, G20, OSCE summits and other international forums. The prevention of conflicts and participation in joint missions is part of the long history of the United States and the UN, and more recently the EU, who thus jointly and effectively promote peace, security and stability in the world.

In building and establishing peace and stability in the world, the United States and the EU are dedicated to peaceful resolution of the most significant and urgent crises which they unselfishly participate in, jointly sharing the risks with the rest of the world. The launch of the necessary joint and individual military and police missions of the EU and NATO (USA) was a sufficient incentive to increase the operational efficiency of the EU's Common Security and Defence Policy and engaging in activities to strengthen peace and security in Europe and the world, practically initiated in 2003, when military and police missions in many regions and countries of the world were established.

Jointly conducted missions of the EU, NATO, the UN and other international organizations in Afghanistan, BiH, Macedonia, Kosovo, Somalia, Congo, etc. represent indisputable evidence that effective and mutual partnership is extremely important for the maintenance of peace and security in the world. The military conflict in Yugoslavia at the beginning of the 1990s was extremely worrying for the EU, NATO and the United States. It was one of the most severe

challenges the European continent has faced since the end of the Second World War.

The activation of most of the regional processes (the Stabilization and Association Process, the SEE Co-operation Process, the Stability Pact, etc.) represent a serious attempt by the international community, i.e. the EU, at promoting dialogue, trust, and tolerance in the region by establishing cooperation and developing regional initiatives and projects, as well as at preventing further military and diplomatic conflicts.

The EUFOR mission "Althea" was an extremely positive example of comprehensive and coordinated cooperation on prevention mechanisms. For its establishment, activities were first coordinated between the UN (by UN Resolution) and NATO (use of their operational means), then interests were synchronized within the EU itself, and finally the joint engagement of EU member states was harmonized in the framework of the Common Security and Defence Policy (including the activities of the Police Mission). The established military missions in the Republic of Macedonia, and in particular the EU mission "Concordia", also were a strong indicator of the wide range of mechanisms available to the international community, which established the conditions to participate in conflict prevention based on the joint coordination of NATO, EU, UN, and the OSCE, finding the most appropriate solutions, involving preventive diplomacy, and conducting successful joint missions. For the first time since its existence, the EU demonstrated its power to build military capabilities that can be fully operational within the Common Security and Defence Policy.

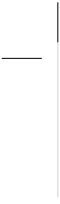
Based on the analysis of the above, it can also be concluded that the accomplished military and police missions in the Republic of Macedonia were successful and helped to accelerate the implementation of the Ohrid Framework Agreement, to establish state control over its entire territory, to reform the police, to rebuild interethnic trust and foster security among the citizens, and to fight organized crime. In the end, the missions spurred activities for the promotion of the Stabilization and Association Process with the EU and provided strong support to the Republic of Macedonia in acquiring the status of a candidate for EU membership.

The successful example of the Republic of Macedonia in the sphere of preventive action and conflict prevention is strong evidence for the thesis that the maintenance of peace, stability and prosperity is a realistic concept, and its implementation is possible with full and continuous engagement, a coordinated and complementary approach to decision-making and implementing activities, as well as enhanced cooperation and increased mutual trust among all influential factors within the international community

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### Short Biography

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Zhidas Daskalovski

# MACEDONIA AND SECURITY IN THE REGION: THE WEAK STATE AS A POWDER KEG

## INTRODUCTION

The security of the Republic of Macedonia is a matter of internal processes and democratization. At present, there are two main problematic security issues: On the one hand, the status of the Republic of Macedonia's recognition under its present name is undefined. With its official name being disputed, Macedonia, de facto, has no confirmed status in the international institutions and organizations which it strives to be a member of. The longer Macedonia's existence under its own name remains unresolved, the more this undermines the security of the state. On the other hand, the internal relations between Macedonians and Albanians from Macedonia, which have turned into political strife and constant tensions, are a permanent security problem for the future of the state. A particularly problematic aspect of these relations is the fact that the majority of Macedonians are Orthodox Christians and the majority of Albanians

in the Republic of Macedonia are Muslims. Hence, the security of the country is jeopardized by the religious fundamentalism of individuals and groups that accede to the terrorist organization Islamic State in Syria and Iraq (DAESH/ISIL), with some of them fighting or having fought in the Middle East. Another refugee and migrant crisis would also be a factor of influence. Furthermore, the assertive foreign policy towards the Republic of Macedonia pursued by all its neighbors is, to a greater or lesser extent, a threat to its security. What we are referring to here is that Bulgaria has disputed the nationality and the language, Serbia the religion, and Greece the “Macedonian” character of the majority population, while Kosovo and Albania are seriously influencing internal policies, especially those related to the implementation of the Ohrid Agreement and the status of the Albanian minority in Macedonia. Finally, the ongoing geopolitical conflicts, that is, the rivalry of the EU and NATO with regional players such as Turkey, Russia, and China, as well as the special regional interests of some great powers like France, Germany, Great Britain and Italy, have a negative impact on the security situation in the country. To integrate the Republic of Macedonia into the Euro-Atlantic structures by starting accession negotiations, and/or the country’s accession to the European Union and NATO, would significantly reduce the security risk for the state. Although it would be ideal to achieve this by resolving the so-called name dispute with the southern neighbor, this does not have to be a prerequisite. The security risk caused by the Republic of Macedonia is a burden that can have an extremely negative impact on the region and Europe, so it will be better not only for the state itself, but also for the Euro-Atlantic organizations and their leading states to finally reactivate Macedonia in terms of its integration into these international alliances.

## THE FOURFOLD TRANSITION AS THE BASIS OF THE SECURITY PROBLEM

The lack of social and political cohesion in Macedonia is obvious. Therefore, according to security theories, Macedonia can be qualified as a “weak state.”<sup>1</sup> Literature defines ways to strengthen such a state: in order to transform it, policies to strengthen the state (state-building policies) and policies to strengthen the nation (nation-building policies) should be implemented.<sup>2</sup> Strengthening the state refers to public institutions, “the machinery of the state, the laws, the courts, the parliaments, the administration, while the strengthening of the nation refers to strengthening the national collective identity, including national uniqueness and unity.”<sup>3</sup> When it comes to the latter, Macedonia has had a serious problem from the very beginning: after its independence, Macedonian

<sup>1</sup> See Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Hemel Hempstead 1991.

<sup>2</sup> Bülent Sarper Ağır, “State-Building and Security in the Western Balkans,” *Security Dialogues*, Vol. 8, No. 1-2, 2017, page 67.

<sup>3</sup> Paris, R. and Sisk, T. D. *The Dilemmas of State-Building: Confronting the Contradictions of Post-War Peace Operations*, London, 2009, page 15.

political elites faced severe problems related to the so-called fourfold transition,<sup>4</sup> which refers to the parallel processes of creating a market economy, developing democracy and an own state, and establishing consensus on national issues. While we can well say that the Republic of Macedonia is more or less progressing or even successfully solving the first three issues, we can hardly claim that the national question is resolved or that there is a consensus among political elites on how to overcome disagreements or on a vision for the future of the country regarding this topic. The 2001 conflict brought us a version of the future of the Republic based on the Ohrid Framework Agreement, whose implementation fails to create a national consensus on who “we” are and what our state is. A just, multi-ethnic state is the more legitimate, the greater the number of its citizens - but not only those belonging to the majority - who regard the territory of that state as their home country, the legal system of the state and its institutions as their own, and who regard the symbols of the state as their own symbols. The official symbols, holidays, cultural heritage taught in schools, and historical memory will absorb something from the tradition of all ethnic groups belonging to that state, so that everyone can see that the state is theirs, too: that the state is not their exclusive property, but that it is shared with other ethnic groups that form it.”<sup>5</sup> The unification of all citizens, regardless of their ethnic background, under the flag of one political nation is a major problem for the Republic of Macedonia today. Political representatives of the Macedonian Albanians even tend towards the creation of a bi-national state with a clearly defined special status of the Albanian community in Macedonia. Without an agreement on this issue, on the symbols of the Republic of Macedonia, on the language policy, and on the nature of the state, it is not possible to achieve solidarity among the citizens of different ethnic backgrounds. Since the creation of the independent Kosovo, the solidarity of ethnic Albanians with the Macedonian state is even more questionable. The 2001 conflict as an episode of Macedonia’s political history was an indicator that a society with an unresolved national issue, with internal political tensions, and a minor integration and cooperation of the majority with the Albanian minority is in constant security crisis alert. It is particularly important to point out that the deterioration of the Serbian-Albanian relations in Kosovo and a possible intensification of the conflict between Belgrade and Pristina have a direct impact on the situation in the Republic of Macedonia. The secret and public contracts and negotiations on the exchange of territories between Serbia and Kosovo, the threat of use of force in the North of Kosovo due to the (non-)establishment of a Community of Serb municipalities, as well as the close ties between the Albanians in Macedonia and Kosovo, based on the common military guerrilla experiences of the Kosovar and the Macedonian NLA/UCK, indicate that the security of the Republic of Macedonia must be

4 See Taras Kuzio, “Transitions in Post- Communist States: Triple or Quadruple?” *Politics*, 2001 21(3).

5 Janos Kis, “Beyond the National State.” *Social Research*, 63:1, 1996, page 237.

understood through the prism of well-established relations of the communities in both countries.

## THE UNDEFINED STATUS OF THE STATE NAME AS A SECURITY ISSUE

In international relations, security is related to “the ability of states and societies to maintain independent identity and functional integrity.”<sup>6</sup> Macedonia cannot confirm its independent identity because, among other things, its state identity is being challenged. Although the Republic of Macedonia has been independent since 1991, its existence has been de facto disputed, based on the non-recognition of the state name in international organizations and, by a dozen countries, in bilateral relations. The name issue is not only of symbolic importance, it is not only a matter of exercising the right to self-identification of the Republic of Macedonia, but it is also about the right to define or name the political community, the ethno-national identity of the Macedonians as the majority in the country, and the language which is spoken as the official language of Macedonia. However, the most important thing about Greece’s blockade of the use of Macedonia’s name is that it does not enable the state an equal status to the other members of the United Nations and other international organizations.<sup>7</sup> It is this blockade that makes Macedonia a weak state, not only internally, but also internationally.<sup>8</sup> The impugned name and the unequal status of the state in international relations are a clear signal for all enemies of the Republic of Macedonia’s independence, saying that it is an undefined, incompletely shaped creation that does not need to exist in the future. All neighboring countries have doctrines, supported by their respective Academies of Science, which proclaim that the Macedonian nation and state as artificial.<sup>9</sup> The doctrines can hardly be associated with contemporary interpretations of the nation and nationalism, but have an obvious nationalist action inclination, to the detriment of the neighbors and the Republic of Macedonia. The seriousness of the neighbors’ doctrines concerning Macedonia must be taken into account when talking about the security of the state. The conclusion of the Agreement with the Republic of Greece on renaming the state and denominating the citizenship as “Northern Macedonia” holds the serious risk of an identity crash among the Macedonians, whereas losing the ties with their own country would also reduce the resistance to external influence. Against this background, the neighbors’ assertiveness concerning the Republic of Macedonia continues as long as it has an undefined name, which is a persisting, smoldering security problem

<sup>6</sup> Baylis, John. *The Globalization of World Politics*. Oxford University Press, 2001, страна 255.

<sup>7</sup> See Igor Janev, “Legal aspects of the use of a Provisional name for Macedonia in the United Nations system.” *American Journal of International Law*, 93 (1999), n. 1,

<sup>8</sup> See Vankovska Biljana, “David vs. Goliath: Macedonia’s Position(s) in the ‘Name Dispute’ with Greece”, *Sudosteuropa*, vol. 58, no. 3. 2010.

<sup>9</sup> See Dimitar Mirchev, *Balkan Megaethnicum*, VIG Zenica, Skopje, 2012.

that can grow into an armed conflict.<sup>10</sup> A destabilization of Macedonia caused by, for example, an internal clash between the Macedonian majority and the Albanian minority would be sufficient to induce such a conflict. Another possible source of destabilization are dramatic developments leading to the collapse of the state, caused by a new large refugee/migrant influx, combined with terrorist actions of ISIS cells.<sup>11</sup> In general, literature tends to treat migration as a security challenge.<sup>12</sup> In any case, the unclear status of the Republic of Macedonia in the framework of international relations is a strong challenge for the security of the state and, consequently, the region.

## | REGIONAL FORCES AND COMPETITION

The region does not seem to be of great importance, especially compared to the current situation in the Middle East, East Asia or the Ukraine, but this is not quite true. In fact, contrary to the claim that the Balkans and its individual states occupy a central geostrategic position in Europe and practically control the passage between the West and the East, representing a bridge between continents, economies, cultures, religions, etc., "it is true that the Balkan countries have always, especially since the 14th and 15th century, been at the periphery of the great empires: the Ottoman, the Austro-Hungarian, and the Russian Empire, and also the Reich."<sup>13</sup> From a historical point of view, the Balkans is a region where local conflicts, and even state building, are influenced by developments on a global scale and the relations of the great powers. The influence of the great powers on Macedonia during the nineteenth and early twentieth century should be viewed in the context of their geopolitical aspirations throughout the Eastern Mediterranean region to transport corridors and economic connections by forming client relations and alliances.<sup>14</sup>

Today, the region should not be seen differently. The security and the future of the Republic of Macedonia and the Balkans are in correlation with the developments in the Middle East, as well as global trends and rivalries. We should be aware that, for example, China's long-term strategy "Silk Road/ One Belt, One Road" aims to build an infrastructural link between the Balkans and Central and Western Europe. This is the reason for Beijing's investments in the Port of Piraeus in Greece, the Belgrade-Budapest railroad and other infrastructure projects, including the Pelješac Bridge in Croatia, the idea of the Vardar-Morava-canal connecting the Danube to the Aegean Sea, etc. China directly cooperates with sixteen countries in Central and Eastern Europe and

<sup>10</sup> See Zlatko Kramarić, Angelina Banović-Markovska, *Politics, Culture, Identity: (intercultural dialogue)*, Magor, Skopje, 2012.

<sup>11</sup> See Kaltrina Selimi, Filip Stojkovski, *Assessment of Macedonia's Efforts in Countering Violent Extremism, View from Civil Society*, Analytica, Skopje, 2017.

<sup>12</sup> See Bourbeau, Philippe, *The Securitization of Migration. A study of movement and order*, London and New York: Routledge, 2011, и кај Watson, Scott D. *The Securitization of Humanitarian Migration. Digging moats and sinking boats*, London, New York: Routledge, 2009.

<sup>13</sup> Mirchev, 2013: 24.

