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THE RULE OF LAW AND THE PRESPA AGREEMENT- TWO ONE-WAY STREETS?

Abstract

The principle of the rule of law has progressively become a dominant organizational model in the modern national and international constitutional law as well as in the national states and international organizations to regulate the exercise of their public powers. The rule of law has been proclaimed as one of the three intertwined and partly overlapping core principles of the Council of Europe and the EU, together with the democracy and the human rights. This close relationship between the rule of law and the democratic society has been underlined by the European Court of Human Rights through different expressions: "democratic society subscribing to the rule of law", "democratic society based on the rule of law" and, more systematically, "Rule of law in a democratic society".

Having in mind the importance of the principle of the rule of law in the Macedonian society and state, this paper will give a detailed overview of the European standards related to the principle in general, on one side, and violations against it in the current Macedonian political and constitutional system.

The paper will analyze in depth the legal anomalies that occurred during the process of negotiating and concluding the so-called Prespa Agreement between the Greek and the Macedonian national authorities, as well as the negative implications that the Agreement has caused in context of respecting the principle of the rule of law.

The paper will explain all infringements of the national and international law enacted by the Agreement and the possible solutions for their overcoming. The EU and the UN international documents and laws stipulate a sanction in case when certain bilateral or international problem is trying to be solved with bad intentions, meaning through direct violation of the basic rules and principles of the international law and of the *jus cogens* norms.

Key words: national law, international law, constitution, *jus cogens* norms, legal standards, legal principles

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I. FEW BASIC REMARKS REGARDING THE RULE OF THE LAW PRINCIPLE

With the end of the Cold War, the national states and international organizations, regardless of the nature of their economic and political systems, have increased their interest and support in the "rule of the law" principle. There was almost unanimous thinking that the rule of law, often regarded as " rule of the law, not of the people" is "a good thing ".[1]

In this way, the theoretical analysis of the rule of law principle became strongly influenced by the three most representative legal traditions in Europe – the British, the German and the French.

The British, or more precisely, the English legal tradition is the oldest tradition to understand and establish this principle in a form of a theory. In his work "Introduction to the Study of the Law of the Constitution (1885)", in the second section devoted to the rule of law, Albert Dicey identifies its three fundamental meanings. The first meaning is that the rule of the law means that „no one may be punished, humiliated, or otherwise left to suffer, without this to be provided by a law within the established legal system, and without a ruling passed by the Court of the State."[2]

This implies directly that "every human being, regardless of his position in the community is subject to the law and the jurisdiction of the judicial authorities". In this respect, Dicey concludes that the British "Constitution" is based on the rule of law as its general principle ... but also that the judicial decisions (precedents) are decisions establishing the rights of the natural persons in specific cases resolved by the Court."[3]

Dicey analysed the principle of the rule of law by respecting the traditional principles of legality and equality before the law. But what distinguishes the Anglo-American concept of the rule of law from the Frenchor the German concept for example, is its apparent distancing from the classical French or German administrative law in favor of the significant superiority of the case law when it comes to protecting human rights and freedoms. The later development of Dicey's thinking goes to further differentiation between the formal-procedural approach, and the contextual approach, on the other hand.

According to the "formal school", the rule of law is a set of norms and rules that construct the content of the legal system. These norms and rules must be clear, precise, transparent (properly explained to the public), relatively stable (not to be frequently altered), and the process through which they are passed must be guided by the general rules of openness, stability and precision.

The formal school is not focused only on the features of the legal norms, but also on their interpretation, as well as on the very application of the laws. In other words, the formal concept of the rule of law often implies compliance with certain institutional requirements (such as the principle of separation of powers and independence of the authorities, existence of an independent judiciary, control of the constitutionality and legality by a special body, most often the Constitutional Court, etc, as well as protection of the individual rights and freedoms through procedural instruments: right to defence, right to legal remedy, right to trial in a reasonable time, right to free access to the court etc.)

