

# **THE PAST AND THE PRESENT OF THE CONSTITUTIONAL SYSTEMS OF THE REPUBLIC OF MACEDONIA IN TERMS OF THE POSITION OF ALBANIANS**

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## **Abstract**

In this paper, the author analyzes the legal, political and historical aspects of constitutional systems of the Republic of Macedonia in terms of the position of Albanians, within the three time periods, respectively the first period which includes the socialist regime (1946-1990), the second period which includes the period after the country became independent in 1991 up to the armed conflict of 2001 and the third period which includes the period after the armed conflict of 2001 until today.

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**Keywords:** Socialist constitutions of Macedonia (1946-1974), Constitution of the Republic of Macedonia of 1991, Ohrid Framework Agreement of 2001, Horizontal vs. vertical separation of power, Inter-ethnic relations

## **Introduction**

Analysis of the position of Albanians in the constitutional systems of the country in different time periods it's important to assess the situation and prospects of constitutional development regarding inter-ethnic relations which represent a key segment of the country's European future. The paper presents the 55-year period of constitutional treatments of the Albanians in this country, whereby, it should be emphasized the opinion that in each survey period there was a lack of democratic treatment in the spirit of inter-ethnic equality between ethnic Macedonians and ethnic Albanians due to the ethnocratic dominance with the state and its institutions.

### **Position of the Albanians in the socialist constitutional systems of Macedonia 1946-1990**

The first period of the country's socialist regime is characterized by the treatment of Albanians as a "national minority", whereby this constitutional conception of Albanians has been a feature of the Constitution

of the People's Republic of Macedonia of 31 December 1946 and the Constitution of the Socialist Republic of Macedonia of 12 April 1963, which in its Preamble without mentioning Albanians, treats them with the constitutional term: "National minority-Nationality", while its Article 1 defines the state as "democratic socialist state community of the people of Macedonia"<sup>20</sup>. After the 1974 constitutional amendments, it was proclaimed although only nominally, the constitutive status of Albanians with other Yugoslav peoples. In this regard, the Constitution of the Socialist Republic of Macedonia of 1974 changed the prior constitution of 1963, by deleting the term "national minority" and replacing it with the new term "nationality" (according to Soviet ideology) and, on the other hand, its Article 1 defines the state as "national state of the Macedonian nation and the state of the Albanian and Turkish nationality"<sup>21</sup>. The degradation of this status of Albanians came through the 1989 constitutional aggression with LVI Constitutional amendment to the Constitution of 1974<sup>22</sup>, which erased the Albanian and Turkish nationality as a state constitutive subject and inaugurated only the Macedonian people as a single state constitutive subject, defining the state as a national state of the Macedonian people only, which was the direct consequence of the genocidal policy of the Serbian dictator Milosevic in Macedonia, in parallel with the abolition of Kosovo's autonomy, marking the implementation of aggressive policies and plans to demolish the Yugoslav federation, which later led to the civil war in former Yugoslavia.

### **Position of the Albanians in the constitutional system of Republic of Macedonia after independence 1991-2001**

The second period which includes the time after the country became independent in 1991 is characterized by the adoption of the Constitution of the country that passed without proper inter-ethnic consensus, i.e. RM foundation itself as a sovereign and independent state was singled out by nationalist exclusivity of Macedonian politicians versus Albanian politicians requirements for the Albanian people as a constitutive subject of the country's constitutional and political system. Consequently, the Constitution of the RM did not gain the support of the Albanian MPs from the Democratic Prosperity Party (DPP) and the Peoples Democratic Party (PDP), which disagreed with the concept of the national minority status for Albanians. All

<sup>20</sup> Constitution of the Socialist Republic of Macedonia, "Official Gazette of SRM" No. 15, year XIX, 12 April 1963.<<http://www.slvesnik.com.mk/Issues/37EB0C4961424D1286094520A974BBC9.pdf>>.

<sup>21</sup> Constitution of the Socialist Republic of Macedonia, "Official Gazette of SRM" No. 7, year XXX, 25 February 1974.<<http://www.slvesnik.com.mk/Issues/0AF2E0456C964935B7705FB5BF6F31F9.pdf>>.