<sup>14</sup> See Jovan Donev and Aleskandar Hristov, *Macedonia in international agreements 1875 -1919*, Matica Makedonska, Skopje, 1994.

the Balkans, whether they are NATO and EU members or not.<sup>15</sup> Supporting the strengthening of China's trade and influence in the region is a matter of choice for the governments, including the Macedonian one. At the same time, Russia is trying to create allies within the EU in the long run, such as Greece, Slovakia, Malta, Austria, Hungary and others, and within the governments of Western Balkan countries like Serbia and the Republika Srpska in Bosnia and Herzegovina. Russia also has an interest in boosting its economic influence, investment and trade, regardless of whether a partner country is a member of the EU and NATO.<sup>16</sup> The position of the authorities in the region regarding the geopolitical ambitions of Moscow is also a matter of their choice. Finally, as for the non-Western forces, Turkey has an impact on the balance of power and security in the region, including Macedonia, by means of its soft power tools (TV series, cultural exchange, renewal of the Ottoman cultural heritage, the TIKA Foundation, universities and schools), investments and diplomatic support of countries such as Bosnia and Herzegovina and Macedonia.<sup>17</sup> Powerful European states like Germany have an interest in the region from an economic point of view, regarding the prevention of new conflicts, encouraging a certain type of economic migration from the Balkan countries, as well as regulating the flow of migrants and refugees from other regions and continents. Germany, like France and the United Kingdom, is interested in improving the democracy and economy in the Balkan countries, as well as preventing regional criminal structures. France and Italy have specific economic and geopolitical ties with Greece, Serbia, and Albania, respectively. Finally, the interest of the United States in the region is particularly targeted against the expansion of the influence of Russia and China, with ambiguity concerning the position of Turkey, which, while being a NATO member, co-operates with Vladimir Putin's government. Meanwhile, the great powers maintain strong individual economic connections with competing ones. Great Britain, for example, has intensive trade relations with China, whereas Germany maintains economic relations with Russia, especially concerning the Nord Stream 2 energy corridor, which has led to major disagreements with both the United States and EU members such as the Baltic three, Poland, and Sweden. The countries of the region, such as Greece and Bulgaria, balance between the interests of the great powers and their own geopolitical position. We are also talking about the access to connecting corridors based in European projects, as well as oil and gas pipelines from the Caucasus, Russia, and the Middle East. The dispute over Cyprus and the discovery of large quantities of natural gas in its territorial waters additionally complicate Turkey's relations with Greece, as well as with potential investor companies, including ANI from Italy. How our governments position themselves in relation to the global turmoil and the

<sup>15</sup> See Vangeli Anastas, „China's Engagement with the Sixteen Countries of Central, East and Southeast Europe under the Belt and Road Initiative”, *China & World Economy*, September 2017, 25(5):101-124.

<sup>16</sup> Bechev, 2017.

<sup>17</sup> See Misha Gjurkovic, Aleksandar Rakovic (ed.) *Turkey – regional power?* IES, Belgrade, 2013.



spheres of interest of the great powers and regional players is a security issue for the Republic of Macedonia. This subject matter is relevant because the socio-economic development of the country is essential for reducing internal tensions and strengthening the position of the Republic of Macedonia vis-à-vis its neighbors. Every Macedonian government should carefully consider the issue of restricting opportunities for economic cooperation and trade because of geopolitical reasons. An economically weak state is easily subject to attacks both from outside and from inside.

### THE WAY AHEAD - STARTING INTEGRATION INTO EURO-ATLANTIC STRUCTURES

The initiation of EU accession negotiations and the establishment of Macedonia in the European Union and/or entry into NATO would significantly reduce the security risk for the country. This would make clear that the Republic of Macedonia is no longer an undetermined and unconfirmed creation, subject to aspirations of nationalist movements in the neighbor countries. Although it is clear that both EU and NATO members have internal problems, and even problems with territorial integrity, as shown by the example of the United Kingdom, Spain, Belgium and, in the most dramatic sense, Cyprus, it is unlikely for security threats and the risk of a clash to be greater as a member state than if the country is outside of these Alliances. This applies to the Republic of Macedonia: its security will be significantly increased if it is a member of the EU and NATO. Although the risk of internal conflict between Macedonians and Albanians will continue to exist, it will be significantly reduced compared to the current situation.

Although it would be ideal for EU and NATO membership negotiations to begin immediately with a solution to the so-called name dispute with its southern neighbor, this does not have to be a prerequisite. There has been great dissatisfaction within the Macedonian society since the Agreement with Greece was signed. The President is blocking the law by which the Agreement would come into force, and it is unclear what the citizens will vote at the referendum. Constitutional changes are impossible with the current balance of powers among the political parties in the Assembly. A failure of the process might have negative impact on the stability and democratization of the Republic of Macedonia, endangering its security. In a time of great polarization among the Macedonians, with the long-lasting inter-Macedonian antagonism between the supporters of the ruling SDSM and the opposition VMRO-DPMNE being at its strongest, and ethnic relations becoming problematic again, due to the failed attempt to pass a (Albanian) Language Law, the renunciation of the prospect of Macedonia's prosperity and democratization through integration into the Euro-Atlantic structures would be a dangerous security risk. Such a security risk, caused by the

Republic of Macedonia, is a burden that can have an extremely negative impact on the region and Europe, so it will be better not only for the state itself, but also for the Euro-Atlantic organizations and their leading states to finally reactivate Macedonia in terms of its integration into these international alliances.

Accordingly, good conduct in foreign policy along with the Government's internal reform plans is expected to be rewarded with progress in the Euro-Atlantic integration, even without a solution to the so-called name dispute, by means of use of the temporary reference by the United Nations, as it is, by the way, set forth by the Interim Accord with the Republic of Greece, which was violated by the latter at the NATO Summit in Bucharest in 2008 when Macedonia was not included as a member, as confirmed by the Judgment of the International Court of Justice.

## | CONCLUSION

Two main factors affect the security of the Republic of Macedonia and, hence, the region. The first and most important factor is the undefined status of the Republic of Macedonia's recognition under this name. With the official name of the republic being disputed, Macedonia, de facto, has no confirmed status in the international institutions and organizations which it strives to be a member in. The longer this issue remains, the more it undermines the security of the state, mostly due to the politically tense internal relations between Macedonians and Albanians from Macedonia. Tensions among the Macedonians are also growing, with a large part of the population being against the Agreement reached with Greece. The security risk is even greater, due to the religious nature of the division of the Macedonian society, with the majority of Macedonians being Orthodox Christians, and the majority of Albanians in the Republic of Macedonia being Muslims.

There are also other less influential factors that affect the security of the country. The passions could be inflamed with a negative effect on security, if individuals associated with ISIS are activated, or if the refugee and migrant crisis is repeated. The internal problems and crises are closely observed by the neighbor countries who have assertive nationalistic doctrines towards the Republic of Macedonia. Finally, the ongoing regional geopolitical conflicts and the special interests of some of the great powers in the Balkan region negatively affect the security situation in the country. NATO membership and the start of negotiations with the European Union would significantly reduce the security risk for Macedonia. It is questionable whether the integration of the country into the Euro-Atlantic structures can be unlocked if the agreement with Greece is not approved by the Macedonian society. It would be better if this happened. The alternatives are dangerous and can have far-reaching consequences. Namely, a further crisis in

Macedonia could affect the entire region and Europe, so it would not only be better for the state itself, but also for the Euro-Atlantic organizations and their leading countries if Macedonia abandoned its standstill position regarding the integration into these international alliances.

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Jovan Andonovski

# COMPARATIVE ANALYSIS OF THE ACCESS TO THE RIGHT TO ASYLUM IN THE REPUBLIC OF MACEDONIA AND OTHER COUNTRIES OF THE SO-CALLED “BALKAN ROUTE”

## INTRODUCTION

Migration is not a novelty, but has existed since the beginnings of mankind. People have cultivated a migratory lifestyle. There is much indisputable evidence that people have been constantly migrating, settling from one place to another. During the Industrial Revolution (1843-1939), millions of Europeans left for the United States, Canada, Australia, New Zealand, and other countries throughout the world. Many left in order to avoid poverty and periodic times of hardship in Europe.

Today, the concept of migration is very similar. In fact, today people move more easily because of the increased possibilities: efficient transport, advanced technology, modern forms of communication, media and information. However, legislation, policies, and controls have become more rigorous.

What is human migration? Looking for definitions, we will find many, while the simplest one defines migration as a movement of people from one place to another for the purpose of permanent or temporary settlement, usually passing a political border. There are many types of migration: internal, external, emigration, immigration, population transfer, forced migration, bound migration, return migration, seasonal, etc. Those who migrate are defined as emigrants, immigrants, refugees, internally displaced persons, illegal migrants, victims of human trafficking, etc. All these categorizations depend on the reasons and the way people migrate.

Why do people migrate? Man is a rational creature. People evaluate the advantages and disadvantages of staying at the place of actual residence versus the advantages and disadvantages of migration. The decision is also influenced by additional factors such as distance, costs, travel time, transportation, terrain, barriers, etc. What causes migration? In theory, we distinguish the so-called *push* and *pull* factors (King, 2012, p12; Aronowitz, 2009, p. 14). Push factors are related to the causes of emigration (leaving one place) due to difficulties (war, food shortages, floods, poverty, unemployment, lack of perspective, etc.). Pull factors relate to reasons for immigration which attract migrants with their desirability (better climate, work, food, freedom, peace, democracy, etc.).

What is a migrant crisis? The United Nations defines a migrant as any person crossing an international frontier or internal border, leaving the place of residence, regardless of: (1) legal status; (2) whether the movement is voluntary or not; (3) the reasons for the movement, or (4) how long the stay would last (Glossary on Migration, IOM, 2004). A refugee is an individual who, on the basis of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group, or a political opinion, is outside the country whose citizenship he/she holds, and is unable or afraid, or does not desire to be placed under the protection of the home country. A refugee can also be an individual who has no nationality, and is now outside the country where he/she previously resided, and as a consequence of certain events or circumstances, is unable or scared (so that he/she has no desire) to return to that country. (Convention relating to the status of refugees, UNHCR, 1951).

The enormous dimension of the refugee crisis is a real problem for states to properly manage. However, this should not be an excuse for deviating from the proper application of law and procedures. Considering that the so-called "Balkan Route" was established in this part of Europe, the following sections contain an analysis of the access to the right to asylum in the Republic of Macedonia and some of the neighboring countries.

## THE REPUBLIC OF MACEDONIA: LEGAL FRAMEWORK

Asylum is the right to protection and shelter required by a person fleeing from his home state for reasons of persecution or other type of harm. Actions that have caused abandoning the state should precede asylum, or there should be certainty of them being applied on the fugitive at some point. The first cases of contemporary diplomatic asylum date back to the 16th century. After World War II, the right to asylum acquired the status of a fundamental human right, and it is an international obligation to guarantee it.

The basic instrument regulating the issue is the 1951 UN Convention on the Status of Refugees. In the Republic of Macedonia, the Constitution (Article 29) stipulates that foreigners enjoy the freedoms and rights guaranteed by the Constitution, under conditions determined by law and international agreements. The state guarantees the right to asylum for foreigners, but also to stateless persons who are persecuted for democratic political belief and action. Additionally, the Constitution stipulates that the extradition of a foreigner may be carried out only on the basis of a ratified international agreement and based on the principle of reciprocity. A foreigner cannot be extradited due to political offense, while acts of terrorism are explicitly not considered political offenses.

The legislation is subject to constant alignment with international instruments. The first Law on Asylum and Temporary Protection was adopted in 2003. It is based on the provisions and values of the Universal Declaration of Human Rights, the 1951 United Nations Convention on the Status of Refugees and the 1967 Protocol, the Convention against Torture and the European Convention on Human Rights. The law has been amended several times, in order to improve its quality. Thus, the 2006 amendments were aimed at aligning the Law with the EU Asylum Directive and the recommendations of the Council of Europe. The 2008 amendments promoted subsidiary protection, while the 2009 amendments defined the first country of asylum. The 2012 amendments relate to changes in the definition of *asylum seeker* and *seeking asylum*. With the changes of 2015, the intention to seek asylum was introduced, and with the amendments of 2016, the concept of the safe third country was legally defined, and the deadlines for family reunification were changed. There are also provisions about asylum in other legal texts, such as the Law on General Administrative Procedure, the Law on Administrative Disputes, the Law on Foreigners, etc.

## THE LAW ON ASYLUM IN THE REPUBLIC OF MACEDONIA

The Republic of Macedonia recognizes the right to asylum. Thus, asylum is defined as international protection which the state gives under the conditions

and procedures stipulated by law for recognized refugees and persons under subsidiary protection.

The asylum seeker is a foreigner who requests protection from the Republic of Macedonia and who has applied for recognition of the right to asylum, but for whom no final decision has yet been taken in the procedure for recognition of the right to asylum. With the submission of a request for recognition of the right to asylum, the international protection of the person is initiated. The procedure for recognition of the right to asylum also begins at that very moment. A recognized refugee is a foreigner who, after his/her request, has been examined, is found to meet the conditions set forth in the Convention, that is, a person who, due to a justifiable fear that he/she will be persecuted because of race, religion, nationality, belonging to a particular social group or because of political beliefs, is situated outside the country he/she is a citizen of, and cannot or does not want to, because of such fear, be under the protection of that state. The same applies to persons who have no nationality and are outside the country which they usually reside in. A person under subsidiary protection is a foreigner who is not a recognized refugee, but whom the Republic of Macedonia offers the right to asylum and allows him/her to remain on its territory because there are reasons to believe that if he/she returns to the country of which he/she is a national (or if he/she is stateless, in the country of residence), he/she will face the risk of:

- death penalty or execution,
- torture or inhuman or degrading treatment or punishment; or
- serious threats to the person's life caused by violence in the situation of international or internal armed conflict.

The intent to submit a request for recognition of the right to asylum is a recently established legal category. This institute was introduced into Macedonian legislation as a result of the urgent need to deal with the large number of migrants and refugees in the past years. For this purpose, a legal deadline of 72 hours was envisaged, within which the person should decide whether he/she will apply for asylum. Thus, persons were allowed 72 hours of legal stay, during which they had to decide whether they would apply for asylum in the Republic of Macedonia or leave the country. At the same time, this legal opportunity contributed to the reduction and elimination of illegal movement, and to an improvement of the conditions for registration of migrants, control over their movement, and provision of adequate humanitarian assistance. This change did not arise from international law, but as a result of good practices that have also been introduced in some other countries throughout Europe.

From a legal point of view, it is important to state that the law also provides for the principle of non-refoulement. Article 7 of the Law provides that an asylum



seeker, a recognized refugee or a person under subsidiary protection cannot be expelled or in any way returned to the border of the state in which his/her life or freedom would be in jeopardy because of race, religion, nationality, belonging to a particular social group or having a political opinion, or where he/she would be subjected to torture, inhuman or degrading treatment or punishment. This principle originates in international law. Persons are given refuge, which is a right of residence and protection that is given to a refugee on a territory, the competent authority of which will have to determine whether his/her fear of prosecution in the country of origin is justified or not.

From a formal point of view, the application for recognition of the right to asylum shall be submitted in writing or orally in recorded minutes, in Macedonian language or, if possible, in the language of the country of origin, or in one of the widely used languages, or in a language which the asylum seeker can be reasonably and clearly assumed to understand. Most often the application is submitted to a police officer who records the personal data of the person. The person is issued a certificate of declared intent and is advised to submit an official request for recognition of the right to asylum before an authorized person within 72 hours. Therefore, a distinction should be made between the stated intention and the officially submitted request for recognition of the right to asylum. In case the person who declared the interest does not submit a request during the determined time limit, he/she will be treated on the basis of the regulations for foreigners. There are three places where a person can apply for recognition of the right to asylum: at the border crossing point, at the nearest police station, or in the Reception Center for asylum seekers.

Upon submission of the request, the competent authority shall notify the applicant within 15 days about: the manner of conducting the procedure for recognition of the right to asylum, the rights and obligations of the applicant in that procedure, the possible consequences if he/she does not comply with the obligations and does not cooperate with the competent authorities, the conditions for acceptance, the right to legal assistance, and the right to contact legal aid providers, representatives of domestic and international organizations at all stages of the procedure. Upon submission of the application, the competent authority shall also be obliged to issue a certificate to the asylum seeker within three days, provided with a seal, a number and the date of filing, which confirms the status of the asylum seeker and proves that the applicant for asylum is allowed to remain on the territory of the Republic of Macedonia while the procedure is ongoing upon his request.

