

A FRAMEWORK AGREEMENT BEFORE THE OHRID AGREEMENT? AN ANALYSIS OF THE 1993 MACEDONIAN GOVERNMENT AGREEMENT WITH THE LOCAL SERBS

Summary

The article explores a relatively forgotten legal document signed in 1993 in an attempt of the Macedonian government to regulate certain aspects of the status of the Serbian community in the country. The “Agreed Minutes” represent a conflict prevention agreement in which the local Serbs have obliged to realize their demands within the Republic of Macedonia and on the other hand, the Government has obliged to equalize the constitutional status of the Serbs with other minorities in Macedonia, to provide primary and high school education in the native tongue and to guarantee freedom of religion including free choice of church. The paper focused on all elements of the document including its drafting, content and official reactions. The author argues that the document represented a turning point in the regulation of certain aspects of the status of national communities in the country beyond the framework established by the 1991 Constitution and a predecessor of the Ohrid framework agreement signed 7 years.

Key words: *Yugoslavia, Macedonia, Serbia, Serbs, Minorities, transition, Ohrid framework agreement,*

I. Introduction

The violent break –up of Yugoslavia in the beginning of 1990s has changed the traditional paradigm of national minorities’ protection. Being a multiethnic state, the country has experienced a number of challenges in dealing with the rising nationalism throughout its history. In that sense, the status of the minorities or national communities living outside their national republics represented the main generator of conflict in the dissolving federation.

A smaller Serbian community lived on the territory of Macedonia for decades. According to the 1981 Official census, the Serbs represented the fourth largest nationality (ethnic community) in the Republic with a total of 1 909 136 inhabitants^{1,2} Growing tensions within the federation in the 1990s have had an immense impact on the community in particular in reference to its new constitutional status in the new independent republic.

Over the joint years in the federation Macedonia was continuously perceived as a strong Serbian ally. However, as a result of the internal and external factors, the Republic of Macedonia has decided to pass a Declaration of sovereignty in January 1991, organize a

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¹ According to the data on the population’s ethnic belonging of State Statistical Office of Macedonia, on the 1981 census a total of 1279 323 inhabitants declared as Macedonians, 377 208 – Albanians, 86591 – Turks; 44468 - Serbs, 43125 – Romani etc.

² Државен завод за статистика на Република Македонија, Статистички годишник на Република Македонија, Скопје, 2013, стр. 58. [State Statistical Office of the Republic of Macedonia, Statistical Yearbook of the Republic of Macedonia, Skopje, 2013, p. 58].

successful referendum for independence and adopt a new democratic constitution in November 1991.

The decision to leave Yugoslavia was not well received in official circles in Belgrade. In August 1991 one of the main protagonists of the Serbian nationalism, Dobrica Ćosić, has identified the Macedonians as a member of the group of “enemies of Serbia” and described them as “eternal” and “hidden” Serbian enemy”. He clearly stated that “the Macedonian nationalism in its scientific argumentation was probably the greatest absurd of contemporary Europe” and that “the Macedonian nationalism, historiography, literature and politics founded its basic arguments for existence of a Macedonian nation in geography”.³ In support of this position, Vojislav Šešelj openly talked against the independence of Macedonia and underlined the historic rights of Serbia on its territory. He even opened the possibility to occupy Macedonia with only two army divisions.⁴

Besides that, the call for official recognition of Macedonia from 2 December 1991⁵ in Serbia was described as a “betrayal to the mutual homeland, historic results and sacrifices of Serbia and everything that Serbia has done for the Yugoslav peoples in the two world wars”.⁶ Additional factor in the Macedonian – Serbian relations was the Serbian Orthodox Church which for a long period of time did not accept the autonomy of the Macedonian Orthodox Church.

The growing Serbian expansionism as well as the development of the Serbian – Greek relations also represented a factor in the overall situation. Greece was the only true EU ally of Serbia during the Yugoslav dissolution process. For that reason, in the period 1991 - 1992 the Serbian president Slobodan Milosevic has visited the Greek capital several times and one of the main topics on the agenda with his hosts was Macedonia. After the meeting held on 16 January 1992, President Milosevic and Prime Minister Mitsotakis announced that “both countries consider the creation of ‘mini Yugoslavia’ that will include Macedonia as an only way for overcoming the crisis”.⁷ Later that year, the Serbian president presented the idea of creating a federation with Greece⁸ and in the winter of 1992 he underlined the good neighboring relations with Greece even though Greece was not a neighbor of Serbia in a true sense. This policy clearly brings us to the conclusion that Macedonia, for a period of time after the separation from Yugoslavia, remained to be perceived by Serbian leadership as part of Serbia. Moreover, this policy was strongly supported by the Serbian media which used to describe the Macedonian decision for independence as “irrational” and “infeasible” and correlated to the idea for creation of Great Bulgaria^{9,10} Also Serbian authorities have often underlined the inequality of the Serbian minority with other minorities living in Macedonia on a number of occasions.