<sup>22</sup> LVI Constitutional Amendment to the Constitution of the SRM, "Official Gazette of SRM", p. 530, no. 29, year XLV, 26 July 1989.

<<http://www.slvesnik.com.mk/Issues/245BBB86D1354148B0725DC74D5D893A.pdf>>.

this was a reflection of the prevailing attitude at the time that the Constitution necessarily must be adopted (impose) at any price, even despite the dissatisfaction of Albanian politicians because it meant the imposition of the will through the tyranny of the majority.

One such feature is most evident when today, 22 years after this act, the main protagonists of the time, admit that it didn't exist visionary outlooks for the rights of Albanians in the country namely that the Constitution was a big mistake or that do not clearly told what Macedonia would be constructed in the future.

In this regard, then leader of VMRO-DPMNE (Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity), Ljubco Georgievski in an interview in 2011 states that: "When we remember that time, it must be said that VMRO-DPMNE and personally I really have a concept of national express to the country, I should not call it the nationalist concept, which dealt not only with the country's independence, but also with the regulation of interior. This was not just my fault, but there was a general atmosphere in Macedonia, it was probably an indirect effect of Milosevic in the country. Macedonian political parties, from the left and right profile (including Kiro Gligorov) failed in a visionary way to watch Albanians from the start and to be given more rights to prevent certain events later"<sup>23</sup>.

On the other hand, the first President of the multiparty Parliament at that time, Stojan Andov in an interview in 2011 states that: "The third mistake was the Constitution. I was the leader of the Committee on Constitutional Affairs and we had no success to keep the acquired right of Albanians to use the language. We even removed acquired rights to them, and yet the Constitution was called as an act of treason. We had an agreement on 14.11.1991 to vote, but VMRO-DPMNE announced that it has banned members to vote for such a constitution, which called as a treacherous act and staged large demonstrations. But we do not yield to such demonstrations, but nevertheless we intervened on acquired rights of Albanians with previous Constitution of 1974, and we reduced them. This was a big mistake and one of the main reasons that foreign factor, then constantly telling us that we made the degradation of the position of the Albanians"<sup>24</sup>.

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<sup>23</sup> Interview with Ljubco Georgievski in: "Utrinski vesnik", entitled: "We were very naive", number 3668, dated: 28.08.2011.<  
<http://www.utrinski.com.mk/?ItemID=E3ABE677CC28E246A5EC9894EDFC2D58>>.

<sup>24</sup> Interview with Stojan Andov in: "Utrinski vesnik", entitled: "Macedonia later took up", number 3656, dated: 14.08.2011).<  
<http://www.utrinski.com.mk/default.asp?ItemID=92306BC0FA23A3448AE27ADA50587608>>.

Also, the former leader of DPP (Democratic Prosperity Party), Abdurahman Aliti, in an interview in 2011 states that: "The first mistake in the Constitution was that it wasn't accepted the idea for the definition of the state as a state of citizens or, as it needed to mention collectives, then it should be referred to the Albanians to. There were rigid solutions for language, higher education and the manner of decision-making in the Parliament. The mistrust was evident because neither of us didn't believe the Macedonian political parties as they didn't trust the Albanian political parties"<sup>25</sup>.

So, the constitutional system of this period was set apart by ethnocracy instead of democracy, namely constitutional privileged model reserved for ethnic Macedonians, in which any attempt to dialogue and to reach political agreement for the legitimate rights of Albanians ended with majorization process in the Parliament and in other state and public institutions. Legitimate requirements consisted of: autonomous status for Albanians, higher education in the Albanian language, the formalization of the Albanian language and national symbol, full representation in public life, inter ethnic equality, etc.

