

The Law on Use of Languages in Republic of (North) Macedonia*

An example of over-passing of the international standards and
breaking the Constitution in political interests

Sonja Stojadinovic

Master student at the Karl Franzens University of Graz, Austria,
Joint Master on South East European studies
e-mail: sonja.stojadinovic@gmail.com

Abstract

The inter ethnic relations in Macedonia are sensitive and easily violated since there was no closure and reconciliation among the Macedonian and Albanian ethnicity since the conflict in 2001. This situation is used by the ethnic Albanian political parties who waving with so called fight for human rights, diminishing the real needs of the citizens, especially ethnic Albanians have pushed adoption of a Law on use of languages that is against the Constitution and additionally burdens the state budget. In order to unravel the Gordi knot, this paper will attempt to give an answer on the following questions. How the Law on Use of Languages goes out of the frames of the Constitution and obligations from the OFA? Why was this law adopted? With answering these questions, this research paper will contribute in the academic and policy analyses with explanation how and why the use of minority language standards was used for political purposes. The methodological approach of this research paper will include analyses of the OFA, the Macedonian Constitution, specially Article 7 regarding the use of the language of the minorities and both Laws on use of languages, the one from 2008, amendments in 2011 and the new law from 2018. Also, I will explain in short where the Macedonian languages are taught in primary education and how that affects the inter ethnic relations. It is important for future scholars and researchers this situation to be analyzed with the aim to be introduced with a new form of a political abuse of the international standards on minority rights. The research gaps that are present regarding this topic is lack of material that analyses imposing of the minority language on the whole state territory and over-passing the international standards of minority language rights.

Keywords: Minority languages; Constitution; Law; international standards

*The Constitutional name of the country has been changed in 2019 from Republic of Macedonia in Republic of North Macedonia after the signing of the Prespa Agreement with Greece for solving the long bilateral problem. In this essay where the previous Constitutional name will be used, it will refer to situation and laws adopted before 2019.

Introduction

In 2001¹ North Macedonia, in that period Republic of Macedonia, faced an inter ethnic conflict between the Macedonian military and Albanian paramilitary forces which led to signing of the Ohrid Framework Agreement (further in the paper OFA) which was later implemented into the Constitution². This Agreement has regulated and upgraded the position of the minorities in Macedonia, specially the position of the Albanian minority, their representation in the state institutions, the right on use of the language, organizing of the local government, education on their native language and protection of their cultural heritage. Later, the articles of this Agreement were completely implemented into the Constitution, state institutions, legal and educational system, so the obligations of this agreement became completely fulfilled. In order to present a clearer picture of the situation in the Macedonian society, it has to be noted that the last official census in the state was held in 2002 in which Macedonians were 64% and Albanians 25%. ³There was an attempt for another census to be organized in 2014 by the international standards, but because of unfulfilled basic conditions on the terrain and presence of the political pressure of the ethnic Albanian parties, the State Statistical Office did not sign the official outcome of this census and the numbers were not official. The lack of official statistical numbers regarding the ethnic groups in the Macedonian society creates a blurry condition which allows numerous chances for political manipulation.

In 2008 the government under lead of VMRO-DPMNE (Internal Macedonian Revolutionary Organization-Democratic party for National Unity) adopted a Law on the Use of Language Spoken by at least 20 Percent of the Citizens of the Republic of Macedonia and in the Units of Local Self government, in which the use of the minority languages was regulated on local and central level.⁴ Also after the implementation of the OFA, the use of the Albanian language was allowed in the Parliament by the MP's of the Albanian parties, every state institution has obligation among their employees to employ 20% of Albanians, the use of the Albanian language is second official language in the municipalities where the percentage of the Albanian citizens is above 20%. Also, there are two Universities which allow Albanians to study in their native language, the private one University of SEE and the State University of Tetovo, both located in Tetovo.