All abovementioned factors influenced the positions of the Serbian community and their reactions to Macedonian independence and their status in the new republic. As a result of that, on January 15, 1993 the Democratic Party of the Serbs in Macedonia has stressed that “if the discriminatory situation with the Serbs in Macedonia was not resolved by democratic means, the Serbs would be forced to undertake measures of self – protection including help from the motherland”. Additionally, the Serb leader Bora Ristić has argued that the clash

³ Ćosić, D. (1992). *Changes – selection of texts*. Novi Sad: Dnevnik.

⁴ Newspaper Borba, April 30, 1992.

⁵ Dokmanović, M. (2010). *The International and Legal Aspects of the Recognition of States: The Case of Macedonia*. LAP, Germany, pp. 22-23.

⁶ Pettifer, J. (2001). *The New Macedonian Question*. Basingstoke, New York: Palgrave.

⁷ Katardziev, I. (1998). *The Neighbors and Macedonia*. Skopje: Menora.

⁸ Frankfurter Allgemeine Zeitung, June 9, 1992.

⁹ Newspaper Politika, February 28, 1992.

¹⁰ Dokmanović, M. (2006). The Foreign Policy of the Neighboring Countries concerning the International Recognition of Macedonia. In: Faculty of law. (2006) Yearbook of the Faculty of Law 2005/06. pp. 671 – 684.

between the police and the local population in the village of Kučevište during the New Year's Eve celebration was set-up in order for Macedonia to get international recognition and UN peacekeepers placed on the border with Serbia.¹¹

The Democratic Party of the Serbs in Macedonia (DPSM)¹² and Serbian political leaders have frequently demanded that a new census should be conducted. The DPSM has claimed that there are about 300,000 ethnic Serbs in Macedonia although this information was not based on any official grounds. The narrative of "300 000 Serbs living in Macedonia" was frequently utilized in the country's political discourse by Serb leaders. However, according to an official census carried out a few years later in 1994 pointed out that the ethnic Serb population was around 40000 inhabitants.

It seems that this position has alarmed Macedonian authorities in particular in reference to the call for help to the motherland. There was a strong concern of using the dissatisfaction of the local Serb population as a trigger for destabilization of the country.

II. The main elements of the "Agreed Minutes"

Having in mind the overall situation, a process has been put in motion by the international community with the sole purpose of defining a suitable framework for meeting the demands of the Serbian community within the existing political system of Macedonia. Under the initiative of Ambassador Ahrens and within the framework of the International Conference on the former Yugoslavia, following the discussions in August 1993, the document titled "Agreed Minutes" (between the Macedonian government and the representative of the local Serbs) has been signed.¹³

The document was expected to provide the necessary framework for regulation of the constitutional status of the Serbian community in Macedonia. Additionally, it was foreseen as a first step and a stepping stone for the solution of the more complicated issue of the status of the Albanian community and a demonstration of good will for the establishment of official relations between Belgrade and Skopje.

In that sense, it is crucial to emphasize that this dialogue was initiated by the international community and not by Serbian authorities. At this point in time, the Federal Republic of Yugoslavia and the Republic of Macedonia did not maintain diplomatic relations.¹⁴ Consequently, the signing of the agreement was perceived as an instrument for decreasing tensions in the region as well as a factor of internal stabilization in particular in reference to the ongoing negotiations for regulating the status of the Albanian community.

The "Agreed minutes" have been signed between the Minister of interior, Frckoski, as a representative of the Government of the Republic of Macedonia and the representative of the local Serbs, Bora Ristić and was witnessed by Ambassador Geert Ahrens on August 27, 1993.

As far as its legal nature is concerned, it remains unclear. The term used on the official promotion of the document was "agreement (Macedonian: dogovor)" while the

¹¹ Serbs In Macedonia Urge Serbian "Motherland" to Defend Them, Macedonian Information and Liaison Service, Daily Bulletin, January 15, 1993.