In addition, through some practical examples will be illustrated the constitutional nationalism of that period. In 1992 was organized referendum of Albanians for political and territorial autonomy, conducted by political parties, Democratic Prosperity Party (DPP) and the Peoples Democratic Party (PDP), the results of which were not recognized by the state. In 1994, three Albanian-majority municipalities, Tetovo, Gostivar and Debar, and Albanian political parties DPP and PDP with own initiative decided to establish Tetovo University teaching in the Albanian language. However, the state responded with denial and forced intervention where one Albanian was killed. On 9 July 1997, state police intervened with force in the municipalities of Tetovo and Gostivar to remove the Albanian national symbol that was placed in front of the municipalities according to the decisions of municipal councils whereby, the issue of the use of flags at that time was not regulated by law because the Law to use the emblem, flag and anthem of the Republic of Macedonia and the Law to use flags through which members of the nationalities of RM express their identity<sup>26</sup> was approved at the same day when state police intervened in Gostivar, where

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<sup>25</sup> Interview with Abdurahman Aliti for weekly magazine: "Publika" entitled: "We have not said clearly what Macedonia will build", number 4, dated: 04.01.2011.

<sup>26</sup> Law to use the emblem, flag and anthem of the Republic of Macedonia, "Official Gazette of RM", no. 32/97 (09.07.1997) <<http://www.pravo.org.mk/documentDetail.php?id=598>>. Law to use flags through which members of the nationalities of RM express their identity, "Official Gazette of RM", no. 32/97 (09.07.1997). <<http://www.pravo.org.mk/documentDetail.php?id=347>>.

four Albanians was killed and thousands was injured. So, all these events subsequently led to the armed conflict in 2001.

On the other hand, regarding economic discrimination on ethnic grounds, the former leader of DPP (Democratic Prosperity Party), Abdurahman Aliti, in an interview in 2011 states that: "We did a bad privatization. Economic experts shared view on vouchers as an acceptable model for the RM. I was not present when it received final position for the privatization model, but however, I know very well and it is absolutely true that at the last moment, decisive motive was political, not economic. All was silent with formulation given by President Gligorov: "Yes, maybe so, but are you aware that if we accept vouchers model, over 40% of social capital will pass into the hands of non-Macedonians, and with this which I propose, we will be able to pass social capital in the hands of the Macedonians by over 90%, and now you choose the best model"<sup>27</sup>.

Despite the fact that within the second period of constitutional and political system (1991-2001), as part of the five governments of RM even participated the Albanian political parties, as follows: in the first government (21.3.1991-07.07.1992) known as: "Government of experts" DPP participated with three ministerial positions; in the second government (04.09.1992-20.12.1994) again participated DPP with five ministerial positions; in the third government (12.20.1994-12.01.1998) again participated DPP with four ministerial posts; in the fourth government (01.12.1998-16.05.2001) participated Democratic Party of Albanians (DPA) with five ministerial positions, and in the fifth government known as: "Political unity government" (05/16/2001-01.11.2002) formed under international pressure over the conflict in 2001, again participated both political parties of Albanians, the DPP and DPA with three ministerial positions (a total of six ministries), still would have highlighted the finding of Florian Biber which states that: "This system can not be regarded as a form of separation of powers, but rather as an attempt to involve the Albanian political elites in power"<sup>28</sup>.

### **Position of the Albanians in the constitutional system of Republic of Macedonia after the armed conflict in 2001**

As mentioned above, third period includes the period after the armed conflict of 2001 until today. The armed conflict of 2001 ended with the signing of the Ohrid Framework Agreement<sup>29</sup> by the four main political

<sup>27</sup> Interview with Abdurahman Aliti for weekly magazine: "Publika" entitled: "We have not said clearly what Macedonia will build", number 4, dated: 04.01.2011.

<sup>28</sup> Biber, Florian, Separation of powers and the implementation of the Ohrid Framework Agreement, Friedrich Ebert Stiftung, 2008, Skopje, p. 20.

<sup>29</sup> The Ohrid Framework Agreement, 13.08.2001.