On the basis of available information, the Department for Asylum decides whether to conduct a regular or urgent procedure, which begins with an interview, at which the applicant's legal representative is present. Minutes shall be compiled from the interview. This part of the procedure is of particular

importance because it should provide information, evidence and knowledge, on the basis of which the justification of the request will be established. If it is confirmed and proven that the person has justified fear of persecution, and that the risk of his/her returning to the country of origin or residence is real, then the asylum seeker will be granted the right to asylum. On the other hand, if the justification of the request cannot be verified and proven, it will be rejected. The person whose application is denied shall be obliged to leave the state within the time limit specified in the decision, which may not be shorter than 15 days from the day the decision was received.

## | THE RIGHT TO ASYLUM IN THE REPUBLIC OF SERBIA

In the Republic of Serbia, the right to asylum is also stipulated by the state Constitution (Article 57 of the Constitution), while the asylum procedure and the rights and obligations of asylum seekers, refugees and persons under subsidiary protection are regulated by the Law on Asylum ("Official Gazette" RS ", No. 109/2007). According to Article 2 of the Law, asylum is defined as the right of residence and protection of a foreigner on the basis of a decision on the application for asylum in the Republic of Serbia, made by the competent body that has approved shelter and other kinds of protection provided by the law. (Dimitrijevic, 2015, p. 7). An asylum seeker is defined as a foreigner who has applied for asylum on the territory of the state, but on whose request a final decision has not been made. The law provides basic rules for banning the expulsion or return of an asylum seeker contrary to his/her will, if his/her life or freedom is endangered because of race, sex, language, religion, nationality, belonging to a social group or having political views. The law also provides for protection against discrimination based on the same principle, as well as the principles of impunity for illegal entry or residence, the principle of family reunification, the principle of information and legal assistance, the principle of free translation, as well other principles deriving from international law and best practices.

The competent authority for acting on asylum applications in the first instance is the Asylum Office of the Ministry of Interior, and the Commission for Asylum, appointed by the government acts, for individual complaints in the second instance.

The fourth segment of the law refers to the asylum procedure. The procedure is initiated with the expression of intent to seek asylum, at the border control when entering the country, or on the territory of the state, where the foreigner can express his/her intention to seek asylum to an authorized police officer, orally or in writing. As a next step, it is necessary to register the applicant, which means issuing a prescribed certificate containing personal data that the person

has given about himself/herself or that can be determined on the basis of insight into the documentation. Once the applicant is registered, his/her identity is confirmed, accompanied by photographing, taking fingerprints, and temporary retention of the identity documents. The applicant is issued a document: an identity card for a person seeking asylum. Legal and physical protection of asylum seekers starts when the application is filed. (Belgrade Center for Human Rights, 2014, p. 118) The interview, or, according to the terminology of the law, *the hearing* is attended by the asylum seeker, a representative of the Office of Asylum, and an interpreter. It may also be attended by a legal representative (proxy) of the asylum seeker, as well as by a representative of the UNHCR. The purpose of the interview is to determine all the important facts related to the asylum application, on the basis of which a decision will be adopted. Either the application for asylum application will be accepted and the foreigner will be granted the right to stay or subsidiary protection, or it will be refused, and the foreigner will be instructed to leave the country within a certain period of time, if there are no valid conditions for remaining. The Office for Asylum makes a positive decision on the asylum application if the conditions prescribed by the law in Article 26 are met, while a negative decision is taken when it determines that the request is unfounded or when there are legal reasons for denying the right to asylum. The unfoundedness of an asylum application and the denial of the right to asylum are precisely prescribed in Articles 30 and 31 of the Law. Thus, if the asylum application is based on untrue reasons, false data, forged documents, if the allegations in the application for asylum are inaccurate or if the asylum seeker refuses to explain the reasons for asylum, the claim is rejected as unfounded. An already acquired right to asylum can be denied if there are serious reasons on the basis of which a person may be considered to have committed crimes against peace, war crimes or crimes against humanity prescribed by international law, if he/she has committed a serious crime, which is not of a political nature, outside the state of admission, or if the person has committed acts contrary to the purposes and principles of the UN.

A negative outcome of the procedure does not exclude the right to submit a new asylum application, but only if the asylum seeker provides evidence which proves that the circumstances relevant to the recognition of the right to asylum have significantly changed in the meantime.

Article 34 of the Law provides the possibility of the asylum procedure to be stopped if the applicant waives the asylum application, if the applicant does not respond to an interview invitation without a valid reason or refuses to explain the request, if he/she has changed his/her address without informing the Office of Asylum, or if he/she otherwise avoids the delivery of correspondence or leaves the country without the approval of the Office of Asylum.

A positive aspect of this law is that the asylum seeker has the right to appeal to the government Commission for Asylum, for which a deadline of 15 days from the day of receiving the first instance decision is prescribed.

## THE RIGHT TO ASYLUM IN THE REPUBLIC OF CROATIA

Article 33 of the Constitution of the Republic of Croatia stipulates that a foreign national or stateless person may obtain protection in the Republic of Croatia, unless prosecuted for non-political crimes and acts contrary to the fundamental principles of international law. (Narodne novine, 85/2010). The system of asylum in Croatia is a compilation of the national legislation (the Asylum Law) and the European Union Asylum Directives.

Asylum is granted to an applicant who is outside the country of his/her citizenship or usual residence, and who fears persecution because of race, religion, nationality, belonging to a particular social group, or based on political opinions, because of which he/she cannot return to that country or does not want to accept protection from that country.

The first instance procedure is identical to those conducted in other states, both in terms of the competence of the authorities and in terms of the asylum seekers' rights and deadlines.

The first instance asylum procedure is conducted before the Department for Foreigners and Asylum at the Ministry of the Interior. In Croatia, the asylum procedure is also preceded by the expression of intent to seek asylum, which, as in the case of the Republic of Serbia, should happen during the first contact with an official at the border or anywhere in the country. The person is issued an appropriate document and placed in a center for asylum seekers. Formally, the procedure contains the following elements: submission of an asylum application, interview with the applicant, decision, access to information regarding the possibility of seeking asylum and free legal aid, access to non-governmental and international organizations. The similarity of the procedure is due to the international instruments governing the right to asylum.

In the second instance, the unsatisfied asylum seeker may initiate an administrative dispute against the decision of the Ministry of Interior before the Administrative Court. The deadline for appeal is 30 days from the date of delivery of the first instance decision (Law on Administrative Disputes). According to Article 14, paragraph 1 of the Law on Administrative Disputes (Narodne novine, 47/09), asylum cases are decided by individual judges, whereby the court can freely evaluate the evidence and determine the actual situation, without taking into account facts and allegations determined in the first instance procedure. The applicant is entitled to free legal aid. Croatia has gone a step further, having also

provided the right to appeal against the ruling of the Administrative Court to the Higher Administrative Court, an appeal to which postpones the execution of the verdict.

## CONCLUSION AND RECOMMENDATIONS

After the frequent changes and interventions in the national Law on Asylum and Temporary Protection, it can be concluded that reading the text is difficult. It is necessary to adopt a clear and accurate new law on asylum and temporary protection. Drafting a new legal text also requires further harmonization of the national and EU law by further transposition of the Union's directives. Also, when drafting a new legal text, it is necessary to take into account the indications from the reports of the European Commission that assess the Republic of Macedonia's policy towards refugees and asylum seekers as restrictive. The main criticisms against the Law on Asylum and Temporary Protection apply to the amendments from 2016, in particular regarding a request made by a person from a third safe country that was considered as manifestly unfounded, which was not in accordance with the Asylum Procedures Directive. Legislation should provide an individual assessment, case by case, a guarantee for the assessment of the reasons of the application, based on EU law and in accordance with the principle of non-refoulement. The amendments also envisage that family reunification can be achieved only three years after obtaining refugee status, which is not in accordance with the principle of non-refoulement. Additionally, EU remarks refer to the need to strengthen the administrative capacities of authorities and persons working on asylum, to the quality of decisions taken, to insufficient budget funds, etc. Although the Republic of Macedonia is most often a transit country for refugees, rather than being a country of destination, there is a need for a systemic and institutional approach to overcome the remarks and implement recommendations by adopting a new and clear Law on Asylum and Temporary Protection that will be fully in line with EU and international legislation, consistent application of the law, strengthening human resources in the competent institutions, as well as allocation of sufficient budget funds. It is necessary for the legislator to consider some of the novelties, such as cancellation of the right to asylum (which is in line with EU law) as a measure to combat transnational crime related to migration. Besides the argument of lack of grounds for the request, for the new legal text, consideration should also be given to the possibility to envisage inadmissibility of the request for cases in which there are no grounds for fear of persecution and the application was submitted for the purpose of obtaining better living conditions, from a so-called safe country, for deliberate deception, etc.

Of course, the intention to improve the complex situation related to migration and refugees, including access to the right to asylum, should be the product of

a broad expert and scientific debate, because the final outcome will have direct impact on human rights and freedoms.

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### Short Biography

**Cane T. Mojanoski** is a full-time professor at the Faculty of Security in Skopje. He is author of the books *Methodology of Security Sciences* in three tomes, *Political Sociology* and *Fundamentals of Crime Statistics*. These books are intended for students of all degrees of study at the Faculty of Security. Several study programs at Faculty of Security in all three cycles of the university studies have the subject *Methodology of Security Sciences*. He manages two longitudinal studies, one is the 10-year dedicated to "Citizens' Opinion on the Police work" and the other is 5-year research dedicated to "Citizens' Opinion on Corruption". He also manages research projects related to: the position of the convicts in the prisons, as well as the position, tasks and relations of the employees in them; the psycho-social and other consequences for the participants in the security forces in the 2001 conflict in Macedonia; and the legal and other specificities and consequences of the judgments of the Human Rights Court before Strasbourg and the responsibility of Republic of Macedonia for the implementation of the standards for protection of human rights and freedoms.

The process of political pluralization and reorganization of the parties in the Macedonian society from 1990 to present is also field of research of professor Cane Mojanoski. In the monograph about the Social, interest identity and program of the political parties in Macedonia, he is analyzing the ideological, statutory and action profile of political parties that emerged on the political scene in the early 90s. He is also publishing the study related to the first decade of the pluralization of the Republic of Macedonia - "Chronicle annals of Macedonian Democracy". It is a cross-section of the main developments in the Republic of Macedonia in the period 1990-2000. In this context is the textbook "Fundamentals of social constitution". In the book "Political Sociology", which is intended for the needs of the studies at Faculty of Security, he is analyzing the contemporary social processes in Macedonia, especially the appearance of certain forms of civic participation in the political process.



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Саше Т. Мојаноски

# CORRUPTION IN THE REPUBLIC OF MACEDONIA THROUGH THE PERCEPTION OF THE CITIZENS

## INTRODUCTION

The development of a state union has corruption as a constant companion. It successfully adapts and exists in various social, political and economic systems. Corruption finds particularly suitable soil in economically underdeveloped countries, with an unstable political system and serious violation of human rights and freedoms. (Mojanoski, 2014, p. 315).

As a phenomenon, corruption hampers democratic development, endangers the fundamental human rights and freedoms of citizens, perturbs competition, and thus impedes the economic development of a state. Corruption threatens the rule of law and thus directly threatens the democratic institutions (Labovic, 2006).

There is no universal definition of the term corruption, no single method to measure it, no single instrument to suppress it. Nevertheless, there are certain criteria by which it can be classified.

There are several types of corruption. The classification criterion has to be indicated. For example, several types of corruption can be determined when the starting point is the social life in which it occurs, the reasons it produces, how it is performed. The reasons why corruption happens can be found in all spheres of society, but the primary source seems to be the nature of the social systems' political and economic dimensions and how they function. The relations that govern and the mechanisms used in these two spheres of social life (ownership monopoly and elitist democracy in politics) enable certain social groups to control and abuse the social positions, and gain material wealth, mainly through control of the power. This leads to the conclusion that there are two primary forms of corruption: political and economic. (Ćirić, Reljanović, Nenadić, Jovanović, Dobrašinović, & Pejović, 2010, p. 12).

Corruption has a long history. As society grew and became more complex, the social conditions for the development of various forms of corruption were created. Modern times are specific in many ways. This specificity is most pronounced in transitional, underdeveloped societies like the Macedonian. Namely, we witness the institutionalization of state bodies for the fight against corruption, it is on the agenda of the government, laws and other normative acts are adopted, media debate is conducted, articles are written and TV shows produced, scientific conferences are organized, renown awards are given, papers are published and research is organized on the topic of the fight against corruption - yet today there is more corruption. Where is the problem? What are the reasons for such expansion of corruption? The answer is not simple and cannot be fully identified. Why? Because it is most often connected with interests and organized crime. It is more or less a feature of "white collars" as noted by Wright Mills. Therefore, today we talk and stress that corruption is a sociopathological phenomenon "hard to catch" or measure, and assumed to be widespread. Therefore, it is difficult to reach a consensus on the definition of corruption, its causes, the method (or methods) of combating it, how to achieve social development not corroded by the interests of corruption. There are also many other issues and dilemmas. Thus, if an attempt to define corruption is made, the situation will resemble the Latin saying "quod capita, tot sententiae" (There are as many opinions as there are people, we would add definitions). According to one disputed definition, corruption is the abuse of public authorizations for private benefit or purposes. Thus, corruption encompasses any form of abuse of powers for personal or group gain, both in the public and private sector. According to this concept, corruption is any abuse of position by civil servants or individuals who perform a particular public function for personal

material or other benefits. Thus, corruption is associated with the exercise or abuse of public authorizations or matters of public interest for personal interest or the interest of another person or conflict of interest in the exercise of power or the entrusted public authorizations.

Among the answer to the question - what is corruption – there is a stance that it is an abuse of office to gain personal benefit both for the bearer of that position and for those private or public legal entities associated with and participating in a corrupt practice.

It is considered that corruption occurs in unstable economies lacking appropriate legislation, but, even more, in economies with weak institutional infrastructure for the control and supervision over the implementation of the laws.

The economic understanding of corruption is related to the amount of damage and the consequences to the economy. Usually, it is defined as maximizing revenue from public services to gain personal benefit. Such phenomena distort the market balance and create conditions for petty corruption of the competition (Ćirić, Reljanović, Nenadić, Jovanović, Dobrašinović, & Pejović, 2010, p. 22).

The results of corruption could be sublimated as follows: undermined democracy; indifference of domestic and primarily foreign investors; permanent loss of public confidence in the government; weak governments become even weaker, etc.

The dominant opinion is that the social phenomenon of corruption exists, spread and incorporated in the system. There is a need for debate on corruption in the institutions and on ways to limit, prevent and overcome it. It is essential to find an answer as to why the massive feeling of corruption exists (P.L.Berger & T. Luckman 1985, p. 32). Corruption is a phenomenon in modern societies, especially in transition countries. It does not mean it did not exist before but that the norms and standards have changed while the former ones have become unacceptable. The pre-transitional system had many curbs to personal wealth but also against the weak concentration of political power. In that period service was not exchanged for money, but for influence (Cotić, 2001, p. 301). The motives were not money directly, but fear (threat), or the wish to have more power to advance on the social ladder. Things change in the new society. Aspirations grow, and money becomes the means to achieve them. It is the time when the simultaneous explosion of material aspirations, on one side, and the erosion of values and norms on the other became a severe and even dangerous combination (Kragar, 1994, pp. 47-61). When we add the new challenges of privatization, illegal wealth, denationalization, and direct theft of public funds, the image of unstable transition societies is blown up and made more explicit. When we add to this the reduced efficiency of the institutions of

detection, persecution, punishment of corruption, then, indeed, the appearance of corruption and its spread is not surprising (Mojanovski et al. 2014). Thus, society has then impression that corruption is essential - not a fashion hit because it is dangerous – but an indicator of someone’s “success” and the ability to “cope” (Dirkem, 1969, p. 827). Without going into a discussion over the causes of corruption, the conclusion is that it seriously erodes the trust in the institutions and is a social trauma that paralyzes the social institutions. Living in a community is perceived as a severe social handicap, and the exercise of power as an opportunity to redistribute the national wealth according to party, group and personal interests (Kregar, URL, pp. 2-3).