However, in 2018, the government of SDSM (Social Democratic Union of Macedonia) has adopted a new Law on Use of Languages in which the Albanian language becomes the second official language besides the Macedonian on the whole state territory⁵. This new law has sparked major public reactions, accusing the Albanian parties for implementation of their plan for federalization of the Macedonian state and imposing of the Albanian language for the Macedonian citizens, regarding the fact that Albanians live mostly in the western part of the state. Except for the reactions of the public, there were also attacks on the government that in the Parliament, the Law was adopted with violation of the Parliamentary procedures and falsely labeled as an obligation within the EU accession⁶. It is

important to be mentioned that the Law was also going out of the obligations regarding the OFA and the Macedonian Constitution. Furthermore, the Law was part of the political agreement between the Albanian DUI (Democratic Union for Integration) and Macedonian SDSM, imposed by the Albanian DUI in order to form a government coalition after the early parliamentary elections in 2016. Also, the implementation of this Law is an additional burden for the state budget for translators on the local level and translation of the investigation documents in the court cases.

The law was sent for analyses and opinion to the Venice Commission and the explanation of the Commission was negative on several levels.⁷ Besides the Parliamentary procedure adoption violations, the law was an additional black spot on the already disturbed inter ethnic relations.

1. The Ohrid Framework Agreement, the implementation into the Constitution and the Oslo recommendations

The young Macedonian multicultural society shortly after its independence from Yugoslavia, was faced with an inter state ethnic clash. In 2001 Albanian paramilitary forces fired with weapons in two Macedonian cities where Albanians are majority claiming that they have been discriminated against and fighting for their rights.⁸ Shortly after the beginning of this clash, the US administration declared them as terrorists but after a short period of several weeks, they were categorized as fighters for human rights. The 6 months clash have ended with signing of the Ohrid Framework Agreement (OFA) for protection and improving of the rights of the minorities in Macedonia, with a specific focus on the rights of the Albanian minority. This agreement was signed from the both sides, Macedonian and the Albanian side presented through the Macedonian politicians and political representatives of the Albanian paramilitary forces Also, this agreement was introduced and supervised by the international community, USA, UK and EU. Also, the signing of the OFA, this agreement became a precondition for accession of Macedonian into NATO and EU which confirms the influence of the international community⁹. Despite the signing and implementation of the agreement into the Constitution, there was no government since 2001 who stood up and explained what really happened and what kind of clash has happened, was it a real fight for human rights or there was something politically instrumented.

The Ohrid Framework Agreement¹⁰ has guaranteed the development of the decentralized government, in order to improve local development, culture, local finances, education, social and health protection. Also, the OFA have introduced a new Law on financing the local self government with aim to provide a better funding system for the local authorities. The Agreement additionally provides guarantee that in the following year after its signing, the government will organize census and there will be a revision of the municipality borders under international supervision. The principle of nondiscrimination during employment in state institutions will be implemented and the laws for employment in state institutions

will guarantee equal representation of the minorities. The OFA has guaranteed other improvements of the minority rights but for this research the important one is the education and use of the language's standards.¹¹ The minorities will have primary and secondary education in their native languages and the government will finance higher education for the minority that is minimum 20% of the population. In the case of Macedonia, but which minority in Macedonia is more than 20% is not clearly stipulated in the OFA. The article 6 paragraph 4 points out that the official language on the whole territory is the Macedonian language. The following articles 6 paragraph 5, 6 paragraph 6 and 6 paragraphs 7 clearly explain that the use of the language of the minorities besides the Macedonian language as official, is allowed in municipalities where the minority is not less than 20%. The local offices of the state institutions are obliged to reply and communicate with the minorities in their native languages besides the Macedonian language.¹²