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[1] It is fair to point out the diametrically opposite thinking about the "dark side" of the Rule of the Law. See: Mattei, U. and Nader, L. (2008), Plunder: When the Rule of Law is Illegal, Blackwell Publication.

[2] See: Dicey, Venn, A. (1897), An Introduction to the Study of the Law of the Constitution, MacMillan, 5th Edition, (p. 179).

[3] See, (p.187).

In contrast to the formal school, the rule of law is also studied by the material school which is more content-oriented, i.e. focused more on the substantive elements of the law rather than on the form itself. According to the supporters of this approach, the rule of law requires not only compliance with certain formal requirements, but also insists on elements related with the "political ethics", the democracy, as well as with the protection of the citizens' fundamental rights and freedoms. According to Dworkin, for example, the rule of law, as a concept based on the human rights and freedoms, reinforces the moral and political individual rights, whereas the rule of law and the justice are seen as separate and independent ideals.[4]

The substantive (material) aspects of the rule of law indicate the need of a "smooth" access to the court which must be independent and politically impartial, by limiting the discretionary power of the police, of the public prosecution, and of the other agencies and bodies that protect the system from criminal activity.

It is interesting to note that in modern days there is hardly any thinking about the rule of law that takes into account only the formal, or only the substantive aspects of this principle. Most authors are very "pragmatic" when paying equal attention both to the formal and to the contextual approach. Lord Bingham for example talks about the eight "sub-rules" that form the rule of law. Most of them concern the formal qualities of the legal system and the legal norms, i.e. their availability, accessibility and applicability, although the author does not neglect the substantive elements of the rule of law in terms of adequate protection of the fundamental human freedoms and rights. At the same time, the judicial protection of constitutionality and legality should also be taken into consideration as an element that lies in the core of the rule of the law. As the author concludes, it is precisely through judicial protection of legality and constitutionality that the public authority becomes subject of control by the citizens.

To also mention that the United Kingdom adopted a Constitutional Reform Act in 2005, where section 1 states that, „This Act does not affect the existing constitutional principle of the rule of law, or Lord Chancellor's existing constitutional role in relation to that principle." It is interesting to note that this Act did not offer a new definition of principle but concluded that: " the rule of law remains a complex, and in a sense, a very imprecise concept".[5]

Opposite to the British legal tradition, where the constitutionally conceived concept of the rule of law is clearly lacking, the German concept of a legal state (Rechtsstaat) is "a central constitutional principle," with specific formal and contextual components on which the entire legal and political system of Germany is based. It is worth noting that unlike federalism, democracy and the social state, as explicitly guaranteed basic institutional principles at the heart of the German constitutional order, the rule of law is not explicitly referred to as a mandatory principle for Germany, but rather as a mandatory principle for the regions (Länder) in context of Article 28 (1) of the Basic Law (the Constitution of Germany): " The constitutional order of the states (regions) must be in accordance with the principles of a republican, democratic and social state based on the law, within the meaning of this Constitution."[6]

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[4] See: Dworkin, R. (1985), A Matter of Principle, Chapter 1, "Political Judges and Rule of Law", Harvard University Press, (p.11-12).

[5] See: House of Lords, supra n.17, p.12, para.24.

[6] Another provision, introduced in 1992, concerns the legal state principle, but only in relation with the EU, is Article 23, paragraph 1, which states that "With a view to establishing a united Europe, the Federal Republic of Germany will participate in the development of the EU, which is based on democratic, social and federal principles, the rule of law, and the principle of subsidiarity, as well as guaranteeing the level of protection of fundamental freedoms. and rights that are fully compatible with this Basic Law...". See: BVerfGE 23(1).

The difference between the formal and the contextual elements is also evident in the concept of the legal state, just as it is in the rule of law principle. The formal (procedural) elements include the principles of: legality, legal certainty, proportionality, prohibition on retroactive effect of laws etc. Judicial control of the legality and constitutionality, and especially control in cases of violations of constitutionally guaranteed freedoms and rights, is also closely linked to the concept of a rule of law.