## | METHOD AND INSTRUMENTS

We can find the answer to the initial assumptions in the results from the three year research on “The Perception of the Citizens of the Republic of Macedonia on Corruption,” conducted in the period 8-20 January 2013, 2014, 2015, 2016 and 2017<sup>1</sup>. The number of respondents in 2013 is 1210, in 2014 - 1017 and 2015 - 1041, in 2016 - 1022 and 2017 - a total of 1020 respondents, from all regions in the Republic of Macedonia. The territorial distribution shows that the survey was conducted in 38 municipalities in 2013, in 33 in 2014 and 30 in 2015, in 34 in 2016 and 39 in 2017. Multistage sampling was applied (Mojanovski, 2013, p.188). The team selected by regions the municipalities in which the survey was carried out. They formed a core of the research at each site. Then the interviewers visited every fifth house and every twentieth apartment in a housing building. They interviewed the adult person in the chosen family whose birthday is closest to the day of the visit.

The team created the following elements for the interview: a) **Basis for conversation:** “Opinion of citizens on corruption and a survey journal, an analytical data processing table, a list of codes and guidelines on the application of the basis for conversation and the provision of interlocutor (Mojanovski 2013, p. 76).

The **basis for conversation** was intended to research the positions of citizens. It was constructed specially for this research as a socio-demographic survey, designed and structured in the form of a questionnaire that included the demographic characteristics of the respondents and some batteries of issues. They enabled the ranking of specific forms and degrees of corruption (Mojanovski, 2012a, p. 418). The method of data collection was a structured interview. In a **structured interview** the questions are formulated according to the requirements of the specific situation and posed to all respondents.

<sup>1</sup> Ph.D. Cane Mojanovski led the research team. Members of the team were prof. Ph.D. Marjan Nikolovski and associate professor Ph.D. Katerina Krstevska

The structured interview tends to create the most objective conditions: all respondents are interviewed under the same criteria, and all of them are given the same time for presentation (Mojanoski, 2012 b).

The basis for the conversation consisted of 6 parts: a) demographic data; b) knowledge of corruption; c) experiences related to corruption; d) the corrupt practice; e) preparedness and determination to fight corruption; and f) development of the system for fight against corruption. The questions were mainly of a closed type and consisted of constructing scales for the degree of corruption, namely, a choice of variants on issues related to acquiring knowledge and experiences related to corruption, or in presenting forms for fighting corruption. The instruments incorporated evaluation scales (from 0 – no corruption, to 10), for the degree of corruptness of specific professions and institutions and offered possibilities to rank the forms in which the corruption is most commonly manifested. The basis for conversation had a battery of 19 questions asking the respondents to evaluate, on the graphic scale, the degree of corruption. The citizen was asked a question: “**38. Evaluate the level of corruption in the inspection bodies** (Evaluate as follows: from 0 to 10 - the most.) Encircle one score.)” The scale had a graphic form:

**38. Evaluate the level of corruption in the inspection bodies**

(Evaluate as follows: from 0 to 10 - the most. Round one score.)

0	1	2	3	4	5	6	7	8	9	10
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The team also analyzed the answers to the question: “**In your opinion, in which of the following situations the CITIZEN is most exposed to the risk of corruption?** (1 - the least, 7 the most). The respondent was asked to define a grade from 1 to 7 according to a set of situations in which the respondent (citizen) is found.

The respondents also evaluated, within these parameters, the situations with high risk of corruption among politicians, holders of state (administrative) functions and among officials are given below. The results of the evaluations of the disclosure and prevention of corruption are also presented.

## | RESULTS AND DISCUSSION

The research set a battery of 17 questions. The respondents were asked to evaluate the degree of corruption (for example: [“**24. Evaluate the level of corruption among policemen and police officers**”] - Evaluate as follows: 0 no corruption, 1 - the least to 10 - the most. Encircle one score.]). Based on such requirements, citizens determined the level of corruption in certain activities, professions, and institutions. The following are the average grades:

**Table number 1.**  
**Ratings on the degree of corruption from 2013 to 2017 - the weighted arithmetic mean**

Order	Activities, professions, and institutions rated according to the degree of corruption	Year the survey was conducted:				
		2013	2014	2015	2016	2017
1.	In everyday situations of citizens	6,60	6,90	6,69	6,48	6,75
2.	In political parties	8,04	<b>8,09</b>	<b>8,07</b>	<b>7,81</b>	8,00
3.	Political leaders	<b>8,06</b>	7,93	8,01	7,78	<b>8,08</b>
4.	Holders of state (administrative) functions	7,88	7,73	7,66	7,38	7,70
5.	Civil servants	7,59	7,48	7,31	7,07	7,35
6.	Policemen and police officers	7,02	7,36	7,23	7,07	7,28
7.	Customs and customs officers	8,18	7,96	7,69	7,26	7,73
8.	De nationalization bodies	6,53	6,49	6,33	5,80	6,15
9.	Sales of state owned land	6,96	6,84	6,87	6,45	6,54
10.	Inspection bodies	7,60	7,48	7,28	6,87	7,05
11.	Doctors and health workers	7,23	7,33	6,78	6,32	6,57
12.	Judges	7,97	8,02	7,48	7,04	7,25
13.	Prosecutors	7,27	7,43	6,72	6,40	6,78
14.	University professors	7,12	7,28	7,13	6,37	6,72
15.	Journalists	5,96	6,49	6,06	6,08	6,18
16.	Non-governmental organizations	5,16	5,45	5,27	5,14	5,15
17.	Private entrepreneurs	5,60	5,76	5,43	5,60	5,63

The table presents the evaluated degree of corruption in a particular institution or profession according to the research results in 2013, 2014, 2015, 2016 and 2017. The score is built as a weighted (scaled) arithmetic mean of the responses of 1 - the least to 10 (most corrupt). The calculation does not include the respondents who answered with 0 - no corruption. If one looks at the results of the top five functions, professions and activities individually, the description will look as follows: in 2013, citizens gave "Customs and Customs Officers" the highest negative rating with an average score of 8.18, from a possible 10 (the most). Next are "political leaders" with a degree of corruption of 8.06, followed by "political parties" with 8.04, "judges" with 7.97, "holders of state (administrative) functions" with a score of 7.88. In 2014, that distribution was slightly different. The most corrupt are the "political parties" with a score of 8.09, followed by "judges" with a score of 8.02 (somewhat lower than the evaluation in 2013), followed by "customs and customs officials" with a score of 7.96. The next score refers to "political leaders" with an average of 7.93 and in fifth place are "holders of state (managerial) functions" with an average score of 7.73. In 2015, "in political parties" were rated as most corrupt with an average score of 8.07, followed by "political leaders" with a score of 8.01, "customs and

customs officials” with 7.69, “holders of state (administrative) functions” 7.66 and “judges” with a corruption score of 7.48. In 2016, the tendency continues and “political parties” are rated as most corrupt with 7.81 and “political leaders” with 7.78. They are followed by “holders of state (administrative) functions” with an average score of 7.38, “customs and customs officials” with 7.26 and “civil servants” with a score of 7.07 and “policemen and police officers” with the same score (7.07). We can note that the total scores in 2016 are somewhat lower than in the previous three years when they were above 8. In 2017, the tendency of scores above 8 continuous. The most corrupt are the “political leaders,” with an average score of 8.08, then “political parties” with 8.00, “customs and customs officials” with 7.73, “holders of state (administrative) functions” with 7, 70 and “civil servants” with a score of 7.35.

We can conclude that in the perceptions of the respondents the first five most corrupt institutions or activities are: a) political leaders, b) political parties, c) customs and customs officials, d) judges and e) holders of state (administrative) functions.

Why are perceptions dominantly grouped around these five groups of activities, professions, and institutions? The answer points to the social relations in the country, primarily to the absence of the rule of law, the visible insufficiency of the democratic processes in the country, the pronounced presence and uncontrolled action of “state apparatus”, in particular the lack of control over the intelligence and counterintelligence services, the emphasized personalization of certain functions, the manifested absence of legal and other responsibility for the actions of the holders of public office and other duties.

Subjects of analysis are also two groups of questions on the level of exposure of public servants and entrepreneurs to the risk of corruption. Therefore, in the survey, a battery of questions was set (from 1 - the least to 7 - the most) to assess in which situations the citizen is most exposed to the risk of corruption.

**Table No. 2. In your opinion, in which of the following situations the CITIZEN is most exposed to the risk of corruption?**

		Year the survey was conducted:				
		2013	2014	2015	2016	2017
1.	in situations where he/she wants to avoid the consequences of the committed offenses (traffic, financial and similar)	3,53	3,70	3,78	3,68	3,45
2.	when he/she wants to exercise his/her legal rights at a public administration body within a short period and outside the procedure	3,34	3,66	3,59	3,61	3,67
3.	when he/she wants to obtain property gain under the law in a shortened procedure	3,59	3,86	3,90	4,09	3,80
4.	when looking for a job (employment) and promotion	3,83	3,97	4,03	<b>4,47</b>	4,54
5.	when he/she wants to make a profit (property or other) or to speed up the process outside the procedure	4,26	4,08	<b>4,25</b>	4,19	4,42
6.	when enrolling in a university or taking an exam	4,47	4,28	4,21	3,94	<b>4,64</b>
7.	when exercising the right to health insurance (acceleration of health interventions)	<b>4,98</b>	<b>4,45</b>	4,24	4,03	4,00

The table indicates that the citizens in 2013 and 2014 were most exposed to corruption when exercising the right to health insurance; in 2015, “when he/she wants to make a profit (property or another), or “speed up the process outside the procedure”, in 2016 when “when looking for a job (employment) and promotion” and in 2017 “when it should be enrolled at the faculty and taking the exam”. It is interesting to note that in 2013 and 2014 the situations “when enrolling in a faculty and taking an exam” were rated second, in 2015 the situations “exercising the right to health insurance (acceleration of health interventions), in 2016 situations “when he/she wants to make a profit (property or another), or speed up the process outside the procedure” and in 2017 situations “when looking for work (employment) and promotion.”

In the five years of research related to the perceptions of the citizens of the Republic of Macedonia, the position that the private sector is most often exposed to the risk of corruption in the “situations when double standards are applied when performing activities related to relatives and friends” was ranked the highest. The second place presents oscillations from year to year.

What are the citizens’ assessments of the politician’s exposure? They were asked to rank the situations according to the degree of importance, with 1 indicating those situations where there is least exposure and 7 where that exposure is the highest. The respondents assessed the level of exposure of politician in the following five situations: “1. in situations of political agreement (coalition



agreements, etc.) with other parties (politicians)”; “2. in political agreement with the holders of public office (members of the Assembly and Government and other officials)”; “3. in election situations (to win voters) “; “4. in situations of possible use of the political influence (power) for the realization of material and other personal gain “and” 5. when participating in commissions, especially for public procurement “

**Table No. 3. In your opinion, in which of the following situations, the POLITICIAN is most exposed to the risk of corruption?**

		Year the survey was conducted:				
		2013	2014	2015	2016	2017
1.	in situations of political agreement (coalition agreements, etc.) with other parties (politicians)	3,03	3,03	2,95	3,14	3,33
2.	in political agreement with the holders of public office (members of the Assembly and Government and other officials))	3,23	3,07	3,13	3,19	3,48
3.	in election situations (to win voters)	<b>3,65</b>	<b>3,68</b>	<b>3,64</b>	<b>3,79</b>	<b>3,77</b>
4.	in situations of possible use of the political influence (power) for the realization of material and other personal gains	3,35	3,29	3,31	3,37	3,48
5.	when participating in commissions, especially for public procurement	3,23	3,06	3,12	2,98	3,12

According to the respondents in all the five options offered the politicians are the most exposed to corruption “in election situations (to win the voters).” The **Weighted** arithmetic mean shows that in the past five years the citizens who participated in the survey have a consistent view that the exposure to corruption is highest in situations of elections. In fact, they detect a presence of electoral corruption. The second place is held, in all the years, by “4. in situations of possible use of the political influence (power) for the realization of material and other personal gains.” The ratings show they are somewhat lower but are unusually high, they exceed a value of more than three and a third, which in one way or another determines that citizens have a general perception that the power expressed as a political influence is one of the assumptions for the realization of material and other personal benefits.

The respondents were asked to rank the situations where the holders of state (administrative) functions are exposed to the risk of corruption. A set of four situations was offered.

**Table 4. In your opinion, in which of the following situations, the HOLDER OF STATE (ADMINISTRATIVE) FUNCTION is most exposed to the risk of corruption?**

		Year the survey was conducted:				
		2013	2014	2015	2016	2017
1.	in the administrative procedure, in the situations, when deciding on regular administrative matters	2,26	2,28	2,29	2,33	2,53
2.	in the administrative procedure, when deciding on administrative disputes;	2,57	2,52	2,54	2,59	1,89
3.	when conducting public procurements	<b>2,99</b>	<b>2,89</b>	<b>2,89</b>	<b>2,86</b>	<b>2,84</b>
4.	in situations of official treatment of parents and friends	2,75	2,65	2,67	2,70	2,80

The assessment of the respondents in the five years of the research is that the holders of state and administrative functions are most at risk of corruption when “conducting public procurements.” The situations “official treatment of parents and friends” are next. The data indicate that when there is economic stagnation, high unemployment, and when the state (especially the state bodies, and their holders) is the most important economic entity conducting public procurement procedures, the risk of corruption increases. Thus, holding a function means possession of power reflected in the handling the requests by relatives and friends. It is an indicator of the inequality of citizens in the procedures before the state bodies.

In the context of the debate on the exposure to the risk of corruption, the research also checked the situations when the official, in his work at these bodies, can be exposed to the risk of corruption.

**Table No. 5. In your opinion, in which of the following situations, the OFFICIAL is most exposed to the risk of corruption?**

		Year when the research was conducted:				
		2013	2014	2015	2016	2017
1.	in the administrative procedure, in the situations, when deciding on regular administrative matters	2,24	2,17	2,28	2,29	2,54
2.	in the administrative procedure, when deciding on administrative disputes;	2,56	2,43	2,52	2,53	2,63
3.	when conducting public procurements	<b>2,94</b>	2,85	<b>2,89</b>	2,77	<b>2,84</b>
4.	in situations of official treatment of parents and friends	2,79	<b>2,92</b>	2,65	<b>2,82</b>	2,76

In 2013, 2015 and 2017 the respondents considered that the official is also at risk in situations “during public procurements,” and in 2014 and 2016 they considered that the official is most exposed to risk “in situations of official treatment of parents and friends.” The conclusion is that in the perception of citizens there is a certain degree of consensus on the exposure to risk of the holders of state and administrative functions and of employees as officers.

We will present below two distributions related to the evaluations of the respondents on how to disclose and prevent corruption? The average rates of the question how they consider it can be disclosed are given bellow, by years.