<<http://www.ucd.ie/ibis/filestore/Ohrid%20Framework%20Agreement.pdf>>.

parties of ethnic Macedonians and ethnic Albanians under the patronage of the President of the State, which key purpose consisted of the “stopping of seven months armed conflict in 2001, but without a final solution for legal and political status of the Albanians as a constitutive subject in the state system of the country”<sup>30</sup>, i.e. Interethnic equality of all citizens. In this regard, it’s important to mention the difference between the preamble of the Ohrid Framework Agreement and fourth Constitutional Amendment in force, which consists in the character of the state, respectively, the first preamble is based on civic character of the state without "ethnic cocktails", whereas the second preamble makes a mix of civic and the ethnic character, dividing citizens in the Macedonian People (Macedonian term is written in large lettering) and citizens who live within the boundaries of the state, who are part of the Albanian people, Turkish people, the Serbian people, the Vlach people, Roma people, Bosnian people and others. It is evident that the term: "part of the Albanian people" is a modern definition of national immigrant minorities to be integrated into the dominant legal, political and cultural system of the country, i.e. although the second “preamble set the citizens as a constitutive element of the state, still defines the Macedonian people as Ethnos (nation), while the Albanians as a national minority”<sup>31</sup>, respectively “under pressure of the public opinion, a new text of the preamble was proposed as a compromise and the Macedonian people were put back but as an ethnicity, and national minorities as parts of the people”<sup>32</sup>.

### **The issue of language and symbols as a parameter of inter-ethnic relations**

When considering the issue of the status of the Albanian language and the national symbol of the Albanians in RM, along with not precise constitutional and legal regulation, we must emphasize two practical examples of attitudes and decisions of the Constitutional Court of RM as the highest authority of constitutional interpretation and judicial control of constitutionality in the country, which in both cases violated the multiethnic spirit of the Ohrid Framework recycling again the concept of the nation state which was characteristic of the previous constitutional system.

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<sup>30</sup> Interview with Jeton Shasivari for weekly magazine: "Publika" entitled: "Framework Agreement had achieved the target, but not the Albanians", number 29, dated: 25.06.2011.

<sup>31</sup> Skaric Svetomir, Siljanovska-Davkova Gordana, Constitutional Law, Second Edition, 2009, Skopje, p. 176.

<sup>32</sup> Skaric Svetomir, Ohrid Agreement and minority communities in Macedonia, p. 99. <<http://www.fes.org.mk/pdf/SVETOMIR%20SKARIC%20-%20OHRID%20AGREEMENT%20AND%20MINORITY%20COMMUNITIES.pdf>>.

The first example is the one of 2007 that had to do with Constitutional Court decision on Albanian national symbol<sup>33</sup>, and the second is that of 2008, which dealt with the Albanian language<sup>34</sup>. In 2007, the Constitutional Court considering the constitutionality of the Law of the use of symbols of communities in the Republic of Macedonia of 2005, which was based on section 7.1. of the Ohrid Framework Agreement<sup>35</sup>, which guarantees freedom of local governments in local public facilities to establish symbols that express community identity that is the majority in the municipality, its decision (which repealed some parts of the law in question) based at the principle of non-discrimination of ethnic communities in the country, and concluded that the majority census provided by law is not in accordance with constitutional Amendment VIII<sup>36</sup> which does not include census, therefore, according to the Court, this law puts the Albanian ethnic community in a preferential position to other communities in the country. Thus, this court wanting to promote multi-ethnic and non-discrimination principle, fell into the trap of constitutional nationalism because these two principles weighed only within the relation of Albanians with other non ethnic Macedonians, separating ethnic Macedonians as more equal than others, as if the Court weighed ethnic Macedonians then be found that is not in accordance with the above two principles that ethnic Macedonians (ab) use the state symbol as a symbol of their own ethnicity! So, such a decision of this Court reopened at least two dilemmas, that, firstly, census of the majority is provided for in section 7.1 of Ohrid Framework Agreement, and served as the basis for the above law, while Constitutional court ignored extremely this Agreement as primary formal source of Constitutional law of the country, because this document: “is the foundation for the interpretation of 2001 Constitutional Amendments” (Skaric, 2004)<sup>37</sup> and secondly, on

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<sup>33</sup>The decision of the Constitutional Court of the Republic of Macedonia, no. 133/2005-0-1, 24.10.2007.

<<http://www.constitutionalcourt.mk/domino/WEBSUD.nsf>>.

<sup>34</sup> Constitutional Court turns us before 2001, 12.11.2008.<<http://www.yllpress.com/530/haliti-gjykata-kushtetuese-po-na-kthen-para-2001-shit.html>>.