The substantive elements of the rule of law are mainly related with the respect for, and the protection of, the human rights and freedoms, because the ultimate goal of the German "free liberal-democratic" legal order is to protect the fundamental freedoms and rights, by emphasising the value of the human dignity. The German Constitutional Court has played a particularly important role in this regard, because through its judicial activism it often managed to fill in the legal blanks in the system.

In France, the concept of *Etat de Droit* was given popularity by renowned legal authors and theorists, such as Leon Duguit and de Malberg, who aimed to promote the idea of judicial control over the "statutory" law.[7] In 1920, this concept has simply disappeared from the legal discourse in France, when it became clear that such a reform cannot be adopted, which practically explains the lack of any formal references to this principle in the 1958 French Constitution.

It is interesting to note that the practical relevance of this principle in France has intensified after the introduction of the constitutional control mechanism over the legality of the acts, a reform that was formally introduced in 1958, and this formulation saw its true comeback in the mid-seventies of the 20th century.

For a long time France could not find a term similar to the English "rule of law", i.e. to the German principle of Legal state. This condition was explained through the existence of liberal definitions for the three ancient notions present in the French legal dictionary: Etat, République, и Constitution. According to Rousseau "every country that is ruled in accordance with the law" can be defined as Republic.[8]

Similarly, the term for state (Etat), was used to describe the phenomenon of putting the political power and government under the law. According to Montesquieu, for example, the state, in its essence, can be described as "society in which laws exist". Therefore, Montesquieu believed that there was no need from additional concept, such as *Etat de Droit*, because there were conceptual difficulties to speak about a "State" which, at that time, was not a real state government by the law and at the same tiume, subject to the law.

Later, when the term *Etat de Droit gained its popularity, particularly in the 19th century*through the term *Etat legal*, which represented a traditional contrast to the term of police state *(Etat de police),* it was explained through its close relations with the German concept of Legal state, i.e. through the similar political environment in the time of the Weimar Republic in Germany and in France in that period (1919-1933).

At that time, the French term *Etat legal* was directly linked with the parliamentary sovereignty and withy the parliamentary democracy.

In both countries, the constitutional control over the legality of the acts had problems with its effective implementation, which led to the legal actors and the judges to be preoccupied with development of common principles within the administrative law on protection of citizens' individual rights and freedoms against the social misuse of power by the administrative authorities.

[7] See: Peerenboom, R. (2004), Asian Discourses of Rule of Law, Routledge, (p.79).
[8] See: Rousseau, J.J. (1762), Contrat social, Livre II, Chap. VI.

That is why in France, the State Council, as Supreme Administrative Court, created several "unwritten" general principles to put judicial control over the administrative authority. Although most of these "general principles of law" were procedural in nature, they also served as a guarantee for the protection of the fundamental human rights, such as, for example, the freedom of thought and the freedom to public expression of thought.

II. THE RULE OF LAW PRINCIPLE IN THE UN, THE COUNCIL OF EUROPE AND IN THE OSCE

The rule of law is a category that is treated extremely seriously in the case law of the Human Rights Court in Strasbourg. This Court considers that the rule of law is an inherent principle for all the articles of the Convention. In the case law, the rule of law is applied in number of cases, mainly taking into account its formal aspects.: the principle of legality, legal certainty, separation of powers and equality of all people before the law.

On the other hand, in the Preamble of the UN Universal Declaration on Human Rights, the essence of the rule of law is used to promote a number of content principles that vary in different context. For example, a comparison between two UN reports, the one from 2002 and the one from 2004, best illustrates these differences in the approach. The first report insisted on independence of the judiciary, independent institutions for protection of the human rights and freedoms, on defined and restricted authorities in line with the principle of separation of powers, on fair, democratic and open elections, while in the second report the focus was on the quality of legislation, supremacy of the law, equality before the law, accountability before the law, legal certainty, procedural and legal transparency, prohibition of arbitrariness of power, division of power etc.