¹² Democratic Party of Serbs in Macedonia was established on March 16, 1992.

¹³ United Nations. (1994). Agreed Minutes between the Macedonian Government and Representatives of the local Serbs, 27 August 1993 (UN Doc. S/1994/83, Appendix I)

¹⁴ The relations between the two countries were normalized with the signing of the Agreement on the Regulation of Relations between the Republic of Macedonia and the Federal Republic of Yugoslavia. The agreement, signed in Belgrade on 8 April 1996, contained provisions for mutual recognition of the countries as well as recognition of the international legal continuity of Yugoslavia by Macedonia (United Nations. (1996). Agreement on the Regulation of Relations between the Republic of Macedonia and the Federal Republic of Yugoslavia, Belgrade, 8 April 1996 (UN Doc. S/1996/291, Appendix).

English translation of the document used the term “agreed minutes”. Bell has argued that the “substantive peace agreements are difficult to place within existing international legal categories” and that they are “hampered by the limitations of the categories, especially their unsuitability with regard to accommodating the hybrid subject matter of peace agreements and their mix of state and non-state signatories”.¹⁵ Although the “Agreed Minutes” was not a peace agreement, but a conflict prevention one, it seems that the aforementioned tendencies are evident. The document was signed by a state and non-state signatory.

Besides that, similarly to the case of the Ohrid framework agreement this document was not published in the Official gazette of Macedonia.¹⁶ However, the text of the document has been published in the annex of the Report of the Co-Chairmen of the Steering Committee on the activities of the working groups and other organs of the Conference, submitted to the UN Security Council on January 26, 1994¹⁷ and consequently has been registered in the United Nations Documentation system. In that direction, Szasz has suggested that this document represented an example of application other non-standard instruments for human and minority rights protection formulated under the auspices of the International Conference of the Former Yugoslavia.¹⁸

The document itself represented a short text consisted of a preamble and 9 points. The agreed minutes referred to interpretation and revision of the constitution, right to education, freedom of religion, freedom of information and protection of Serbian cultural heritage in Macedonia.

At the beginning, it should be emphasized that the government declared that the Serbian nationality would “be treated completely equally” with other nationalities living in Macedonia. Both parties agreed to support the consistent implementation of all rights formulated by UN Charter, conventions formulated under its auspices, Commission on Security and Cooperation in Europe etc.

It should be also stressed out that the Serbs in Macedonia declared that they were willing to fulfil their aspirations within the framework of the existing Republic of Macedonia.

Moreover, a special paragraph in the agreed minutes was dedicated to the interpretation of Article 78 of the Macedonian Constitution¹⁹. This article has foreseen establishment of a Council for Inter-Ethnic Relations composed of 2 members each from the ranks of the Macedonians, Albanians, Turks, Vlachs and Romanies, as well as two members from the ranks of other nationalities in Macedonia.²⁰ This provision did not include the Serbs although according to the previous census this community was larger than for instance Romani community represented in the Council. This approach articulated in the 1991 Constitution has infuriated the representatives of the Serbian community and the issue represented a reason for dissatisfaction of the community during the Macedonian independence process.

¹⁵ Bell, C. Peace Agreements: Their Nature and Legal Status. In: American Journal of International Law, Vol. 100, p. 373. Available at: <http://en.iwpeace.com/sites/en.iwpeace.com/files/field/files/pdf-1493.pdf> [Accessed on September 17, 2016].

¹⁶ Framework Agreement concluded at Ohrid, Macedonia and signed at Skopje, Macedonia on August 13, 2001. Available at: [Accessed on October 29, 2016].

¹⁷ United Nations, Security Council, Report of the Co-Chairmen of the Steering Committee on the activities of the working groups and other organs of the Conference, January 1994.

¹⁸ Szasz, P. C., (1995) Protecting Human and Minority Rights in Bosnia: A Documentary Survey of International Proposals. In: California Western International Law Journal, Vol. 25, No. 2, Spring 1995, Available at: <http://scholarlycommons.law.cwsl.edu/cgi/viewcontent.cgi?article=1347&context=cwilj> [Accessed on October 23, 2016].

¹⁹ The Constitution of the Republic of Macedonia was adopted on November 17, 1991.