<sup>35</sup> Section 7.1 of OFA stresses that: “With respect to symbols, next to the symbol of the Republic of Macedonia, local authorities will be free to place on front of local public buildings symbols marking the identity of the community in the majority in the municipality, respecting international rules and usages”.

<sup>36</sup> Constitutional Amendment VIII stresses that: “Members of communities have a right freely to express, foster and develop their identity and community attributes, and to use their community symbols. The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities.<<http://www.sobranie.mk/en/?ItemID=9F7452BF44EE814B8DB897C1858B71FF>>.

<sup>37</sup> Skaric Svetomir, Ohrid Agreement and minority communities in Macedonia, p. 96.

<<http://www.fes.org.mk/pdf/SVETOMIR%20SKARIC%20-%20OHRID%20AGREEMENT%20AND%20MINORITY%20COMMUNITIES.pdf>>.

condition that after 2001, RM is not defined as a national state of the Macedonian people, but as a multi-ethnic state, the question is: Is it in accordance with the multi-ethnic concept the practice of political (ab) use of the state symbol (which doesn't reflect the multi-ethnic character of the state) by ethnic Macedonians as a symbol of its own (national symbol), a practice that recycles otherwise the concept of the nation state?! Especially, this issue is present since 1995 when under pressure from Greece; Republic of Macedonia changed its prior flag of Kutleshi star which was used from 1991 up to 1995, by replacing it with the current national flag of Macedonia, and about this, among the ethnic Macedonians there are political subdivisions under which flag to stand<sup>38</sup>.

On the other hand, in 2008, the Constitutional Court rejected a bilingual complaint of the former Mayor of Tetovo addressed to this court, arguing that the communication with this court is possible only in the Macedonian language and in Cyrillic alphabet, which represents an practical example that Albanian language and its writing did not enjoy the status of official language in the country. Surprisingly, this rejection came just a few months after the adoption of the Law on the use of language that is spoken by at least 20% of the citizens of the Republic of Macedonia and in the local government units adopted in August 2008, which practically cave exposed all political promises and guarantees that with this law Albanian language finally became an official language. It should be noted that the law in question was passed one day before the election of the new government after the early parliamentary elections of 2008 also for five minutes, without any parliamentary debate and a broader public discussion. It is interesting that the law in question does not have subject itself, but provides a description of the style "copy-paste" of the provisions of the 30 previous laws adopted in the period 2002-2008 that are known for degradation and fragmentation of Albanian language.

By definition, the official language is a language with which communicate state bodies, therefore, the arguments that the law in question does not formalize Albanian language and its script as an official language are as follows: plenary sessions of the Parliament can not be conducted in the Albanian language much more when one of his vice Presidents is Albanian (except for the possibility that the work of parliamentary committees conducted in Albanian language); ministers Albanians in the Government can not speak or write in Albanian language and its writing; Albanian language is not used at all at the state Presidency; the Albanian language can not be used in the army and the police, because the commands are only

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<sup>38</sup> "Fan" heats and cools, Nova Makedonija, no. 22100, 05.10.2010.

<<http://www.novamakedonija.com.mk/NewsDetal.asp?vest=10510958239&id=9&setIzdanie=22100>>



available in Macedonian language; civil and criminal court proceedings and administrative proceedings can not be conducted in the Albanian language and its script (not even in the courts which operates in the local government units where Albanian language is an official language at the local level, such as: City of Skopje, Tetovo, Gostivar, Debar, Kumanovo, Kicevo, Struga, etc.; tax procedures can not be conducted in the Albanian language, proceedings before the Constitutional Court, Supreme Court, the Ombudsman, the State Election Commission, various state Departments and bodies, etc., can not be conducted in the Albanian language, etc. So, it is clear that the Albanian language is not treated as an official language and as a collective right of Albanian people, but as an individual right, as the language of the party, as the language of the individual, as a language of access, not as the official state language or as language of a state bodies or official persons in the exercise of official state and legal actions and procedures.