The 2005 Resolution of the UN Commission on Human Rights focused on the division of power, the supremacy of the law and on the equality of legal protection. In 2004, Kofi Annan also offered a very narrow definition for the rule of law, in the report which stated that "the rule of law refers to the principle of ruling where all persons, institutions and entities, public and private, including the State, are accountable before the laws that are publicly available, equally applied and independently assessed, and which are in line with the international human rights norms and standards."

This principle also demanded application of appropriate measures based om the principles of supremacy of the law, equality before the laws, legal accountability, fair trial, division of power, avoiding of arbitrariness, and procedural and legal transparency. According to the UN, the national legal framework of the rule of the law ought to include:

- Existence and application of the Constitution, or its equivalent, as a highest legal act in the country;
- Clear, precise and consistent legal framework and its application;
- Strong institutions of justice, government, and protection of the well-structured human rights and freedoms;
- Well-developed civil society that reinforces the rule of law, the policies, the institutions and the processes that are in the core of the society where individuals feel safe and secure and institutions accountable;
- Existence of rules and norms that legally protect the system, and where disputes are resolved in a peaceful manner, and where anyone who has violated the law, including the government officials, will be held accountable.

On the other hand, in the project World Justice, the rule of law is defined by the existence of a fully functioning system based on 4 basic criteria:

- The government and its agencies, officials and structures, as well as individuals within it, legal entities, and the like are accountable before the law;
- The laws are clear, promulgated, stable and fair; applicable to everyone, protecting the fundamental freedoms and rights, including the security of people and property;
- The process by which laws are applied, administered and enacted is accessible, fair and efficient;
- Justice is delivered in a timely manner by professional, ethical and independent representatives and in a neutral / impartial, efficient manner, with adequate resources that reflect the community the live in.

OSCE also has its own rule of law doctrine contained within this organization's commitment to the application of the rule of law. According to the 1990 Copenhagen Document, " the rule of law ... does not mean merely formal legality that ensures regularity and consistency in the achievement and application of the democratic order, but also justice based on the recognition and full acceptance of the supreme value of human identity and its guarantee through institutions, thereby providing a framework for its full expression".As the document concludes, democracy is an inherent element of the rule of law.

III.THE MACEDONIAN (NON) RULE OF LAW – THE PRESPA AGREEMENT CASE

The well-known nebulous and irrational problem that my country, Republic of Macedonia, has with Greece for 27 years seems to have reached its zenith. On 17th of June, 2018 in Prespa, a small town in Macedonia, the Macedonian and Greek ministers of foreign affairs have signed the Final agreement for the settlement of the differences as described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993)[9].

Although in the international law, the name disputes among two or more countries do not exist as past experience, having in mind that the state name as well as the constitutional name of one country is always seen as a crucial element of the internal legal identity of the given country, this rule obviously does not apply to the Republic of Macedonia.

According to the international law, the state's names, as a legal identity of the country as an international subject is essential element of their juridical personality, and their statehood.

Macedonia is a true precedent as a case in the United Nations.

This case was precedent from the very beginning with the unusual and unacceptable membership status as a state member of the UN, issue originated from the unusual admission resolutions stipulating preconditions outside of the scope of the exhaustive conditions of Article 4(1) of the Charter of the UN.