**Table No. 6. In your opinion, how can corruption be disclosed?**

		Year the survey was conducted:				
		2013	2014	2015	2016	2017
1.	by reporting the acts (actions) by the individual (citizen) with a known identity	3,84	3,79	4,19	3,81	4,19
2.	by anonymously reporting acts of corruption (actions) by the individual (citizen)	4,29	4,26	4,49	4,34	4,49
3.	by inspection supervision of the administrative bodies	4,54	<b>4,74</b>	4,60	4,36	4,60
4.	by the work of the competent bodies and institutions responsible for the fight against	<b>4,76</b>	4,71	4,80	<b>4,64</b>	4,80
5.	by operational-tactical measures and investigative actions of the law enforcement authorities	4,65	4,30	<b>4,85</b>	4,58	<b>4,85</b>
6.	by special investigative measures for detecting corruption	4,73	4,47	4,75	4,59	4,75
7.	with the assistance of the media	3,81	3,62	3,96	3,61	3,96

From the distribution we can conclude that the respondents in 2013 and 2016 considered that disclosure resulted from the work of “competent authorities and institutions responsible for the fight against corruption”; in 2015 and 2017 that it can be achieved “by operational-tactical measures and investigative actions of the law enforcement authorities” and in 2014 “by the inspection supervision of the administrative bodies.” From the results, we can conclude that the respondents perceive the manner of disclosing corruption in different ways. The distributions show that respondents rate relatively high the ways of disclosing corruption. Bearing in mind that the scores are in the range from one to seven, there is almost no score that is less than half. They all show a score higher than half of the total score, indicating that respondents in the structure of the responses show a sense of the differences and the effectiveness of the means for disclosure of corruption.

**Table No. 7. In your opinion, how can corruption be prevented?**

		Year the survey was conducted:				
		2013	2014	2015	2016	2017
1.	by developing and applying anti-corruption strategies, establishing and acting anti-corruption bodies, etc.	4,73	4,83	<b>5,87</b>	4,69	5,17
2.	by aligning the national legislation with international documents dedicated to the suppression of corruption	4,52	4,42	5,05	4,37	4,85
3.	by a stricter punishment of perpetrators of criminal acts in the field of corruption	<b>5,76</b>	<b>5,60</b>	5,04	<b>5,70</b>	<b>6,00</b>
4.	by giving greater authority to the bodies implementing the law on preventive action against corruption	5,13	5,04	4,71	4,99	5,28
5.	by educating the population	4,30	4,08	4,66	4,32	4,46
6.	by reducing the risk of corruption eliminating all possibilities for corruption of functions and state services	4,90	4,62	4,55	4,54	4,77
7.	by adopting and implementing an anti-corruption code for officials and civil servants	4,78	4,56	4,39	4,39	4,62
8.	by adequate application of the legislation	5,29	5,13	4,15	5,06	5,16

The perceptions of the citizens in the four years, except in 2015, show a differentiated belief in punishment and strict penal policy, and they rank the highest “by a stricter punishment of perpetrators of criminal acts in the area of corruption.” The respondents who dominantly opted for the prevention of corruption “by developing and applying strategies for fighting corruption, establishing and acting anti-corruption bodies, etc.” have a different perception.

## CONCLUSION

No doubt corruption as a social trauma, manifested in different forms and affecting the overall social life, is part of the normative order of the modern state. The normative framework encompasses the instruments for initiation of procedures related to corruption and sanction of criminal conduct. The fact that all forms of corruption do not have to be a criminal offense must not be neglected, meaning that corruption, according to its content, spreads beyond the limits of the criminal law.

Corruption is a sophisticated crime with obscure borders, and it is often challenging to differentiate the perpetrator from the victim. It does not have to be a one-dimensional transaction where the active element forces the passive one: the two sides can have a mutual benefit, and the victim can be a third person or the community as a whole. Moreover, there are cultural and social

factors that can additionally blur this issue. Giving gifts as a sign of gratitude or surpassing bureaucratic obstacles, can be considered acceptable in one culture, but unethical in another.

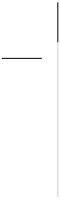
The research indicates that in the Republic of Macedonia the content of the term corruption is complex. There is no clear and precise knowledge, pointing to the need to provide information and raise people's knowledge and awareness of the need to participate in the efforts of the community to deal with this complex social phenomenon. The answers to the questions indicate that more or less one fifth of the respondents under corruption imply giving, receiving bribes, abuse of authority and illegal mediation. The proportions indicate that notwithstanding the powerful media treatment of corruption, the knowledge and understanding of the citizens of the Republic of Macedonia are not clear. Namely, the relatively low percentage of respondents stating that corruption implies giving bribes can indicate that in the cultural background of the respondents there are notions that giving a gift for the finished work is considered expressed attention, not a form of corruption.

The results of the research point to the fact that corruption is present in the Republic of Macedonia. Citizens dominantly think that it is mainly present in the holders of functions, in institutions, especially those providing public services, but also in the law enforcement authorities and certain civil society elements. Such transections indicate that corruption is a severe trauma and a threat to the social development of the Macedonian community and that it implies a public response that will suppress the sources of its existence.

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# THE REGULATORY REFORM: INTERNATIONAL AND DOMESTIC EXPERIENCES AND CHALLENGES

## THE NEED FOR A QUALITY REGULATORY ENVIRONMENT

For the development of society and economy, nothing is more important than good regulation. This includes laws, formal and informal guidelines and rules that are followed at all government levels, as well as rules of non-profit and self-regulatory bodies commissioned with regulatory power by the government.

The regulatory reform is one of the prerequisites for a favorable legal and regulatory environment. It deals with changes that enhance the quality of the regulation in order to achieve better economic performance, efficiency of spendings and judicial quality, and to improve other government activities. It is closely linked to competition, since one of its main goals is to boost the efficiency of the national economy. The reform includes a system of various instruments

and methods for different levels of state involvement in solving issues, which results in a continuum of optional and compulsory instruments. The optional ones include no or minimum state participation, while the compulsory ones do not leave much space.<sup>1</sup>

The regulatory reform originates in the deregulation during the 1970es, which had been a consequence to the rapid increase in the number of regulations during most of the 20th century, and the awareness that this harms trade and hampers entrepreneurship and innovation. Paired with a policy to increase the competitiveness of the markets during the following two decades, the deregulation grew into a revelatory reform.

Many surveys confirm the opinion that the efficiency and quality of regulation affects private investments and economic performance, and that there is a strong correlation between the quality of regulation and economic growth.<sup>2</sup> It benefits consumers and users of services, since regulatory reforms can directly influence productivity, as well as the quality and diversity of services and products.

A key question to be discussed in this paper is whether regulatory reforms achieve their goals and what their limitations are. In particular, we will give an overview of the development of measures, causes, and changes, as well as an assessment of the effects of regulatory reforms in Macedonia and other countries. As for the methodological approach, we analyzed the content of the regulatory reform documents and the reasons for its upgrading, comparative research carried out by the OECD, relevant independent surveys and domestic indicators that are used by the institutions, as well as the role of the Assembly.

## THEORETICAL ASPECTS

There are two key theories that explain the essentials of regulatory reforms. According to the first one, governments introduce regulatory reforms in „hard times“, when the fiscal balance is shrinking,<sup>3</sup> while the second one claims that regulatory reforms usually follow changes in governments and are mostly initiated during the „honeymoon“ of the new political forces in power.<sup>4</sup> The effects can be boosted if the political forces in question form „reform governments“ or if their leaders are especially dedicated to reforms.<sup>5</sup> The latest OECD surveys on policy reforms suggest that crises create significant

1 Howlett, Michael, M. Ramesh: *Studying Public Policy. Policy Cycles and Policy Subsystems*. 1995, p.148

2 Jalilian, Hossein, Kirkpatrick, Colin and Parker, David: *The Impact of Regulation on Economic Growth in Developing Countries: A Cross-Country Analysis*, Volume 35, Issue 1, January 2007, p.95

3 Drazen, A., Grilli B.: *The Benefit of Crises for Economic Reforms*, American Economic Review, 1993, vol. 83, issue 3, p.601

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4 Williamson, J.: *The Political Economy of Policy Reform*. Washington: Institute for International Economics. 1994, p.26

5 Harberger, Arnold C.: *The Search for Relevance in Economics*, American Economic Review, American Economic Association, vol. 83(2), 1993, p.3

opportunities for reform, since governments can „seize the moment“ of economic crises for structural reforms in different policy spheres, including „reforming the reformers“ and changes to public administration procedures.

Regulatory Impact Assessment (RIA) is a key concept for regulatory reforms which originates from the US and is spreading across Europe and the entire world, as various authors have elaborated on, including Wiener, Jacobs, Kirkpatrick, Parker, and Zhang.<sup>6</sup> This instrument has become an integral part of smart regulation<sup>7</sup> based on systematic consultations, clear criteria for the choice of policies, and an economic analysis of how costs and revenues affect a wide range of stakeholders. Other authors appreciate RIA as a tool for transparent, open, and consequently democratic regulatory governance in multi-level political systems such as the European Union.

According to OECD analyses, the lack of regulatory reforms to advance a functional market economy can cause a serious risk of corruption in both the public and the private sector, a boost of informal economy, and a decrease in employment and incomes.

Regulatory reforms are broadly criticized, mainly due to their failure to create greater profitability and efficiency in the public administration's use of RIA as a consistent analytical process for systematically determining and evaluating the expected impacts. Research has revealed many shortcomings, particularly the exaggerated calculation of costs for the RIA, which,<sup>8</sup> in turn, is criticized as routine completion of forms, instead of a sincere attempt at learning from empirical data. Hence, RIA can also become an additional bureaucratic hurdle, with the sole effect of reducing the quantity of new regulations. Another criticism is that regulatory reforms cannot easily be adapted to new systems.

We will proceed with a short overview of the OECD's continuing role in stimulating regulatory reforms (recommendations and best practices), as well as of the EU programs for better, „smart“ regulation. In the second part, we will compare the assessments from the 2016 report of the European Commission on the Republic of Macedonia and the indicators from the Public Administration Reform Strategy 2018 – 2022 (together with the relevant acts passed by the Government) to official statistical data and citizens' perceptions about their involvement in the adoption of the domestic regulation and whether the state assesses the expected costs for adopting new laws. Finally, we will come to the challenge: the Assembly should adopt a coherent and solid regulation with efficient supervision, as a key prerequisite for a positive development of investments and economy as a whole.

<sup>6</sup> Radaelli, Claudio M. and De Francesco, Fabrizio: *Regulatory impact assessment*, Oxford, 2010, p.2

<sup>7</sup> OECD: *Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance*, Paris, 2002

<sup>8</sup> Radaelli C. M.: *What Does Regulatory Impact Assessment Mean in Europe?* Related Publication 05-02, AEI-Brooking Center for Regulatory Studies, Washington, DC, 2005, p.937

## TOWARDS THE CHALLENGE OF HIGH QUALITY AND „SMART“ REGULATION – OECD RECOMMENDATIONS AND PRINCIPLES

The OECD played a key role in stimulating regulatory policies. In the Organization's work, regulatory reforms imply changes that improve the quality of regulations. These changes increase the effect or the efficiency of spendings, the judiciary quality of the regulation and the related government formalities. Reform can mean the revision of a single regulation, the abolition and reconstruction of the entire regulatory system and its institutions, or the improvement of regulation-making processes and reform management. Deregulation, in turn, is a part of regulatory reforms that refers to partial or complete abolition of the regulation in one sector, in order to boost the economic effect.<sup>9</sup> There are three categories of regulation: economic, social, and administrative. Economic regulation directly intervenes in market decisions. The goal of reforms in this sphere is to increase economic efficiency and reduce barriers for competition and innovation, often by means of deregulation, or regulation that promotes efficiency by improving the regulatory frame for market processes. Social regulation protects public interests such as health care, security, and social cohesion. Reforms in this area aim at reinforcing the fact that regulation is necessary and at designing regulatory and other instruments. Administrative regulation, finally, includes all documents and formalities, the red thread, so to say, to help governments to collect information and to intervene. The aim of administrative reforms is to dispose of useless regulations, to simplify the necessary ones and to enhance the transparency of their implementation.

The „Recommendation on Improving the Quality of Government Regulation“ of 1995 was the first joint document on regulatory principles of the OECD member states. Broadening the scope of this text, the OECD published the „Report on Regulatory Reform: Synthesis“ in 1997 on request of the OECD Ministers, which presented a comprehensive regulatory reform action plan with recommendations to the member states on how to improve regulatory policies and instruments, how to strengthen the openness of the market and competition, and how to reduce regulatory burdens. Based on the 2005 principles, the OECD Council adopted the „APEC-OECD Integrated Checklist on Regulatory Reform“ and a new set of „Guiding Principles for Regulatory Quality and Performance“,<sup>10</sup> which include the following key principles: adoption of extensive regulatory reform programs at the political level with clear goals and implementations frames, assessment of the effects, and a systematic revision of the regulations in order for the goals to be realized efficiently in a complex and ever-changing environment, ensuring that the regulations and

<sup>9</sup> OECD: *OECD Report on Regulatory Reform*, Paris, 1997b, p.6

<sup>10</sup> OECD (2005a), *OECD Guiding Principles for Regulatory Quality and Performance*, OECD, Paris.

regulatory institutions are transparent and non-discriminating, and revision and strengthening of the efficiency and competition policy. Although the 2005 principles are still relevant, the OECD member states have acknowledged the need to broaden their scope, based on recent developments such as the global financial and economic crisis.<sup>11</sup>

In 2012, the OECD adopted the „Recommendation of the Council on Regulatory Policy and Governance“, which was the first international instrument on regulatory policy and governance, viewed as the sum of government activities that can and must be carried out by the competent ministries, regulatory and competitive agencies. The impact of the financial and fiscal crisis, social changes and ecological challenges point to the need of a firm regulation framework as a basic requirement for a sound functioning of markets and societies, environmental protection, and economic growth.

The Recommendation endorses the measures that governments can and have to take, in order to support the implementation and advancement of systematic regulatory reforms and to adopt regulations that, on the one hand, satisfy the goals of public policy and, on the other, have a positive impact on economy and society. These measures are integrated in a comprehensive policy cycle with regulations that are designed, assessed and evaluated ex ante and ex post, revised and implemented at all government levels, and supported by the competent institutions. Many topics, such as the consultation and inclusion of citizens, Regulatory Impact Assessment, coherence on several levels, risk and regulation, institutional responsibility for policy coherence, supervision, and the role of regulatory agencies, are increasingly developed in practice, rather than in the OECD Principles of 1995 and 2005. The Recommendation principles provide states with a basis for a comprehensive assessment of the performance of the policies, tools and institutions that reinforce effective and efficient regulation. By means of its work program, the Regulatory Policy Committee supports states in implementing these principles.

In 2014, the OECD published „Governance of Regulators“, and in 2017 the „Best Practice Principles on Stakeholder Engagement in Regulatory Policy“ and the draft „Best Practice Principles for Regulatory Policy“.

## | EU „SMART“ REGULATION

Following the adoption of the Lisbon strategy for Growth and Jobs in 2000 and the Final Report on Better Regulation of the Mandelkern Group<sup>12</sup> in 2001, the

<sup>11</sup> Penev, S, Marušić, A.,: *Regulatory Reform in Five Western Balkan Countries: Evidence and Perspectives*, Economic Annals, Volume LIV No. 182/ July – September, 2009, p.60

<sup>12</sup> European Commission (2001), *Mandelkern Group on Better Regulation Final Report* [http://ec.europa.eu/governance/better\\_regulation/documents/mandelkern\\_report.pdf](http://ec.europa.eu/governance/better_regulation/documents/mandelkern_report.pdf)

EU's political support of the „Better Regulation“ program increased. Pointing out the importance of regulation for achieving the goals of public policy and the need for appropriate political support and resources, the Mandelkern Group Report established the main elements of regulatory reforms on EU and member state level. The „Better Regulation“ program was incorporated into the 2005 revised Lisbon strategy, with the aim to improve European and national regulation and to boost European competition. In 2006, the European Commission adopted the Better Regulation Strategy, the first comprehensive strategy for improving the quality of regulatory processes in the EU. The „Better Regulation“ program became an important element of the EU reform and brought about significant changes in the Commission's policy-making and the suggestions on regulation. Consultations with stakeholders and RIA are a crucial part of the process. The Commission took a major step with the decision that better regulation needs to be „smart“, and that it has to be part of the Commission's own working culture. Hence, it adopted the Smart Regulation Strategy in 2010, in order to further improve the quality and relevance of EU legislation. The aim of „smart“ regulation is to draft and adopt top quality regulations that are in line with the principles of subsidiarity and proportionality. „Smart“ regulation uses RIA during the entire policy-making cycle, from drafting the regulation up to its adoption, implementation, evaluation, and revision.