After the full implementation of the OFA into the Macedonian Constitution, the Article 7 from the Constitution regulates the use of the languages. The Article 7 paragraph 1 contains the following regulation: The Macedonian language on the territory and in the international relations is the official state language. The paragraph 2 adds: any other language spoken by at least 20% of the population is also an official language together with its script, as specified below. In the following paragraphs, the Article 7 contains regulation on the use of the languages that are other than Macedonian. The other languages can be used in personal identification documents, in accordance with the law. Also, any citizen in the local self government unit which is at least 20% of the population who speaks an official language different from Macedonian, can use any official language of communication with the regional office of the central government and the office will respond on that language, additionally in Macedonian. The paragraph 5 regulates that: in the bodies of the Republic of Macedonia any official language other than the Macedonian language may be used in accordance with the law. Also, paragraph 6 explains that: In the units of local self-government where at least 20% of the population speak a certain language, that language and its alphabet will be used as an official language in addition to the Macedonian language and its Cyrillic alphabet. In relation to languages spoken by less than 20% of the population in the local unit self-government, local authorities will decide on their use in public bodies.¹³

This full implementation of the OFA into the Macedonian Constitution creates a space for regulation of the use of the languages with a law, but also clearly explains that the Macedonian language is the only official on the whole territory of the state and in international relations, while the language of the minorities who are no less than 20% can be used within the institutions on local level and where they are no less than 20%. It is important to be mentioned that the OFA and the Constitution did not clearly stipulate which minority is 20%, although on the census organized in 2002, the minority that exceeded the limit of 20% was the Albanian minority.

The Oslo recommendations regarding the linguistic rights of national minorities have set a group of standards that the Macedonian state has already implemented into the Constitution and the laws.¹⁴ The Law on the Use of Language Spoken by at least 20 Percent of the Citizens of the Republic of Macedonia and in the Units of Local Self government from 2008, regulates the use of the language in municipalities where the minority is no less than 20%, so practically where there are more than 20% of Albanian population. The Recommendation 1 regarding use of the personal names and geographical toponym, is implemented through the Law on personal identification and Law on the use of languages spoken by a minority that is no less than 20%, The Recommendations regarding the funding of educational institutions for minorities and freedom of religion expression is implemented also in the Law on use of language spoken by not less than 20% of minority and the Macedonian state is declared as secular within the Constitution.

The Albanian citizens when it comes for higher education in North Macedonia have one private and one state financed university. The private one is the South East European University, popularly called the Stoel University by the name of OSCE High Commissioner for National Minorities, Max van der Stoel¹⁵ and the state financed is the University of Tetovo¹⁶, both universities are located in Tetovo. When it comes for the Recommendations 8 and 9 for media representation, the channel 2 on the Macedonian National Television (MTV) broadcasts programs in the Albanian language 24 hours.

The recommendations regarding access to the appropriate judicial resources, ombudspersons and human rights commissions on the language of the minority is also guaranteed by the Law on the Use of Language Spoken by at least 20 Percent of the Citizens of the Republic of Macedonia and in the Units of Local Self government. Also, use of assistance of an interpreter, before trial, during trial and on appeal is guaranteed by the law.

It is important to be mentioned that by the European Charter for Regional or Minority Languages and their regional or minority languages, North Macedonia is not on the list where the Albanian is protected as a language of the minority and the Albanian language is protected in Bosnia and Herzegovina, Montenegro, Romania and Serbia, but not in North Macedonia. Therefore, North Macedonia has no obligations towards the Albanian language within the frames of the European Charter for Regional or Minority Languages¹⁷.