[9] http://www.pappaspost.com/the-full-text-of-the-agreement-between-greece-and-the-former-yugoslav-republic-of-macedonia/

The huge nonsense contained in the UN General Assembly Resolution 47/225 (1993) as a statement of the General Assembly: "Decides to admit the State (meaning the Republic of Macedonia) whose application is contained in document provisionally referred to for all purposes within the UN as "the Former Yugoslav Republic of Macedonia" pending settlement of the difference that has arisen over the name of the State".
Since as it was mentioned above there could be no "differences" between states over their names, it's illegal to make statement as: "pending settlement of the difference that has arisen over the name of the State". The right of the country to have its own name is jus cogens norm.
Each national state has the right to legal and sovereign equality, political independence, legal and political sustainability and self-government. The Republic of Macedonia is an exception of that right.
With the last agreement concluded between two countries, the well-known jus cogens norms existed in the international law are marginalized and seriously violated.[10]

1.The Agreement with Greece is breaching and is against all international legal documents stipulated in its Preamble (the UN Charter, the Helsinki Final Act of 1975, the relevant Acts of the OSCE, and the values and principles of the Council of Europe). It breaches art. 2 and art. 4 of the UN Charter because it violates the legal subjectivity of Macedonia as a country. The Second Party, as Macedonia is referred to, has no name in this Agreement! My country is not referred as Republic of Macedonia or as FYROM, but as a "party", recognized as such with the UN resolutions, which from a legal point of view makes this agreement null and void. Bottom line is, this agreement is not made with an official country, identified by any name, but simply with a "second party", as Macedonia is referred to.

2. The agreement is asymmetrical, it creates obligations only for my country and the Macedonian people, obligations which are against internationally recognized *jus cogens* norms where the name of my country, the national identity of my people, and the basic right or self-determination are nulled. The agreement puts as an obligation to change our name *erga omnes* for internal and external use which is an unseen precedent in the international relations.

3. The agreement violates Macedonian Constitution it imposes an obligation to change the Constitution and all laws in the country, to change the names of all state and non-state institutions and the whole legal, economic and political system which is not allowed by the International and the European law. In my country where the monist legal sytem is in practice, the Constitution is above all laws, regulations and agreements and all acts must be in accordance with the Constitution not vice-versa.

4. The agreement imposes an obligation to change our century-old national identity opposing all civil and legal rules, imposes obligations to change our national history, tradition, aims to change the Macedonian memory of existing and future generations. It violates our fundamental human rights to be Macedonian. On the top of that, the Agreement demands we give up from our Macedonian minority in Greece and in the diaspora, as if those people never existed.

[10] Article 53 of the Vienna Convention on the Law of Treaties - Treaties conflicting with a peremptory norm of general international law (jus cogens)
A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

The June, 2018 Agreement seeks to implement the name change through the Republic of Macedonia's own consent, not through a decision of an international organization or other international body. In this respect, the June 2018 Agreement legally represents a qualitatively new element in the name issue, as the constitutional representatives of the Republic of Macedonia involved in the negotiation, signing, and ratification of the Agreement seek to waive the constitutional name on behalf of the Republic of Macedonia, invoking their procedural constitutional and international legal authority to do so.

Presence of mala fides, bad intention in the process of concluding international agreement according to the international law always entails nullification of that agreement.

In most of the legal systems of the European countries, the annulment and the cancellation of any legal act or legal effect is envisaged if that act, or action is committed to "bad intention/mala fides".

The EU and UN international documents and laws also stipulate a sanction in the case when certain bilateral or international problem is trying to be solved with bad intention, meaning through direct violation of the basic rules and principles of the international law and of the jus cogens norms.

Starting from this very important legalistic point of view, we as Macedonians should seek invalidity of the already signed bilateral agreement, because the content of the Agreement is in direct conflict with the *jus cogens* norms that have absolute character and that must not be injured by anyone, foremost not by the representatives of the UN and the EU. This bilateral agreement should be declared null and void by refereeing Vienna Convention on the Law of Treaties, specifically Article 44, paragraph 2 which reads: "A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60". Under Article 53 of the Vienna Convention, all agreements or treaties that are contrary to the imperative norms of general international law (jus cogens) are null and void.

If the agreement at the time of its conclusion is contrary to the imperative norms of general international law, according to Vienna convention, it could be null and void. Jus cogens norms are imperative norm that are accepted and recognized by the international community. These are the norms that can't be changed with new treaties norms.