When talking about the status of the Albanian language and its writing, we find at least three paradoxes<sup>39</sup>, as follows:

Firstly, it is the historical paradox that has to do with the former communist system (acquired rights of Albanians from that system) where, for example, the right of conducting proceedings in the Albanian language has been guaranteed by Article 17 of the Law on regular Courts of 1976<sup>40</sup>, specifying that, in the territory of the municipality where live the members of the nationalities, whether by the Municipal Statute stipulates the use of the language of a certain nationality, (then) before the municipal court procedures established for that area will be conducted in the language of the nationality (well, the paradox has to do with the fact that Albanians have enjoyed more language rights in socialism than in democracy).

Secondly, it is the practical paradox respectively in the context of clinical and practical teaching with our Faculty students often we take part in trials in the Basic Court in Tetovo, where we are witnessing tragicomic situations, where all participants in a criminal or civil court proceedings, such as: judge, prosecutor, lawyer, expert witness, defendant, plaintiff, private prosecutor, clerk, etc., are Albanians, however, the proceedings develops only in Macedonian language by communicating each other only in Macedonian language?!

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<sup>39</sup> Jeton Shasivari, "Ohrid Framework Agreement, the use of Albanian language and Albanian symbol", Ten years from the Ohrid Framework Agreement-Is Macedonia Functioning as a multi-ethnic state?, SEEU, 2011, p.136-140.<[http://www.seeu.edu.mk/files/research/projects/OFA\\_EN\\_Final.pdf](http://www.seeu.edu.mk/files/research/projects/OFA_EN_Final.pdf)>.

<sup>40</sup> Law on Regular Courts of SRM, "Official Gazette of SRM" No. 10, Year XXXII, 29 March 1976, Article 17.<<http://www.sivesnik.com.mk/Issues/31C695CA2185400087F1918482DD115A.pdf>>.

Thirdly, it is statutory paradox that has to do with the status of national minorities, i.e. the European Charter for Regional and Minority (05.11.1992) of European Council, in Article 9 (Judicial Powers) obliges member states of the EC (Including RM): "To ensure that the courts in criminal, civil and administrative law at the request of one party to perform the procedure in regional or national minority language"<sup>41</sup>, the paradox has to do with the fact that Albanians don't enjoy even linguistic rights that the Convention guarantees for national minorities.

In this regard, when talking about language census and national symbol census, it is entirely understandable that for these two issues with the same base because they belongs to the identity and culture issues and should be solved by analogy, its provided two different census, therefore, census 20% for the language and census of the majority in the municipalities. I consider that the purpose of different census for language and national symbol consists of marginalization and degradation of the Albanians in Macedonia, while, on the other hand, to disappear bi national tracks and features of social and ethnic realities in the country.

### **Horizontal vs. vertical separation of the power in Republic of Macedonia**

Horizontal separation of power also known as: "power sharing" or: consensual democracy (functional or non-territorial federalization) does not represent an innovation that was first incorporated with the Ohrid Framework Agreement, because it has been implemented in practice since the first government of 1991 with the inclusion of DPP as the Albanian political party until today, and during this period of over 20 years has manifested more disadvantages than advantages in efficient and fair resolution of the different issues in the spirit of ethnic equality, and in this regard, OFA only legalized a model which is practically implemented since early 1991. In this regard, Gjorge Ivanov (current President of the State) during the debate on OFA in the Law Faculty of Skopje in 2001<sup>42</sup>, notes that for this model to be effective and applicable it must be completed on minimum 14 conditions, (we will mention three of them) as follows: first, there must be separation (differences) within communities that cross, not that share, so that in the case of the Republic of Macedonia, between the two largest ethnic communities, Macedonians and Albanians, there are divisions that do not cross, but share each other, as the Macedonian people has other

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<sup>41</sup> European Charter for Regional and Minority Languages, Council of Europe, Strasbourg, Article 9. <[www.conventions.coe.int/Treaty/EN/Treaties/Html/148.htm](http://www.conventions.coe.int/Treaty/EN/Treaties/Html/148.htm)>.