## | PRACTICES IN THE WESTERN BALKANS AND THE REPUBLIC OF MACEDONIA

Regulatory reform has become one of the main reform areas in the Western Balkan countries, developed under the impact of the transformation processes, the transition from socialist to market economy, and EU accession. At the beginning of the process, regulatory reform was characterized by deregulation and intensive drafting of new regulations. Changes were problematic due to the poor functioning of the outdated institutional infrastructure. The EU accession process of Western Balkan countries did not only have a positive impact on creating laws and other regulations, but also on strengthening the existing and establishing new institutions necessary for their implementation. The main shortcoming was a lack of regulation in some areas and over-regulation in others. In addition, the capacity for drafting complex legislation was disputable. The rapid drafting and adoption of laws resulted in poor quality and problems with their implementation, and the assumption that problems can be solved by means of standardization, without considering alternative methods, was not helpful either.

The political and institutional crisis the Republic of Macedonia has been facing during the past years has shown that the principles of rule of law are being strongly violated. The integrity and credibility of public institutions have been

seriously damaged by political patronage. The fact that neither the state nor the institutions were able to promptly deal with the political crisis led to the Republic of Macedonia becoming a so-called „captive state“ of captive institutions (European Commission: 2016 Report on the Republic of Macedonia).

The European Commission's 2016 Report on the Republic of Macedonia emphasized the necessity of serious and continuing political dedication to guaranteeing the independence of the public administration, notwithstanding current conditions in society. In addition, the requirements from the European Commission's Urgent Reform Priorities for the Republic of Macedonia under points a) and b) of the chapter „De-politization of public administration“ are directed at creating conditions for full compliance with the legal framework, the principle of transparency, and guaranteeing that the proceedings for employment and promotion in the public service are conducted fully observing the principle of merit.

As a consequence of the above-mentioned, the measures foreseen by the Public Administration Reform Strategy 2018 – 2022<sup>13</sup> are oriented at finding rational and realistic responses to the challenges and guidelines from the EC's 2015 and 2016 reports, the Urgent Reform Priorities for the Republic of Macedonia,<sup>14</sup> the Recommendations of the High-Level Expert Group<sup>15</sup> and the reports and assessment missions of SIGMA, as well as the contributions of the consulted stakeholders involved in the process, following the guidelines of the 3-6-9 Plan and the Program of the Government of the Republic of Macedonia.

## CHANGES OF DOMESTIC LAWS WITHOUT ASSESSMENT OF IMPACT AND FUNCTIONALITY

Regulatory Impact Assessment (RIA) is a crucial part of the policy-making process and the coordination and drafting of laws. Even though all RIA process stages are formally and methodologically determined, violation of the required procedures is evident. Paragraph 68 of the Government of the Republic of Macedonia's Rules of Procedure and the Methodology of the Regulatory Impact Assessment determine which laws the ministries are obliged to publish in the Single Electronic Regulation Register of the Republic of Macedonia (ENER) for them to be available for the public to comment on. This concerns the proposed draft laws (excluding the laws to be adopted by urgent procedure), laws for the ratification of international agreements, laws which normative legal interventions are based on, including no more technical interventions, terminological adjustment with other laws and (linguistic) editing of the legal text, the Draft Budget and

<sup>13</sup> Види: [http://www.mio.gov.mk/sites/default/files/pbl\\_files/documents/strategies/srja\\_2018-2022\\_20022018\\_mk.pdf](http://www.mio.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf)

<sup>14</sup> Види: [https://eeas.europa.eu/sites/eeas/files/urgent\\_reform\\_priorities\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_en.pdf)

<sup>15</sup> Види: [https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/2017.09.14\\_seg\\_report\\_on\\_systemic\\_rol\\_issues\\_for\\_publication.pdf](https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/2017.09.14_seg_report_on_systemic_rol_issues_for_publication.pdf)

the Budget Law of the Republic of Macedonia. Everyone interested is entitled to submit their opinions, comments and suggestions on the published laws proposed for adoption, drafts, and draft laws to the ENER within 20 days from their publication. The competent ministry should give an overview of the received opinions in its RIA report, stating the reasons why comments and proposals have not been incorporated, which is published on the ministry's website and the ENER. The proposals on the adoption of a law, the drafts and draft laws, as well as the reports, remain available on the ministry's website and the ENER for one year from the day the law has entered into force.

A public opinion survey has shown that the majority of citizens think that the general public is excluded from the adoption of laws (survey by the Institute for Democracy „Societas Civilis“ Skopje and the Center for Economic Analyses on the public perception of RIA, October 2017). A huge 77% have not even heard about the RIA tool. Every second citizen thinks that laws are adopted without assessing the accruing costs, that is, that the Government and the Assembly do not assess the costs connected to the introduction of new laws. Citizens would like to participate in the adoption of laws, but they are not familiar with the mechanisms. In their opinion, they should always have the opportunity to comment on new laws.

Experience as well as figures show that regulation in the Republic of Macedonia is being changed without applying RIA. The ENER is very poorly used by the general public. The harm that arises from the adoption of laws without appropriate analyses and consultations is certainly huge. The implementation of laws is not being monitored. A key problem is the lack of political will for the involvement of a broader public. Civil society organizations can contribute to this complex process, but they have to actively cooperate not only with each other, but also with chambers, trade unions, as well as supervision, inspection and regulatory bodies. A normative regulation of the civil sector's involvement and initiative in the reform process concerning the procedure for initiating discussion forums for citizens' participation is also being considered. In the light of the above-mentioned survey and known practices as well as poor numbers of realized RIA, the conclusion suggests itself that a serious change in the interaction between regulators, politicians, interest groups, and the general public is more than necessary.

In the Republic of Macedonia, RIA is an integral part of the process of „Policy-making, coordination and preparation of laws“. Although all RIA process stages are formally and methodologically determined, neglect of the required procedures is evident. While from 2014 to 2016, the number of draft laws prepared using RIA grew, the average annual percentage was actually not more than 53,6%.



In 2014, out of 335 laws requiring RIA that were adopted by the Government of the Republic of Macedonia, 77 (22%) were submitted to the Government together with a RIA report, the documentation for 114 (32,6%) was published by the ENER, and 40 (11,4%) were submitted to the Ministry of Information Society and Administration (MISA) for consideration. In 2015, figures were better: out of 566 laws requiring RIA that were adopted by the Government, 234 (41,3%) were submitted together with the respective report, the documentation for 136 (24%) was published by the ENER, and 80 (14,1%) were submitted to the MISA for consideration. In 2016, the Government adopted only half as many laws requiring RIA (252), 135 (53,6%) out of which were submitted together with a RIA report, and only 21 (8,3%) documentations were published by the ENER, while 76 (30,2%) were submitted to the MISA. For 2017, finally, figures are very poor: only 54 laws requiring RIA were adopted by the Government, with 43 (80%) having been submitted together with the RIA report, 45 (83 %) documentations were published by the ENER, and 76 (30,2%) were submitted to the MISA for consideration.<sup>16</sup>

As for the quality of the RIA, the MISA's analyses of the respective reports for 2014 to 2016 show that the explanations on proposed laws, goals, causes, options and potential impacts are rather general and not sufficiently elaborated, while the data on fiscal, economic, social and other impacts do not contain enough information for taking well-grounded decisions. Besides the limited information provided in the RIA reports, a derogation of the MISA's role as the ministry responsible for the control and quality of the RIA process and the content of the analyses was detected.

## THE NEED FOR AN INTEGRATED LEGISLATIVE AND SUPERVISION PROCESS IN THE ASSEMBLY

The inconstant compliance with the legislative procedure caused by inadequate process management in the ministries and skipping steps in the preparation of laws, as well as the short time limits for preparing laws and acts, result in insufficiently considered and fragmentary laws. This approach leads to the frequent adoption of amendments and waste of resources. Legislative stampede is harmful for a number of reasons, and it has a most negative impact on the quality of laws and their implementation, especially concerning economic subjects. At the same time, the lack of internal procedures within the ministries, the limited management capacity and insufficiency of systematic processed data for the necessary ex ante and ex post analyses reduce the quality of the entire policy-making process, coordination, monitoring, and evaluation.

<sup>16</sup> Public Administration Reform Strategy 2018 - 2022, Ministry of Information Society and Administration (MISA), Sector for Regulatory Reform, according to data received from ENER, the Secretariat General of the Government of the Republic of Macedonia and MISA data

Parliaments play a key role in economic reform processes. Their task is to adopt new or amend existing laws that build the framework for economic activities, with the challenge to establish coherent, efficient and stable rules. Investors insist on quality legislation which provides legal stability and serves the development of market economy. Hence, the legislative process has to be improved, from the initial stage up to the adaption of the text. To this goal, the current legislative processes in the East European countries and their shortcomings have to be identified and analyzed so that solutions for progress can be proposed.

Based on its supervisory function, the Assembly can play a crucial role in the assessment and implementation of regulation by means of reviewing the reports of the regulatory and inspection bodies,<sup>17</sup> but this process needs to be institutionally coherent and synchronized with legislation.<sup>18</sup>

The cooperation between the executive branch, the Government and the ministries, with the Assembly of the Republic of Macedonia, particularly with the Committee on European Affairs, the National European Integration Council, the Committee on the Political System, the Legislative Committee, and the Parliamentary Institute, is crucial for a quality and inclusive legislative process. Most laws are proposed by the Government: between 2014 and 2016, out of the 1070 laws that were adopted by the Assembly of the Republic of Macedonia, 1007 (94%) were proposed by the Government, whereas 63 laws (5,8%) were proposed by Members of the Assembly. These figures show quite clearly how small the role of the Assembly is when it comes to proposing regulations. Meanwhile, the aforementioned figures indicate the poor involvement of stakeholders in the preparation of laws, as well as their perception that the executive power pays little attention on expected costs when adopting new regulations. All this confirms the dominant role of the Government in the regulatory process, while the Assembly and stakeholders stay behind. The quality and legitimacy of regulation that is being adopted in this way is unnecessarily diminished, which sends an alarming signal to the actors in the political process, as well as economic actors who plead for larger economic growth.

The Assembly of the Republic of Macedonia should play a key role in the overall process of providing an inclusive, open and transparent legislative process, as well as quality, effective, applicable and accessible legislation. The Assembly has to be properly integrated into the regulatory management system and policy, Regulatory Impact Assessment, and the drafting, monitoring and ex post evaluation of the implementation of laws. In order to reinforce this key role,

<sup>17</sup> Penev, S, Madžovski, M.: *Improving the Process of Economic Reform Legislation in FYR Macedonia*, OECD, GTZ, Economics Institute, Belgrade. 2007, p.69

<sup>18</sup> OECD Investment Compact for South East Europe: *Improving the Process of Economic Reform Legislation in Western Balkan Countries*, GTZ and Economics Institute, Belgrade Penev, S, editor, Čaušević, F, Filipović, S, Madžovski, M, Mančellari, A, Marušić, A, Shap, Z, 2009, p.220

the legislative and executive power have to balance their mutual influence. Formalizing their relation, with separate roles in the creation and supervision of regulation, is not sufficient in order for the Assembly to be an equal partner. The role and significance of the latter basically depend on another regulation: the laws that govern the sphere of parties and elections, which are a precondition for an actual parliamentary constitution, resulting in a crucial role for every Assembly member in the political process. We will not dwell on this issue here, but point out that the development of a stable and consistent regulation process can only be established if the Assembly is assigned a substantial role in it, by introducing an actual system of checks and balances between the executive and the legislative power.

## | CONCLUSION

Citizens want to participate in the adoption of laws, but they are not familiar with the mechanisms. They think they should always have the opportunity to comment on new laws. A serious change in the culture of conduct between regulators, politicians, stakeholders, and the general public is necessary.

Based on the international and domestic practice of Regulatory Impact Assessment, the following challenges have been identified: excessive focus on economic indicators, unpredictability of the process, political influence, and the dissonance between theory and practice. When it comes to informing the public, notwithstanding the recommendations of the OECD, most states do not publish the RIA as early as possible, some only after consultations are closed, while some states do not publish them at all.

Quality regulation is based on comprehensive analysis that indicates potential strategies for solving problems and achieving the expected goals, a comparison of positive and negative effects, as well as costs and benefits for every strategy. Quality regulation is transparent, consistent and balanced, involving the respective stakeholders at all stages of the process. It is clear and comprehensible for everyone and provides simple procedures. It does not create useless obstacles for citizens and business, especially small and medium enterprises; it promotes competition, and it provides for achieving goals.

There is a lack of efficient mechanisms for the cooperation of the Government and the Assembly, which would allow harmonization in planning the legislative program, single rules and standards for the quality of the legislative process, and horizontal consistency of the legal system.

The spirit of parliamentary democracy and the constitution of the Republic of Macedonia imply that the Assembly should be at the center of the political system. In order to achieve this, the regulation concerning political parties

needs to be changed with respect to the legal aspects of political parties' internal organization, ways of financing, and, as a key element, the electoral system, which should allow for citizens rather than party leaders to elect their representatives. This would mean an electoral model where the personality of representatives is more important than their party affiliation, which would be the case in a majority system or a system with open lists of candidates.

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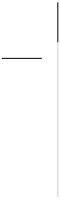
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# PARTICIPATIVE ENGINEERING OF THE CONSTITUTIONAL AND POLITICAL SYSTEM FOR A FASTER DEMOCRATIC CONSOLIDATION OF THE REPUBLIC OF MACEDONIA

## INTRODUCTION

In mid-April 2018, the Civic Initiative “Spas za Vodno” (Saving Vodno), together with nine other civil initiatives from Skopje, engaged in activities to prevent the construction of Section 5 of the Skopje-Tetovo-Gostivar Main Gas Pipeline to be built across the ridge of the Mount Vodno memorial forest, in an effort to preserve it from extensive felling and thus prevent the destruction of one of the few oases of greenery and clean air for the inhabitants of Skopje. Massive and harsh public reactions captioned as “Public Ecological Uprising” broke out in the municipality of Debrca, whose residents opposed the Government’s intention to build a regional waste disposal site near the village of Godivje. The locals accused the central government of ignoring the strong pressure they had expressed in a referendum against the construction of a landfill, stating that they would not allow the pollution of the environment. At the end of 2017 and the beginning

of 2018, the citizens condemned the large amounts of budget money spent for unjustified travel expenses of several Members of the Assembly and a number of government ministers, as well as the entire Anti-Corruption Commission. The “rebellion” of the public caused by the high fees collected by the members of the State Election Commission also falls within this framework. All these reactions led to the dissolution of the complete State Election Commission and the Anti-Corruption Commission, as well as to legal regulations to reduce the travel expenses of Assembly members. The negotiations between Macedonian and Greek diplomatic teams over the constitutional name of Macedonia, as well as the “Law on Languages” and the already adopted “Treaty of Good Neighborly Relations with Bulgaria” met with particularly fierce reactions among Macedonians as well as political and linguistic analysts, claiming that all this will lead to the “destruction of Macedonia as a state and of the identity of the Macedonian people”.