2. Law on the Use of Language Spoken by at least 20 Percent of the Citizens of the Republic of Macedonia and in the Units of Local Self government from 2008 and amendments from 2011

In 2008 the government led by the conservative demo christian VMRO-DPMNE adopted the Law on use of the language that is spoken by at least 20% of the citizens in the Republic of Macedonia and in the units of the local self government.¹⁸ This law was an obligation that was coming out of the OFA in which it was stipulated that the use of the languages of the minority groups will be

regulated with a law. The Article 2 from this law explains the condition where the language that is spoken by at least 20% of the population will be used. The list is following: the language will be used in the Parliament, in the ministries in the communication with the citizens, the court procedures, ombudsman, execution of sanctions,, administrative procedures, during the election process, in issuing of personal documents, in broadcasting activity, in infrastructural objects, local self government, finances, economy, education, science, culture and in other areas and institutions in accordance with this law. All 60 articles of this law regulate and guarantee the use of the language of the population that is not less than 20% in the primary, secondary and high education. The access to the justice, courts and ombudsman not only on Macedonian as the official language in the country but also on the language spoken by not less than 20% of the citizens, is regulated from article 4 to article 20. The articles 21 to 28 guarantee that all elections processes and access to the election material will be organized in Macedonian and in the language that is spoken by not less than 20% of the citizens in the municipality.

In the article 53 it is clearly explained that the high education institutions can organize education on the language that is spoken from not less than 20% of the citizens and the financing of these institutions can be acquired through the state budget.

The language spoken from not less than 20% of the citizens can be also used in communication of state institutions and local self government. By Article 40, the infra structural objects the name of the streets, squares, bridges also have to be written in the language that is spoken by not less than 20% of the citizens. When it comes about broadcasting, article 38 guarantees that one TV channel from the Macedonian State Television (MTV) has to broadcast a program on the language that is spoken by not less than 20% of the citizens. Also, articles from 33 to 39 regulate the percentage of broadcasting programs not only on the language that is spoken by not less than 20% of the citizens but also for the other minorities in the country. Article 41-43 regulates the use of the languages in the municipality of the capital city Skopje and also in other municipalities that are within the municipal borders of Skopje. The Macedonian language and its Cyrillic letters are the official language in the municipality of Skopje but also in the municipalities the official language besides the Macedonian is the language that is used by not less than 20% of the citizens.

Since the use of the language that is spoken by not less than 20% of the population within the parliament is regulated with Article 3, the amendments of this law from 2011 are connected only with this article. The amendment only additionally explains that the member of the parliament who speaks language different than the Macedonian and it is spoken by not less than 20% of the population, can speak on his language on the parliament sessions and if he/she is a president of a parliamentary commission, can also speak on the language that is spoken by not less than 20% of the population. Additionally, the materials of the parliament and commission session will also be submitted on Macedonian and on the language of the spoken by not less than 20% of the population.

With the adoption of this law together with the amendments, the obligations that were arising from the OFA, have been fulfilled. The law completely within the Constitution and the obligations from OFA, have covered the use of the language that is spoken by not less than 20% of the population in the municipalities where they are more than 20% by the census in 2002.¹⁹

3. The Law on use of languages from 2018

The new Law on use of languages that was adopted in 2018 was the one who sparked tensions and reactions in the Macedonian public. This law was “announced” in January 2017 within the so called “Tirana platform”, a political platform that was supported by all Albanian political parties in the Republic of Macedonia²⁰. This platform was announced by the Albanian political leader Ali Ahmeti who has put the accent on the requirement from the new Macedonian government to adopt a new law on the use of languages in which the Albanian language will be the second official language in the whole country. One of the biggest demands was a condition for forming a governmental coalition after the early parliamentary elections held in December 2016. The Social democrats who formed a government went into coalition with DUI (Democratic Union for Integration) an Albanian party led by a fore mentioned Ali Ahmeti. With this governmental coalition, the Social democrats have accepted the Tirana platform and condition set by Ali Ahmeti. The new Law on use of languages, in the first round after voting in the parliament, was not signed by the now former president Gorge Ivanov with explanation that the law is unconstitutional besides the obligations that arises from Article 53 from the Constitution in which he is obliged to sign the law adopted in the parliament²¹. However, the Macedonian system allows to bypass the president when the adopted law is not signed by the president and gives a chance for the Parliament to vote for the same law again. The Article 75 from the Constitution allows a form of bypassing the president on the second voting in the parliament when the law is adopted with simple majority of votes. This was a situation with this Law on use of languages in the form that is published in the Official Gazette of the Republic of Macedonia. Under the signatures and stamps from the president of the Parliament, there is a footnote under the name but without the signature of the president which explains that the law was adopted and published in the Official Gazette without the signature of the president.