²⁰ Assembly of the Republic of Macedonia. Constitution of the Republic of Macedonia, Article 78. Available at <http://sobranie.mk/the-constitution-of-the-republic-of-macedonia.nsp> [Accessed on September 23, 2016].

Having in mind the aforementioned circumstances, in the “Agreed Minutes” the Macedonian government has in principle, expressed willingness to satisfy the request of the Serbs to be mentioned in the Preamble and Article 78. Additionally, the Government has stated that it “would interpret the Constitution as if the Serbs had been mentioned in the preamble and Article 78”. In that sense, the government statement represents a peculiar decision. Through this provision the government has assumed competences (“to interpret the Constitution”) beyond its clearly defined responsibilities in Article 91 of the Constitution. Additionally, as it was previously mentioned, the Article 78 of the Constitution referred to the Council for Inter-Ethnic Relations which was a parliamentary and not governmental body. It remains unclear how the government planned to implement this provision.

According to the wording of the document, it is evident that consensus was not reached in terms of the time framework for implementation of the agreed minutes between the parties. Paragraph 3 of the documents has included the local Serbs request to finalize the constitutional procedure in the Parliament within 18 months. However, no initiative for changes of the Constitution along the previously mentioned provisions has ever been proposed to the Parliament. Furthermore, this part of the documents has included the provision that “in case the Parliament of the Government did not accept the requests, the Serbs of Macedonia would consider all dispositions of the document as void”.

As far as the right to education is concerned, the document has included the existing legal requirements for establishing Serbian language instruction in the primary and secondary schools (15 pupils for a group in the primary schools and 25 – for a secondary school). Additionally, the Serb representative has requested that announcement should be made for 2 high school classes in Skopje and Kumanovo and one class in Negotino or Kavadarci.

The issue of the freedom of religion was included in the document. In that sense, the government has declared that it will guarantee the constitutional religious freedom including the freedom of choice of church to the Serbs in Macedonia. Furthermore, the Government has stated that the Serbian language media will be supported in the same way as the media of the other communities.

Given the fact that the issue of census played an important role for the Serbs in particular in reference to the number of inhabitants from this community, the Government has informed the Serb representative about its plan to conduct this statistical operation in April 1994. Consequently, the Serb representative promised full cooperation in that respect.

Having in mind the importance of the preservation of Serb ethnic culture in Macedonia, paragraph 8 of the document provided further operationalization of Article 48 of the constitution.²¹ The Government declared its intention to improve the following two fields: a) to take measures to protect historical monuments and cultural heritage of the Serbs in Macedonia and b) assistance and support of cultural organizations and institutions of the Serbs in Macedonia on an equal basis with other nationalities.

In respect to the implementation mechanism the document has foreseen the obligation of the Macedonian government to promptly submit a request to the Council of Europe for assistance in the earliest possible implementation of the human rights protection mechanism for non – member States. Additionally the International Conference of the Former Yugoslavia was designated as a mediator for any issues that might arise in the implementation of the document on request on any of the parties. Due to the ongoing name issue dispute with Greece, Macedonia became a member of the Council of Europe on November 9, 1995. Therefore the standard mechanisms of human rights protection could not be applied in the period 1993-1995.

²¹ Article 48 of the Constitution guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities.

III. Reactions to the “Agreed Minutes”

The signing of the agreement between the Government of the Republic of Macedonia and the local Serbs was not extensively covered or debated in the media. A press conference by the Minister of Interior Frckoski and Ambassador Ahrens was organized in Skopje following the signing of the document. The main elements of the agreement were presented to the public. However, it should be mentioned that during the press conference a reference to the ongoing negotiations with the Albanians has been made which lead us to the conclusion that this type of agreements were perceived as a factor of internal stabilization and were interrelated. Ambassador Ahrens has emphasized that the unresolved issues regarding the status of the Albanian community will be discussed at a conference in Geneva. In that direction, Minister Frckoski has stressed that the government has been facing more and bigger challenges with the demands of the Albanian community rather than the Serbian.