In 2016 and 2017 there had also been massive and lengthy protests in front of the Government and Assembly; on the one hand, by supporters of the “Colorful Revolution” and, on the other, by supporters of the movement “For a Shared Macedonia”, while all of them had their own views on the VMRO-DPMNE’s and its leader Nikola Gruevski’s 11-year rule over the state and its economy. In 2015 and 2016, “student”, “journalistic” and “professor” plenums, “plenums of high school students”, protests for the “Protection of the City Trade Center” in Skopje were held and there were weekly protest gatherings of citizens who claim they have been falsely charged with heating costs in front of the Regulatory Commission still continue. During the past two years, there have also been protests of the unemployed professional soldiers of the Army of the Republic of Macedonia, former workers of bankrupt state-owned factories, of FENI, Jugohrom, and other industrial companies.

What lies in the background of such a strong movement in the Macedonian social, political and economic milieu, especially in the last three years? Are we facing an activated “action potential” of the Macedonian citizens as one of the components of participative political culture (to be explained below)? Is this the beginning of the country’s democratic consolidation, and can this consolidation be sped up by using the principles and models of “participatory engineering” on the constitutional and political system? We will seek answers to these questions with the help of a qualitative comparative analysis of some characteristics and practical experiences of the political systems of Switzerland and Germany, two leading countries in Europe and the world when it comes to direct democracy and political participation of its citizens. However, we will first elaborate on the notion of political culture itself, and in particular on political culture in Macedonia, which is mosaic, fragmented and multifaceted. In our considerations

we will include the value systems of all ethnic groups in the state, rather than including just the ethnic group of Macedonians.

## PARTICIPATORY VERSUS PAROCHIAL AND SUBJECT CULTURE

Political culture of a society consists of its values, convictions, attitudes, symbols, styles, and patterns of political action and behavior. In political science literature, there are many definitions of political culture. We quote the definition of Paul Lichterman and Daniel Cefai, since it is rather activist than descriptive, compared to other determinations: "Political cultures are the sets of symbols and meanings or styles of action that organize political claims-making and opinion-forming, by individuals or collectivities. By culture, we mean patterns of publicly shared symbols, meanings, or styles of action which enable and constrain what people can say and do. ... we define culture as more than a reflection of objective interests or a set of symbolic resources that groups mobilize strategically. ... culture structures the way actors create their strategies, perceive their field of action, define their identities and solidarities. (Paul Lichterman and Daniel Cefai, 2018:392-393)

The less developed the political culture of individuals, the likelier the chance to usurp and manipulate them and their political will. Meanwhile, the more developed the political culture is, the more developed is the political community, and the very consciousness of the individual is more advanced and resistant to attempts of manipulation. Authoritarian rulers prefer parochial and subject political culture, because they help them to keep the population in a subordinate position for their purposes. Within parochial political culture, people are utterly disinterested in political life. The political subject is basically passive in political life. However, as Sidney Verba and Gabriel Almond pointed out in their famous study "Civic Culture" half a century ago, despite the authoritarianism and dominance within parochial and subject political culture, "a new world political culture with new content is emerging":

"... one aspect of this new world political culture is discernible: it will be a political culture of participation. If there is a political revolution going on throughout the world, it is what might be called the participation explosion. In all the new countries of the world the belief that ordinary people are politically relevant - that he ought to be an involved participant in the political system - is widespread." (Gabriel Almond and Sidney Verba, 1989:2)

Participatory political culture dominates in democratic governance: the citizens are aware of the meaning of political life, their life, their freedom, their rights and duties. Therefore, they actively participate in political life, elect and are

prepared to be elected. Thus, they are not just subjects or servants, but free beings who do not acquiesce to others deciding for them and take their destiny and freedom into their own hands. This kind of consciousness and readiness for activism form the democratic political culture of individuals, and, through them, of the whole society. When individual dispositions towards politics contain democratic preferences, then their aggregation results in a participatory political culture. The participatory component of the political culture in Macedonia is evolving fast against the socioeconomic and political background of the never-ending transition, paired with a dramatic increase of social, political and economic inequality in Macedonia's multi-ethnic society.

### THE LONG-STANDING POLITICAL APATHY OF THE CITIZENS

An imminent characteristic of the behavior of political leaders and political elites who want to rule society in accordance with their interests is that they strive to hinder the development of a participatory component of political culture, and that they "cultivate" the parochial and subject political culture, which supports their aspirations to conquer and retain power for as long as possible. This is the framework which the political elites in Macedonia have been acting within ever since the country's independence: they hinder the readiness of the citizens to participate in decision-making and resolving critical issues and general questions of the political community (the state and society). This readiness of the citizens is a dimension of participatory political culture.

According to the 2010 study "Civic Based Analyses" of the South East European University in Tetovo, 95 percent of the respondents across the country do not participate in social groups, such as NGOs, business associations, or trade union alliances: "... the political culture in Macedonia is more parochial than participatory, and many people distrust the political institutions, the mayor, the local government, and the media. ... people rarely contact the competent institutions by letters or e-mail about their problem." (Jovan Pejkovski, W. Bartlett et al., 2010:13)

Distrust of the state institutions and politicians, as well as the lack of a participatory component in Macedonian democracy, were also mentioned in a national field research conducted by the Institute for Democracy "Societas Civilis" Skopje, published in 2011. The researchers concluded that citizens still do not have the desire to participate actively in the political decision-making processes: "... generally, the majority of respondents deny having any interest in politics. ... the experts consulted ... agree that ... citizens are only aware of the results of the political process, but not of their role in policy making, which leads

to a lack of participatory democracy and to a weak civil society. (Siljanovska, Lazarevski)." (Nenad Markovic, Vladimir Misev et al., 2013: 8)

## SHAPING "THE CITIZENSHIP WITH ASSERTIVENESS" IN MACEDONIA

In the last ten years, along with the increase of political abstention and apathy of the citizens, the socioeconomic environment in Macedonia has begun to deteriorate, which has accelerated the deepening of poverty and inequality. When most people's lives become more and more difficult, and when they realize that the few politically privileged individuals who hold the power in their hands actually direct society's resources towards their own benefit and "privatize" the institutions of the system and the state in order to stay in power, then that is the critical moment that Russell Dalton and Christian Welzel speak of: the initiation of changes within the value system of a country's political culture and the creation of a new model of citizenship oriented towards participatory democracy. Russel J. Dalton and Christian Welzel emphasize that changes in values are manifested in the change of attitudes towards political institutions, towards practicing democracy. According to them, the definition of good democracy and good citizen changes and, also instead of faithful and devoted citizens, is created a new model of citizenship, citizenship with assertiveness and self-assuredness. In this context, these two prominent researchers in political science point out: "Changing orientations produce a general increase in post materialist and emancipative values as well as a shift in basic authority beliefs. These cultural changes manifest themselves in shifting attitudes toward political institutions, the practice of democracy and even the definition of a good democracy and a good citizen. ... For example, the traditional model of citizen included a strong priority for economic prosperity and little concern for environmental protection. The new pattern of assertive citizenship heightens environmental concerns." (Russell J. Dalton and Christian Welzel, 2014:10).

In Macedonia many citizens continue to consider parties as "employment offices" and expect to get employed in state institutions or public enterprises after becoming party members, for themselves or their children. Many citizens still expect political parties and elites to solve their life issues and problems, without wanting to have a say themselves in the "tailoring" of economic and public policies. Nevertheless, there is another tendency, too: a growing number of citizens is, slowly but gradually, adapting "citizenship with self-confidence and self-assuredness", for which Dalton and Welzel speak. This "new kind of citizens" increasingly strive to do more for themselves, demanding active treatment and participation in the policies of the country, less and less expecting others (elites, parties) to decide on their lives and destinies.

Citizens have begun to realize that they need to do more than vote once in four years, be it on a new composition of the Parliament, the president of the Republic, or mayors and councils in the municipalities. Although “party matrixes of thinking” and constraints on the public opinion are still relatively strong, the latter is becoming more distinct and exercising pressure on the political decision-makers, demanding measures for a more equal distribution of the society’s resources, for greater equality of people considering their access to the labor market, education systems, health, and social protection. New democratic aspirations, ideas and initiatives, new individual and collective preferences for participatory political culture spread in the public sphere. Macedonian citizens are less prone to accepting the role of “political parishioners” or “political subjects” without demands and expectations from the state and politics. A more significant number of the Macedonian citizens are ready to “challenge” the established political authorities and forms of governance.

All the protest actions mentioned in the introduction, whether they originate from the “Colorful Revolution” or the movement “For a Shared Macedonia,” are, in general, part of Macedonia’s political life. They all represent an indicator of a wider range of developments in the political arena, showing the activated “action potential” of Macedonian citizens, regardless of their political beliefs or ethnicity. As Stjepan Gredelj states: “The ‘action potential’ of citizens should be understood as their readiness for active participation in decision-making and in resolving key problems and issues within the political community (state and society). The ‘action potential’ of citizens is a dimension of participatory political culture, while the key features of parochial and subordinated political culture are (in)action, boycott, passivity, retreat ... The action potential includes the readiness for legalistic action within the system, organized and spontaneous civic disobedience, civic and social engagement of prolonged duration (movements), direct action (protests and demonstrations).” (Stjepan Gredelj, 1999).

## | NEW PARTICIPATORY PREFERENCES

In his classic study “The Passing of the Traditional Society” of 1958 Daniel Lerner described how socioeconomic development and cognitive mobilization of citizens can lead to changes in the political culture of a nation and bring about the transition from parochial and subject to increasingly participatory orientations. Lerner relied heavily on the role of media in such structural changes of the political culture. Indeed, critical public opinion plays a vital role in mobilizing the citizens’ action potential and replacing the still dominant parochial and subject political culture with a participatory one. At the same time, civil society

with its self-organized actors significantly contributes to the functioning of the public sphere and the political activism of citizens. Political elites always tend to stifle the development of a critical public sphere, so that citizens cannot be empowered to exercise effective democratic control over their activities.

However, in Macedonia's public sphere, individual aspirations, ideas and initiatives for change, as well as new individual thought structures already circulate, mixed with negative emotions and personal preferences against political elites who hamper people's basic existence, plunging them deep into poverty and hopelessness. The citizens' newly adopted political attitudes and habits will inevitably lead to a reinforcement of their political behavior: active participation in political life, which generates individual and general preferences for a dominant participatory political culture.

A higher frequency of individual orientations with elements of political participation creates a variable at the societal level, and, through group dynamics and broader social interactions, individual political behavior based on democratic preferences increasingly opposes "group loyalty" and "affective devotion to political parties." This indicates an orientation towards "bottom-up" democracy, as well as the suppression of elements of the parochial and subject political culture on the periphery of the cultural milieu. Just like during the past 20 years, the political elites in Macedonia continue to try to "pacify" the activated constructive energy of the citizens to change the socioeconomic and political reality, but the formation of participatory citizenship continues, and it cannot be stopped.

## THE NOTION AND STRATEGIES OF "PARTICIPATORY ENGINEERING"

The intent of this paper is to demonstrate introducing the concept of "participatory engineering" into the constitutional and political system of Macedonia by implementing a precise program of institutional reforms into the legislation, and, if possible and necessary, into the constitution itself, along with the influence of a critical public opinion on the political activism of citizens. The question is: what kind of reforms are needed to create a behavioral effect? Thomas Zittel explains what "participatory engineering" is and why this concept was created: "These are initiatives in the sphere of public policy in established democracies to counter the decline in political participation. The initiatives can be systematically understood through the concept of participatory engineering. This concept marks a deliberate attempt by the political elites to positively influence the level of political participation through the increase of institutional opportunities for participation." (Thomas Zittel, 2008:120).

In another study, this expert on comparative policy states what strategies are needed to achieve democratic reforms in the political system, in order to institutionalize the conditions for increasing the quantity and quality of the political participation of citizens: "... can be constructed ..." expansive democratization", "integrative democratization" and "effectiveness-oriented democratization". These are three different strategies for participatory engineering, with 'integrative democratization' being the primary strategy, the core of participatory engineering ... Each of these three strategies is characterized by different institutional structures for implementation in the course of the reforms, with varying types of participation concerning these structures..." (Tomas Zittel, 2012:223-228). According to Zittel, the strategy of "integrative democratization" provides the most effective mechanisms to increase the quantity and quality of political participation. Nevertheless, he warns that policymakers will be most unlikely to implement those measures, which are most promising regarding their behavioral effects.

In countries where democracy is established, there are significant efforts to increase the institutional opportunities for political participation of citizens by applying participatory engineering and strengthening direct democracy, both at local and state level. With the help of a qualitative comparative analysis, we will examine the political participation of citizens and the practice of direct democracy by its two primary instruments, the referendum and the people's (civic) initiative, in Switzerland and Germany, the two leading European countries in this area. Then we will analyze the respective situation in Macedonia.

#### REFERENDUMS AND PEOPLE'S INITIATIVES IN SWITZERLAND AND GERMANY

Switzerland has envisaged the concept of civic participation, based on the principle of direct democracy. The Swiss constitution requires changes to this most important legal-normative document to be put to a referendum. Referendums can be held on federal laws, and the citizens themselves can propose constitutional changes by means of a referendum. The Swiss cantons, as institutions of direct democracy, can organize constituent, legislative, financial (fiscal) and administrative referendums, as well as civic (people's) initiatives, which can be mandatory or optional.

Nadja Braun specifies the dynamics of holding referendums in Switzerland: "Switzerland is a federal state with 26 cantons and some 2.740 municipalities. Swiss voters have the right to vote at federal, cantonal and local levels. On average, four times a year referendums are held at all three levels. ... Swiss voters may also propose a partial, or full revision of the constitution (articles 138 and 139 of the federal constitution). Before such a civic initiative is officially



confirmed, signatures of 100 thousand citizens (approximately 2 percent of the electorate) should be collected within 18 months.” (Nadja Braun, 2008:27). In 2013 alone 11 national referendums were held in Switzerland. Voters approved of six proposals on the following issues: spatial planning, cash payments including company pay bonuses, family policy, changes to the law on asylum, and increasing the work hours of gas stations. The remaining five proposals were rejected: on direct election of the Federal Council, the abolition of the compulsory military service, limiting the wages in companies to no more than 12 times the lowest wage, tax deductions for parents who do not work, and increasing tolls.

“Numerous forms and types of referendums persist on the level of municipalities”, point out Petar Matić, emphasizing: “There is a ‘people’s referendum’ as a kind of additional referendum, where voters declare their opinion on an act that has already been adopted by the municipal authorities. ... In practice, it is more common for local authorities to seek themselves that the citizens declare their opinion on a particular issue. The second type of referendum is related to the modification of local regulation, which may also require certain actions of local authorities. The third form is an abrogative referendum, where citizens declare themselves in connection with a certain already adopted act that can be put ad acta through the referendum. The next form is a referendum on a proposal that suggests the application of innovation to potentially enhance local policy, already regulated. The last model is the consultative referendum, whereby the local legislature seeks citizens’ opinion on a regulation that is in the process of preparation or adoption. The decision that will be adopted by the majority of the voters is not obligatory for the representative body of the Assembly.” (Petar Matić, 2016: 19)

In the article “*Switzerland’s Political System - Direct Democracy*”, published on the internet portal “Democracy Building: Switzerland’s Political System”, explains how the Swiss model of direct democracy, which is preferably applied by a series of other European states: “It is not the mere existence of direct democratic instruments ... but rather the frequent use of them, not only as encouraged by Switzerland’s Constitution, but as practiced with enthusiasm by the citizens. Frequent referendums do have a stabilizing influence on parliament, government, economy and society. ... Shared power motivates compromises, exclusion from power motivates obstructive referendums (the defeated party can always call for a referendum). ... As extreme laws will mercilessly be blocked by the electorate in referendums, parties are less inclined to radical changes in laws and voters are less inclined to call for fundamental changes in elections.... On the very same day, three new laws may be accepted and two others rejected.” (*Building Democracy*, 2017).