<sup>42</sup> Ivanov, Gjorge, Law Faculty-Skopje, Analysis and Evaluation of Legal Aspects of the Draft Framework Document and Annex of the Amendments to the Constitution, July 31, 2001, p. 76-77. <<http://www.pf.ukim.edu.mk/images/Image/amandmanimk.pdf>>.

ethnicity, other language and other religious faith, however, the Albanian people, has other ethnicity, other language and other religious faith, so that cross divisions are the Macedonians with Islamic religion and Albanians with Orthodox or Catholic religion, which do not have the capacity to cross divisions (differences); secondly, the lack of multi-ethnic political parties, but mono-ethnic parties, where political parties of the Albanians compete not in the whole country, rather than those Macedonian political parties, and thirdly, there should be no bipolarization, but a multidimensional separation of power with at least three to five socially homogeneous segments of the power and size, which is not fulfilled in the case of RM, since it has two major segments, Macedonians (65.17%) and Albanians (25.17%), whereby everyone else (i.e. non ethnic Macedonians and non ethnic Albanians) account for about 9.5% of the population<sup>43</sup> so the segments are not homogeneous but heterogeneous.

So, the model of consensual democracy fails to balance differences within a set, especially in a heterogeneous society such as RM, and enables different people to work each in own way. To support this assertion, it will be separated some practical examples of the last six years of the country's political governance: abusive and distorting historical encyclopedia for Albanian people funded and promoted by the Prime Minister of the country; discriminatory article 24-a of the Law on Health Insurance which predicted that: “who is with a place of residence in the municipalities in which the rise in birth rate is under 2.1 living children per woman, and according to the data of the State Bureau of Statistics of the Republic of Macedonia, published for the preceding year”<sup>44</sup>, which was abolished by the Constitutional Court on 18.03.2009<sup>45</sup>, for whose fate reached earlier warnings by the Helsinki Committee which emphasized that: “the legal amendments most directly discriminate the mothers based on the municipality in which they live, and by establishing only the mother as the bearer of the right, and the father only in exceptional circumstances, which is gender discrimination. Looking at the list of municipalities that fulfill the conditions where only in two of them (Zajas and Oslomej) the majority of the population belong to the Albanian ethnic group, one cannot avoid the feeling that there is also ethnic discrimination”<sup>46</sup>; educational records only in Macedonian; citizenship

<sup>43</sup> Census of Population, Households and Dwellings in the Republic of Macedonia, Book XIII, the State statistical office, Skopje, 2002, p. 34,

<sup>44</sup> Law on Health Insurance (“Official Gazette of the Republic of Macedonia”, no. 25/2000, 34/2000, 96/2000, 50/2001, 11/2002, 31/2003, 84/2005, 37/2006, 18/2007, 36/2007, 82/2008 and 44/2008.

<sup>45</sup> Decision of Constitutional Court of RM, u.no.199/2008, 18.03.2009.

<<http://www.ustavensud.mk/domino/WEBSUD.nsf>>.

<sup>46</sup> Helsinki Committee for Human Rights of the Republic of Macedonia, Monthly Report (March 2009).

<<http://www.mhc.org.mk/reports/85#.UcnNyjtkPAM>>.

change in biometric passports where citizenship graph writes: "Macedonian" in place "of RM "; none of the three key functions of constitutional and political system of the country, therefore, that the President of the Republic, the President of the Parliament and the Prime Minister, have never been exercised by Albanians; budgetary discrimination in all areas of social life, such as: education, culture, science, art, health, student scholarships and investments; Parliamentary unilateral proposal to approve a law for special rights only for Macedonian defenders from the armed conflict of 2001, but not the same for Albanians, and the low level of leadership positions for Albanians in various state and public institutions.

Therefore, considering the fact that the Albanians in Macedonia are indigenous people living in a continual geographical space and possesses the right of self-determination, the question arises whether to change the form of state regulation from unitary to the federal or cantonal form?

In this regard, one of the architects of the Constitution of the Republic of Macedonia in 1991 and 2001 Constitutional Amendments, professor of International public law at the Law Faculty in Skopje, Ljubomir Frckoski, in an article entitled: "New York confidential" speaks about the International conference organized by the American Institute "Harriman" of Columbia University (New York) together with the Faculty of Law in Skopje<sup>47</sup>, where, as the author highlights, during the debate and discussion: "American colleagues have raised the dilemma of whether federalization or cantonization of Republic of Macedonia would be the best model for the country, given the fact that the model established by the Ohrid Framework Agreement, every day is becoming a non-functional model that is not giving the expected results"<sup>48</sup>.