Referred to in Article 30, paragraph 1 of Vienna convention, it it could be remarked that in defining nullity for violating the imperative norm of the international law, we are taken into consideration the Article 103 of the UN Charter who reads "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail".

If there is contradiction between the obligations of two or more States, the United Nations must act in accordance with its Charter, on the one, and obligations arising from any other international agreement only if they are in accordance with the UN Charter, on the other side. In our case, the bilateral agreement is contrary to the principles and objectives stipulated in the UN Charter.

In the Article 2 of the UN Charter is stipulated that the organization and its members, in pursuit of the purposes stated in Article 1, shall act in accordance with the following principles:

-The Organization is based on the principle of the sovereign equality of all its Members.

-All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the Charter.

The important moment is that in the UN, prevails the obligations that are set out in the Charter. International disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

In particular, the bilateral agreement concluded between Greece, and the "Second Party" is contrary to the principle of sovereign equality of all of its States (Article 2, paragraph 1). The legal equality of the "Second Party" (meaning Republic of Macedonia) as sovereign state and as equal country with Greece in the United nations, is not protected.

This bilateral agreement breach Article 2, item 7 of the UN Charter, "Nothing contained in the present Charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII".

The bilateral Agreement allows Greece to interfere directly in the internal, sovereign affairs of Macedonia.

"Second Party" as Macedonia is refereed in the Agreement accept many obligations, to change all its history, constitutional name, national identity etc, obligations that are part of strict internal jurisdiction of the Republic of Macedonia. With this, Greece flagrantly violates the sovereignty of the Republic of Macedonia and internal constitutional legal order of the Republic of Macedonia.

This Agreement also violates Article 4, paragraph 1 of the Charter referring to the Macedonian admissibility in the UN having in mind that specific conditions for our membership where applied as a unique precedent.

The Agreement is opposite to the Helsinki Final Act of the OSCE where is determined obligation to all countries to respect the sovereign equality and individuality of States, as well as the rights arising from the sovereignty, including the right to each state of legal equality, territorial integrity, and political independence.

Also, the Act have determined the obligation of all countries to comply with the right to other countries to make its own choice and to develop their own political, social, economic and cultural system, as well as the right to make and set their own laws and regulations.

Agreement does not comply with the right to Republic of Macedonia to make, independently its own laws and Constitution, nor independently to developed its political, cultural, social and economic system.

This Agreement has ultimate character, this Agreement is radically asymmetric in obligations, because it creates a number obligations only for the Macedonian side-obligation to create new Macedonian history, new identity, new features and new present and future of the Macedonian people! The Agreement calls also for the protection of the principles and values of the Council of Europe, respect for human rights, development of democracy and dignity, but its content means flagrant harm and cancellation of the fundamental rights of the Macedonians, their fundamental

right of dignity, right of own cultural and national identity in accordance with the right to self-determination and international law.

International law penalizes a treaty violating jus cogens by absolute invalidity: the treaty is void, if, at the time of its conclusion, it conflicts with jus cogens. Prohibited treaties include treaties contemplating the use of force, treaties contemplating the commission of genocide or enslavement, treaties violating human rights, the equality of States, or the right to self-determination. The June 2018 Agreement arguably violates the right of the Macedonian people of the Republic of Macedonia to internal self-determination

In its Article 1(3), the June 2018 Agreement sets forth in detail the designations and terminologies that may be used with reference to the Republic of Macedonia and the Macedonian people going forward. As you explained, these designations and terminologies do not conform to the self-identification of the majority of the Macedonian people.

Additionally, under Article 3(4) of the June 2018 Agreement: "The Parties commit not to undertake, instigate support and/or tolerate any actions or activities of a non-friendly character directed against the other Party. Neither Party shall allow its territory to be used against the other Party by any third country, Organization, group or individual carrying out or attempting to carry out subversive, secessionist actions, or actions or activities which threaten in any manner the peace, stability or security of the other Party."