At this point in time, two daily newspapers existed in the country only – “Nova Makedonija” and “Večer”. Newspaper “Večer” has published an article in which all elements of the agreement were covered. However, the newspaper article did not mention the mutually agreed solutions on sensitive issues such as the free choice of church or the measures for protection of the historical monuments of the Serbs in Macedonia.²²

On the other hand, the newspaper “Nova Makedonija” did not publish any information in respect to the signed agreement. However, the newspaper has published the official reaction of the political party VMRO (Vnatrešna makedonska revolucionerna organizacija – Internal Macedonian Revolutionary Organization) – Democratic Party (VMRO-DP).²³ This political party has condemned the signing of the agreement which was perceived as a limitation of the sovereignty of the republic. According to the VMRO – DP, the agreement with the Serb community combined with the future agreement with the Albanian community, could potentially deteriorate the political situation in western Macedonia in particular in reference to a direct confrontation between the “Albanian nationalism, separatism and secessionism and the Serbian aggressive hegemonism that could put in question the territorial sovereignty and integrity of Macedonia. As a result of that, VMRO – DP requested an urgent session of the Parliament to discuss the issue.²⁴

Finally it should be stressed that according to the 1993 US Department of State Human Rights Report, after Serbia/Montenegro criticized the signing of the agreement, a new Serbian leadership was elected which has abrogated the agreement.²⁵

IV. Conclusions

Based on the conducted research, several conclusions could be drawn:

Firstly, the “Agreed minutes” represented the first attempt to draft a framework for improvement of the constitutional status of a marginalized ethnic community in Macedonia. This approach was an obvious result from the fact that the 1991 Constitution did not provide a sustainable framework for the protection of the national minorities neither met their expectations. In that sense, the approach applied in the “Agreed Minutes” represent the predecessor to the Ohrid framework agreement.

²² Договор за статусот на Србите (Agreement on the Status of Serbs), newspaper Vecer, 28/29 August 1993.

²³ Договорите со малцинствата ограничување на суверенитетот (Agreements with Minorities – Limitation of Sovereignty), newspaper Nova Makedonija, 29 August 1993.

²⁴ VMRO – DP was a minor political party which had 1 MP only.

²⁵ United States, Department of State (1994). 18 Annual Human Rights Report Submitted to Congress, p. 970.

Secondly, as it was the case in several other challenges in contemporary Macedonian history (from Arbitration commission to the Pržino agreement) the international community represented the key driving force for signing of the document. The document was perceived as a part of the larger process in which the requests of the other national communities including Albanians was foreseen to be accommodated. Furthermore, it was drafted through the mechanism of the International conference on the former Yugoslavia and was not demanded by any concerned government (Macedonia and Yugoslavia).

Thirdly, several similarities and differences between the “Agreed Minutes” and the Ohrid Framework Agreement could be identified. In that direction, similarities between the two documents include: (1) both were reached through international mediation; (2) state and non-state signatories of both documents, (3) the concept and several elements of the agreements are comparable, (4) the orientation of both documents to constitutional revision etc. On the other hand, unlike Ohrid framework agreement, the “Agreed Minutes” represented a conflict prevention document and not a peace agreement. There were no violent hostilities before the signing of the “Agreed minutes”. Additionally, the 1993 document offered a partial solution to national community constitutional status and was not a comprehensive change of the country’s political system as it was the case with the Ohrid agreement.

Fourthly, the “Agreed Minutes” have never been completely implemented as foreseen. The agreement was not fully implemented due to a number of factors including the change in Serbian leadership, negative reactions from official Belgrade and the absence of initiative for the change of the constitution. Eventually, the Serbian community has been included in the preamble and normative part of the Constitution following the changes initiated by the Ohrid framework agreement in 2001. One of the positive sides of the document represented the fact that for a confined period of time the radical tone from the Serbian leadership in Macedonia was significantly decreased after the signing of the document.

Fifthly, the signing of the document did not have a visible impact on the bilateral relations between Macedonia and Yugoslavia. What’s more, in June 1994 a series of border incidents have occurred on the border between Macedonia and Serbia. The relations between the two countries were eventually normalized with the signing of the Agreement on the Regulation of Relations between the Republic of Macedonia and the Federal Republic of Yugoslavia in the aftermath of the Dayton process.²⁶

Finally, it could be concluded that the “Agreed Minutes” represent an important document in the constitutional development of Macedonia as (un)successful attempt to regulate the status of one community beyond the provision of the constitution. Undoubtedly it established the path and a set of ideas for the drafting of later agreements and consequently, represented a framework agreement before the Ohrid agreement.

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²⁶ United Nations (1996). Agreement on the Regulation of Relations between the Republic of Macedonia and the Federal Republic of Yugoslavia, Belgrade, 8 April 1996 (UN Doc. S/1996/291, Appendix).

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