The article 1 states that besides the Macedonian language, in all state institutions and public enterprises, together with the local self government the official language is also language that is spoken by not less than 20% of the citizens²². This means that in all institutions, together with the institutions in the local self government, besides the Macedonian, official is the language which is spoken by not less than 20% of the citizens even if in that municipality does not live citizens from the mentioned minority. Also, in this article, the last paragraph adds that the use of the languages of the other minorities will be regulated by the local institutions. This means that the use of other languages depends on the mood

and interest of the majority in the given municipality, not by the Constitution and the law.

The article 2 is the most commented article which additionally burdens the state budget and also has a negative impact on the whole court procedures. This article requires all courts and prosecutors offices, should allow use of the language in all legal processes, not only to acquire translation for the both sides within the lawsuits. This situation allows lawyers, the judge and both entities in one lawsuit, to request translation of all documents in the language that is used by not less than 20% of the citizens, together with providing simultaneous translation during the process. This situation in the law can be abused when one side of the entities in a case, needs to buy time or have an interest to procrastinate the process in order in a given period, the court to proclaim it as an obsolete case. The Supreme court guarantees the right of the citizens for a trial in a reasonable time within the European Convention for human rights and basic freedoms and this right can be easily violated with this article²³.

Articles 7 and 8 states that the tables of the names of all state institutions on the state territory have to be written in three languages, Macedonian, the languages that is used by not less than 20% of the citizens and English. But the article 8 also covers that paper and metal currency have to be written on Macedonian and in the language that is spoken by not less than 20% of the citizens. This is also a violation of the rights of the other minorities in the state because the Macedonian currency contains both paper and metal money that contain pictures that are connected to the cultural, natural and historical treasure of the country without stipulating to which national entity it belongs. If there are going to be two languages on the coins and paper money, why not should not include all languages of the minorities who live in North Macedonia? Also, this article states that the financial documents and the police and military uniforms have to be in both languages.²⁴

The new obligation that also will be the burden for the state budget is establishing a new Agency for application of the language that is spoken by not less than 20% of the citizens, stated in the article 19. The mandate of this Agency is to standardize and uniform use of the language that is spoken by not less than 20% of the citizens and provide support for the state institution in implementation of the articles of the law. In addition, for better implementation of the law, the article 20 states that an Inspectorate for the use of languages will be formed. The latest articles state fines in thousands of euros for institutions that will not implement the law.

The whole construction of the Law leaves an impression that it was created without an idea how to be qualitatively implemented in practice with harmonization with the other legislation. There is no mention of by laws and the latest articles which regulate fines for lack of implementation by the state institutions, are written with a clear lack of nomotechnical supervision.

Another clear fact is that in the Macedonian education there is no curriculum for the Macedonian pupils to choose to learn language spoken by the other minorities. However, the Albanian pupils are learning the Macedonian

language from the 5th grade in primary school and in an environment where they are the majority, they do not have a chance to practice it and improve it. This is regulated with the Law on primary education from 2019, Article 54 and it is also a negative contribution into already weak inter ethnic relations²⁵.