Due to the broad subject-matter scope of the June 2018 Agreement and the broad language of the clause, Article 3(4) effectively prohibits civil activity relating to Macedonian identity and culture in the Republic of Macedonia, including expressions of Macedonian identity and culture and democratic discussion on the matter (despite the Macedonian Constitution characterizing the Republic of Macedonia as a democratic State), as these could be characterized as "unfriendly", "subversive" or "stability-threatening".

As such, the June 2018 Agreement arguably violates the right of the Macedonian people to internal self-determination, as it denies the Macedonian people the right to a political regime based on the people's self-identification, as well as to freely pursue social and cultural development.

A name is the core of not only individual but also collective identity. The ability to choose the name of the political community is one of the key aspects of political and cultural identity, and as such an emanation of the Macedonian people's fundamental right to internal self-determination. This right belongs to the Macedonian people, and the sitting Macedonian government is unable to waive the Macedonian people's right to self-determination.

Indeed, the Constitution of the Republic of Macedonia itself characterizes the Republic of Macedonia as a state whose sovereignty derives from the citizens and belongs to the citizens and which respects norms of general international law.

Pursuant to Article 8 of the Macedonian Constitution, the free expression of national identity is one of the fundamental values of the Macedonian constitutional order. The June 2018 Agreement's contravention of the right of the Macedonian people to self-determination may go beyond the Agreement's individual provisions, considering your belief that the entire June 2018 Agreement was in fact concluded as part of a long-term effort by Greece to deny Macedonians their identity (and to do so also with respect to Macedonians living within the borders of their existing Republic of Macedonia), and that the incumbent Macedonian Government has colluded with Greece and certain Western States in this effort.

The right to internal self-determination of an entire population of a State is memorialized in the Human Rights Covenants[11], the UN Friendly Relations Declaration[12], and other international and no State may deny the population to choose the name of its existing State in the exercise of its right to self-determination.
The exercise of the right by the Macedonian people is not abusive.
The territory of the present-day Republic of Macedonia was referred to as the Republic of Macedonia within the Federal People's Republic of Yugoslavia and the Socialist Federal Republic of Yugoslavia from the Second World War until the dissolution of that federation.
The Constitution of the Republic of Macedonia itself characterizes the Republic of Macedonia as a State whose sovereignty derives from the citizens and belongs to the citizens, and which respects norms of general international law. The June 2018 Agreement's contravention of the right of the Macedonian people to self-determination may go beyond the Agreement's individual provisions, considering belief that the entire June 2018 Agreement was in fact concluded as part of a long-term effort by Greece to deny Macedonians their identity (and to do so also with respect to Macedonians living within the borders of their existing Republic of Macedonia), and that the incumbent Macedonian Government has colluded with Greece and certain Western States in this effort.
The June 2018 Agreement arguably violates political and cultural rights of Macedonians guaranteed by international human rights law, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights, and the Universal Declaration of Human Rights, such as the freedom expression, assembly and association, and the right to participation in cultural life.

IV. CONCLUSION

According to the legal theory, the inherent right of a state to have a name can be derived from the necessity for a juridical personality to have a legal identity. In the absence of such an identity, the juridical person (such as a state) could, to a considerable degree (or even completely), lose its capacity to conclude agreements and independently enter into and conduct its relations with other juridical persons. Therefore, the name of a state appears to be an essential element of its juridical personality and its statehood.
The principles of the sovereign equality of states and the inviolability of their juridical personality lead to the conclusion that the choice of a name is an inalienable right of the state. In this context, external interference with this basic right appears to be inadmissible, irrespective of territorial and similar arguments. This conclusion is consistent with the opinions of Henkin, Pugh, Schachter and Smit that states have no exclusive rights to names under international law.[13]