Debate over the federalization of the Republic of Macedonia, by Macedonian political class usually concluded from the start as an evil that will bring the division of the state, ethnic cleansing and exchanges of territory, and what is more absurd each broader demand of Albanian political entity, for example, demand for political, cultural and territorial autonomy for Albanians; demand for formalization of the Albanian language and the national symbol; demand for regionalization of local government or the incorporation of the region as a second level of local self-government and demand for real decentralization of central power, responds negatively on the grounds that all these requirements lead to federalization or cantonization of the country. Political demands for autonomy or regionalization should not be the last word of Albanians in RM, because Kosovo experience with its autonomy in the former Yugoslavia must take into account, while, on the

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<sup>47</sup> <<http://harriman.columbia.edu/files/harriman/Macedonia%20Matters.pdf>>.

<sup>48</sup>Frckoski Ljubomir "New York Confidential", Dnevnik, 26.10.2010, p.15.

<<http://www.dnevnik.com.mk/default.asp?ItemID=686F4CD78B116A4CAD81CD07B8AFD218>>.

other hand, regions are administrative bodies, and not the governments, and utterly dependents on the central government which can revoke them at any time. In this sense, the process of decentralization in Republic of Macedonia, starting from 2005 took trivial proportions of a fiscal decentralization with the only effect that municipalities turned into "mailman" of central government however, RM continued to remain still, one of the most centralized countries in Europe with a typical one level local self-government that represents a rarity in Europe, however, the country remains outside European and global trends of central and local government organization, which would provide an efficient governance with ethnic, religious, cultural and political diversities in the country. On the other hand, the exchange of territories and populations as a possible consequence of federalism, is from 2001 during times of the armed conflict, when the Macedonian Academy of Sciences and Arts came up with this idea, which was supported by the then Prime Minister Ljubco Georgievski, which otherwise has nothing in common with reality and scientific truths, because federalism does not mean separation of state, but separation of the power i.e. territorial (vertical) division of government at the center, in order to ensure efficient governance with ethnic, religious, social, cultural, economic and political diversities in the country, as it became known, there are diversities that divide and not cross Macedonians and Albanians.

In the end, this aspect should be completed with the conclusion of the researcher of the two models in question, political science professor at the University of Aberdeen (Scotland) Michael Keating which states that: "Although these two models in practice are involved in various forms, however current trends in West Europe are more geared towards territorial organization, for the following reasons: firstly, territory is a more inclusive principle than ethnicity or group identity, and thus more consistent with modern ideas about liberal democracy; secondly, identity and language groups have a tendency to territorialize in line with the above trends and thirdly, new understandings of territory are less rigid and bound, and different functional systems can have somewhat different boundaries within these territories however, the irony is then that those societies in which federalism is most needed, i.e. divided societies without trust and goodwill, are those in which it is most difficult for it to work"<sup>49</sup>.

### **Conclusion**

In this paper it was concluded that the constitutional treatment of Albanians as a "national minority" in Republic of Macedonia is a constant trend for all time periods after the Second World War until today, despite the

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<sup>49</sup> Keating, Michael, "Federalism and the Balance of Power in European States", Sigma, OECD, Paris, 2007, p. 38. <<http://www.oecd.org/site/sigma/publicationsdocuments/37890628.pdf>>.

fact that Albanians in this country are indigenous people living in a continual geographical space and possesses the right of self-determination.

The paper also concludes that RM does not meet the three main conditions for effective functioning of Consensual democracy model (non-territorial federalization) also known as "Power sharing", where some main elements of this model works since the country's independence in 1991, respectively, since the first multi-party and multi-ethnic government until today, manifesting more disadvantages than advantages in the political governance with the ethnic, religious, cultural, social, economic and political diversities.

Considering the above conclusions, the author suggests the promotion of Federalism in scientific, political and democratic way as a model of territorial (vertical) split of state power in the center through a process of replacing of the existing Constitution with the new one, because the Federalism provides an efficient governance with ethnic, religious, cultural, historical, social and political diversity in countries where it functions, and fully respond to the main circumstances of Republic of Macedonia.

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