For the European democracies that are still developing, but also for political theory and practice itself, Germany's example of participatory democracy and participatory engineering is especially important and instructive for many countries in Europe and the world, especially for Macedonia, how the awareness in society matures and how is building about the need of the citizens to gain their place in the local political life, in the municipalities and regions where they live to start with a active political participation to solve their own life problems.

Theo Shiler explains: "From 1956 up to 1990 local initiatives and referendums existed only in the regional state of Baden-Württemberg. The breakdown and democratic transformation of the German Democratic Republic (GDR) in 1989–1990 opened the way in the new East German states to introduce direct democracy at state and municipal level at the same time. In the West the state of Schleswig-Holstein in the late 1980s suffered a serious legitimacy crisis from the 'Barschel affair' and the resulting new constitution of 1990 introduced direct democracy instruments at state and local levels. ... administrative reforms for municipal government in most West German states which strengthened executive power by direct election of mayors, tried to balance this by introducing initiatives and referendums." (Theo Shiller, 2017:65-66).

Since 1990 in 15 of the 16 federal states (except Baden-Württemberg) referendums and initiatives have been adopted as part of the constitution. This constitutional amendment has resulted in frequent use of direct decision-making at local level. In all of Germany, from 1956 to 2009, there were a total of 4.829 civic initiatives and 546 referendums, or a total of 5.534 civic initiatives and referendums on a variety of issues of interest to citizens: from public utility infrastructure, social services, culture, business, problems and projects of transport and traffic, to citizens' tax obligations, in relation to laws, as well as housing projects and other town planning. In each of the quoted 53 years there were about 90 civic initiatives and referendums in Germany, in its cities and municipalities. Bavaria is the leader at federal level: it implemented 2.193 civic initiatives during those 53 years.

The present-day German referendum system knows three types: the **Volksentscheid** (literally: a decision by the people) is a compulsory, binding plebiscite, but this type is used when required by the Constitution (obligatory, mandatory). The **Volksbegehren** (literally: a request by the people) is a civic initiative. If the government ignores the request, this can directly lead to a "**Volksentscheid**". The **Volksbefragung** (literally: "people's inquiry") which is optional, with optional voting. This is the most common type of referendum. At the municipal level, there are three types of referendums: the **Bürgerbegehren** (literally: "citizen's request"), a local civic initiative, the **Bürgerbefragung** (literally: "citizens' inquiry") for local citizens' voting, and the **Bürgerentscheid** (literally: "citizen's decision") for a local plebiscite.

In order to accept and conduct referendums or people's initiatives, submitted to the legislative body in the federal states or to the Government of Germany, in the case of federal referendums, different numbers of voters or percentages of registered voters (*signatory quorum*) are required. This number varies from federal state to federal state, starting from 5 percent of the registered voters in Schleswig-Holstein, 10 percent in Bremen (20 per cent when constitutional changes or new elections are required), to 16,67 per cent of the electorate in Baden-Württemberg. In Brandenburg, the requirement is 80000 signatures of voters (200.000 for new elections), in the Rhineland-Palatinate 300.000, and in Saxony 450.000. To hold a referendum or a civic initiative at the level of the Federal Republic of Germany, the signatures of 10 percent of the electors in each of the regions to which the referendum issue refers are required.

All these practical experiences from Germany and Switzerland can be analyzed as examples of participatory engineering which are acceptable and applicable in Macedonia.

## REFERENDUMS AND CIVIC INITIATIVES IN MACEDONIA

Until now Macedonia has held two national referendums. On September 8, 1991 a successful referendum on Macedonia's independence was held. On November 7, 2004 a civic referendum was held on the newly adopted territorial division law, but it was not successful. There have been some unsuccessful referendums at the local level. In their analysis titled "Referendums and Citizens Initiatives in the Republic of Macedonia", published in 2016, the Civic Initiative "AMAN" and TV A1on published striking data on the number of citizens' initiatives submitted to the councils of the municipalities that failed without a local referendums being held: "From 2005 to 2012, there was a total of 345 citizens' initiatives proposed to the Municipal Councils in Macedonia. Only two referendums were held at the request of the electorate: in Radovish in 2006, and in Strumica in 2007. These referendums were held at the request of the citizens, but the municipalities did not provide any specific data. In 16 municipalities, civic initiatives for a referendum were ignored. In Gevgelija, there were 126 such unsuccessful initiatives." ("Civic Initiative AMAN" and TV A1on, December 6, 2016).

In its report "*Third unsuccessful referendum in Macedonia*", published in September 2017, the information portal "CivilMedia" writes: "The referendum held yesterday in the Municipality of Novo Selo against the construction of the Ilovica mine and the construction of mines on the territory of the municipality failed, due to insufficient voter turnout. The referendum in Novo Selo is the sixth referendum in a row on the territory of Macedonia, and the third unsuccessful one, following the two unsuccessful referendums in Bosilovo and Valandovo. ... the referendums in Gevgelija, Bogdanci, and Dojran were successful. After

the referendum in Bogdanci, the Municipality withdrew the decision on the construction of the mine in Kazandol." ("CIVILMEDIA ", September 18, 2017).

The Macedonian constitution and the existing legislation cover the issue of referendums, however not in a way that would encourage real and effective participation of citizens in the processes of political behavior. In Macedonia, the referendum regulated by Article 73 of the Constitution of the Republic of Macedonia, which states: "The Assembly decides on issuing a notice of a referendum concerning matters within its sphere of competence by a majority vote of the total number of its Members. The decision of the majority of voters in a referendum is adopted if more than half of the total number of voters participated in the referendum. The Assembly is obliged to issue notice of a referendum if at least 150,000 voters propose one." (*Constitution of the Republic of Macedonia with the amendments to the Constitution I - XXXII* issued by PE Official Gazette of the Republic of Macedonia, Skopje, 2011). The decision made in a referendum is binding. In our opinion, a change in Article 73 regarding holding referendums at state level is needed, and it should read: "The Assembly shall issue notice of a referendum at state level on its initiative, raised by at least 20 deputies, as well as at the proposal of at least 75000 citizens." This paragraph would consequently need to be transposed in an identical form in Article 20, section 2 of the Law on Referendum (*Law on Referendum and Other Forms of Direct Expression of Citizens*, 2005).

We hold that further amendments should be made to the Constitution of the Republic of Macedonia in the segment on referendums and citizens' (civic) initiatives, following the example of the provisions of the Constitution of Switzerland. This would strengthen direct democracy and assign the role of a critical corrective to the representative democracy as incorporated by the Assembly (which has evidently atrophied in many aspects, with great neglect of the political will, the needs, and problems of the citizens). The Swiss Constitution has as many as three pages dedicated to the forms of direct democracy, where in Articles 136, 137, 138, 139, 140, 141 and 142, the mandatory and optional referendum are extensively and accurately described. The same thing should be done appropriately in the Macedonian Constitution, taking into account the specific social and political circumstances in Macedonia. The Macedonian Constitution does not at all deal with the referendum and civic (people's) initiative in a satisfactory and appropriate way, but dedicates only eight sentences in Articles 71, 72, 73 and 74 to these instruments of direct democracy, which are experiencing great expansion in many countries in Europe and the world. In contrast, the Swiss Constitution categorically stipulates that "political parties will contribute to the establishment of the opinion and will of the people" (*Switzerland's Constitution of 1999 with Amendments through 2014*: Art 137 (Federal Constitution of the Swiss Confederation of 18 April 1999 (Status as of

12 February 2017), and specifies the issues in the domain of civic (people's) initiatives that citizens can vote on at mandatory and optional referendums at the federal, cantonal and municipal level.

Since the proclamation of Macedonia's independence, one of the most severe abuses of political power by political elites, political parties and a handful of politicians was reflected in the irrational spending of the state budget and even robbery of millions of public money for private benefit. Bearing this in mind, this paper is committed to deleting paragraph 1 of Article 28 of the Law on Referendum, according to which: "A referendum at state level cannot be held on issues related to the Budget of the Republic of Macedonia and the final closing account of the Budget, on public expenditures ....", and instead introducing a new provision that foresees the possibility of holding a financial and fiscal referendum with the right for citizens to influence budget policy, public finance spending, collection of taxes and what they are spent on. The right and the possibility to hold a financial and fiscal referendum should be introduced in the Constitution, the Law on Referendum and the Law on Local Self-Government, following the Swiss model, combined with the German model of referendums.

As for the Swiss provisions and practice, we quote the following statements by Petar Matić: "One of the significant means by which citizens influence the work of their political representatives and by which they can radically change public policies on cantonal level (at the level of federal states – author's remark) is the fiscal referendum. This form of referendum refers primarily to budget policy. Citizens have extensive opportunities to influence public spending at cantonal level. As researches show, in the year 2000 a mandatory financial referendum was held in 15 cantons, where citizens decided on public finances, while in certain cases an optional referendum was applied. Switzerland applies at local and cantonal a mandatory fiscal referendum when the amount of funds for the implementation of a project exceeds a certain limit." (Petar Matić, 2016: 19). Had there been an opportunity for citizens to influence public finances, it is questionable whether 600 - 700 million Euros could have been spent on the "Skopje 2014" project.

The Swiss model provides for a mandatory and optional financial and fiscal referendum. However, having in mind how little the previous governments of the Republic of Macedonia, even the current one, have cared about citizens' attitudes towards public finance spending, we think that the respective provision from the German model of referendums will have to be applied. The Macedonian model of referendums will have to include the possibility of a Volksbegehren ("demand of the people") as a civic initiative. In case it is ignored by the government, this would directly lead to a Volksentscheid after a failure to respond to that civic initiative. The request by citizens should automatically lead

to an obligation of the government and local authorities to hold a mandatory referendum on issues raised by civic initiatives.

Macedonia should implement legislative institutional reforms that encourage and manifest the will of citizens to hold referendums and civic initiatives at the local level. Chapter IV of the Law on Local Self-Government provides opportunities for direct participation of citizens in decisions of local significance. According to Article 25, the forms of civic participation are civic initiative (Article 26), citizens' gatherings (Article 27), and referendums (Article 28). Citizens also have the right, individually or as a group, to submit proposals regarding the work of municipal bodies and municipal administration bodies (Article 29). However, at the local level, laws are one thing, while their implementation is another. At its 23rd session on 10 October 2012, the Congress of Local and Regional Authorities of the Council of Europe adopted a report titled "Local Democracy in Macedonia," which states that: "The instruments for direct and public participation of citizens at local level are not often used in practice. ... Non-participation of the local population seems to be a real problem. As early as 2004, a local government survey had shown that 'citizens feel that the municipal government does not listen to them and therefore does not represent their interests.' Although the Law on Proposals and Motions of Citizens (2006) is formally well established, in practice it is hardly applied at all. According to the participants, the instruments were only used 'once or twice in two or three years, and in specific municipalities'. ... A 10% threshold for civic initiatives can be too high, and procedures too complicated and lengthy. The result is: no initiative or referendum has been promoted so far, not even for controversial projects like 'Skopje 2014'. The authorities of the Republic of Macedonia should raise the awareness about civic participation and involvement of civil society in local political life and take the necessary steps in that direction." (Congress of Local and Regional Authorities of the Council of Europe, 2012: 5-6, 19)

Therefore, "local participatory engineering" is also needed in the Law on Local Self-Government. In Article 26, which deals with civic initiative, paragraph 1 states that "The citizens shall have the right to propose to the Council to enact a certain act or to decide upon a certain issue within its authority." According to paragraph 3, "Upon the proposal from paragraph 1 of this Article, the Council shall be obliged to discuss if it is supported by at least 10% of the voters in the municipality, that is, of the neighborhood self-government which the issue in question refers to." (Law on Local Self-Government, 2002). The threshold mentioned above should be reduced to 5 percent of the voters registered in the municipality, that is, the neighborhood self-government concerned, or the proposal for a civic initiative should arise from at least one-third of the total number of councilors in the Municipal Council. Then, the Council of the municipality will have a legal obligation to announce a local referendum on the raised issue within the legally determined deadlines.

Relevant perceptions regarding referendums and civic initiatives in Macedonia and recommendations for changes come from civil society and NGOs. Namely, 146 representatives from 73 civil society organizations, as well as scientists and independent experts who debated at the forum “Civil Society Organizations for Urgent Democratic Reforms”, held on 4 and 5 July 2017 in Skopje, participated in the drafting of the publication “CSO’s proposal for urgent democratic reforms” on public policies. In this publication, the civil society organizations and the expert public point out that the priorities are “amendments to the respective laws in order to significantly reduce the thresholds for a referendum, legislative initiative, and petition.” They also emphasized the measures necessary for the realization of these priorities: to initiate a consultation process for the adoption of a new Law on Referendum and Other Forms of Direct Democracy, as well as to ensure easier access to institutions for the registration of citizens who wish to exercise these forms of direct democracy; to provide possibility for the use of SEC’s regional offices and public spaces (for example, squares) for the collection of signatures for (local) referendums; to evaluate and, if necessary, revise the Law on Local Self-Government in order to ensure additional mechanisms for direct democracy, involvement of civil society representatives in councils, development of local strategies for cooperation with civil society (with participation of CSOs) and to ensure financial and other support to such initiatives; to organize mass and interactive media campaigns to inform citizens about participation possibilities and to stimulate civic engagement.” (*Proposal of CSOs for Urgent Democratic Reforms* “, 2017: 73).

In the same publication, the Ministry of Justice, the Ministry of Finance, the Assembly of the Republic of Macedonia, the Ministry of Local Self-Government and the units of local self-government are singled out as the “competent institutions that need to implement the priorities for urgent democratic measures within six months” *Proposal of civil society organizations for urgent democratic reforms* “, 2017: 73).

Macedonia needs participatory engineering and intensified application of direct democracy instruments for a faster democratic consolidation, in order for citizens to be treated as the key element in the creation of public policies, aimed at encouraging the development of participatory democracy that will shape the participatory political culture through interaction between public authorities/ political elites and citizens as individuals and their civic initiatives. In this context, Petar Matic explains how direct democracy forces political elites to align political decisions with the positions and demands of citizens: “The political system of Switzerland is fundamentally shaped by the institutions of direct democracy and has a wide range of constraints on political elites in the decision-making process. ... when a referendum is applied on all important public issues, there is increased pressure and constant alignment of the decisions with the citizens’ positions.”

(Petar Matić, 2016: 13-14). With the implementation of participatory engineering and the optimal fostering of direct democracy, restrictions should be expected to be established within the Macedonian constitutional and political system in order to prevent privatization and abuse of political power that devalue democracy and the role of the citizen.

## CONCLUDING OBSERVATIONS

Practicing the participatory elements of democracy in its most immediate sense means changes in the critical behavior and thinking of individuals in Macedonia's public sphere and their transformation from objects into subjects of politics. The processes leading to participatory political culture have been initiated, and they will increasingly suppress the subject and parochial political culture. This paper is a plea for the need to apply participatory engineering in Macedonia. Institutional reforms should be implemented not only in order to increase the participation of citizens in the decision-making processes, but also in order to improve the efficiency of the democratic institutions of the political system. Appropriate amendments to the Constitution of the Republic of Macedonia and the Laws on Referendum and Local Self-Government have been initiated. They are aimed to optimally force the elements of direct democracy and increase the political participation of the citizens in Macedonia, for their real involvement in the decision making processes at state and local level. However, this is not at all aimed to suppress the concept of representative democracy, but to be a critical corrective to the shortcomings in the practice of representative democracy.

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