[11] International Covenant on Civil and Political Rights, 1966, Art. 1(1); International Covenant on Social, Economic and Cultural Rights, 1966, Art. 1(1). Human Rights Committee, General Comment No. 12: The right to self-determination of peoples, 1984. The Republic of Macedonia is a party to both Covenants.
[12] Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, UN General Assembly Resolution 2625 (XXV), 1970, Principle 5 (The principle of equal rights and self-determination of peoples).
[13] Prof. Igor Janev, June 12, 2018, American Journal of International Law - American Society of International law American Journal of International law, vol. 93, no. 1, 1999, Legal aspects of the use of a provisional name for Macedonia in the United Nations System, https://www.change.org/p/united-nations-solution-to-the-name-problem-of-the-republic-of-macedonia-in-the-un/u/22869606.

The international community should develop appropriate legal mechanisms and rules for hypothetical situations when two or more states wish to adopt the same name. This is not the case in the Greek-Macedonian dispute, however, since the name “Macedonia” is used by Greece to designate one of its provinces (which is not an international legal person).

The Agreement is radically asymmetrical, from a point of view of the obligations foreseen for the two parties. Practically in the whole text, the Agreement lists one by one the obligations for the Second Party, which is not once referred to by its international and constitutional name, nor as a country with a specific legal subjectivity, but simply as a "Second party received in the UN in accordance with the Resolution 47/225 of the UN General Assembly on 08 April 1993," which is an element for seeking legal annulment of the agreement from an aspect of disrespecting the fundamental provisions and norms determined in the Vienna Convention on the Law of Treaties.

Having in mind that neither the Republic of Macedonia, nor the “Former Yugoslav Republic of Macedonia” is presented as a party in the agreement, we may conclude that the Second party is unknown. When the country is not precisely defined in the agreement as a legal subject, which can act and take obligations in the legal system, this agreement cannot and must not produce legal effects.

Since the Agreement does not precisely define the Second Party with the full name of the country as a title, as a holder of specific legal subjectivity, it could be concluded that the Agreement is collapsible by its legal nature, and, as such, it is void.

In the law of Treaties, regardless if the agreement was made between two physical entities or two countries, the fundamental rule is that they have a precise title. If the Agreement does not have precisely defined parties of the agreement, as it is in this case, then it must be declared void without the right to produce legal actions. Unlike the first party which is precisely defined in the Item 1 of the Preamble of the Agreement as the Hellenic Republic, the Second party is referred to as "the party that was received in the UN in accordance with the UN General Assembly Resolution 47/225."

De facto, the Second party is not precisely specified as a party in the agreement with a specific name, which makes this agreement incomplete, legal faulty and against the principle of the rule of law.

The Agreement is contrary to the principles and goals of the UN Charter, particularly with the principle of sovereign equality of all countries (article 2, paragraph 1). The Agreement violates the article 2, paragraph 1 of the UN Charter which protects the legal equality of the UN member countries. This agreement does not protect the legal equality of the Republic of Macedonia as a sovereign country and country equal with Greece within the UN.

This agreement violates the Article 2, paragraph 7 of the UN Charter, which refers to the prohibition of interfering by any country or organisation in the strict internal jurisdiction of any country. With the Agreement, the First party, i.e. the Republic of Greece, opposes to the Second party, i.e. to the Republic of Macedonia obligations which are part of the strict internal jurisdiction of the country and its internal constitutional and legal order.

The Agreement also violates the Article 6, paragraph 1 of the Charter which refers to the admission in the UN when the general conditions for admission are met (the general not the specific conditions.) As a conclusion: the Agreement is not in accordance with the principles and goals of the UN Charter as concluded in its preamble, but it directly violates those principles and goals because with its content the Agreement violates two key articles of the UN Charter, Article

2 paragraph 1 and 7, and Article 4 paragraph 1. The Agreement violates the international and the national principle of the rule of law.

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4. International Covenant on Social, Economic and Cultural Rights, 1966, Art. 1(1).
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