Conclusion

The external analyses regarding the first Law on the Use of Language Spoken by at least 20 Percent of the Citizens of the Republic of Macedonia and in the Units of Local Self government was not in line with the OFA agreement because the OFA proposed expanding of the use of languages of other minorities, not only regarding the Albanian minority. (Ohrid Framework Agreement Review on Social Cohesion 2015, 253). Second much bigger problem were the disputable articles from the Law on Use of languages such are the ones for a second official language in the whole territory, bilingual money, police and military uniforms, court processes together with the agency and the inspectorate, which presents clear additional burden for the state budget and are going out of the OFA and Constitution. The whole Article 7 from the Constitution together with the Annexes, creates space for regulation of the use of the languages other than the Macedonian within a law, but also clearly stipulates that the Macedonian is the only official language on the whole territory of the state. The OFA and the implementation in the Constitution without clearly mentioning that the minority of 20% was referring to the Albanian minority have also left space for dual interpretation of the article.

The Law on Use of the Languages also contains a shallow construction without any space for regulation if its implementation through bylaws and it was never a condition for start of the accession negotiations with the EU. Within the European law, the regulation of the languages spoken in the candidate and member countries is left to be regulated within the national legislation and there is no interference from the EU. There was also an absence of wide public debate with included experts in several areas which are affected by the law, linguists, professors and lawyers. The law also excludes other minorities and their rights on use of their native languages and regulates exclusively the use of the Albanian language.

The political imposing and blackmailing behaviour from the Albanian DUI with the Tirana platform in 2017, was also clearly expressing that the use of the Albanian language in the Macedonian institutions was not connected to the protection of the rights of the Albanians and their position in the country. Unfortunately, it was only collecting of political points from the Albanian politicians among their electoral body with playing on nationalistic cards and nationalistic vocabulary from a position of force that can blackmail for creation of governmental coalition.

The adoption of the Law on Use of Languages and poor implementation of the previous version of the legislation that regulates use of the Albanian language, has uncovered the real face of the political situation in the country. Nationalism is

used for manipulation of the masses and collecting cheap political points. There is an enormous need for reforms in the Macedonian society in order the use of the Albanian language and other minority languages not to create any form of ethnic and political discomfort. With implementation of the Law on use of languages, there is a creation of a path for self geotisation of the Albanians in municipalities where they are the majority. The Albanian language will be the only language that is spoken with a dominance over the Macedonian language and in a society where there is imposing one minority language over all other languages, the societal clashes are inevitable.

Another negative condition that is present and has influence is that by the OFA we have employed Albanians in the state institutions who poorly speak Macedonian and a qualitative communication with the citizens is a problem.

The solution of this problem lies in following the Constitution and the OFA. The Albanian language is clearly categorized as a language of the biggest minority, but in the end, it is a minority in the country. The use of the Albanian language in municipalities where this minority is more than 20% is not a problem at all. On the contrary, it contributes in qualitative communication between the citizens and state institutions and strengthens the protection of the language and culture of this minority. The focus has to be turned in the direction of improving societal and economic problems, overcoming the social and economic differences without influence and interference of the dirty daily politics.***

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²⁰ Official web site, Fokus, Mutual platform of Albanian parties, <https://fokus.mk/zaednichkata-platforma-na-albanskite-partii/>, Last access 15.07.2020

²¹ Official web site, A1ON, The Law on languages in non-Constitutional, <https://a1on.mk/macedonia/ivanov-zakonot-za-jazici-e-neustaven-represiven/>, Last access 15.07.2020

²² Law on use of languages, Judicial web site Pravdiko, <https://www.pravdiko.mk/zakon-za-upotreba-jazitsite/>, Last access 10.07.2020

²³ Juridical web site Pravdiko, <https://www.pravdiko.mk/pravo-na-sudene-vo-razumen-rok-postapka-za-zashtita/>, Last access 16.07.2020

²⁴ Law on use of languages, Judicial web site Pravdiko, <https://www.pravdiko.mk/zakon-za-upotreba-jazitsite/>, Last access 14.07.2020

²⁵ Law on primary education 2019, Judicial web site Pravdiko, <https://www.pravdiko.mk/wp-content/uploads/2013/11/Zakon-za-osnovnoto-obrazovanie-05-08-2019.pdf>, Last access 17.07.2020