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# Languages and identities in North Macedonia: legal and political challenges to state formation

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## ABSTRACT

This paper examines the legal and political challenges to state formation in North Macedonia through analyzing the language use and linguistic rights of ethnic communities in North Macedonia. At first the paper gives a historical overview of the modalities of language rights protection in the country before and after its independence in 1991. The paper focuses on an analysis of the legal implications of the current regulations of the use of languages in the country and discusses how they affect the identities of ethnic communities as opposed to the formation of the multilingual and multiethnic state of North Macedonia. An examination of the forms and instruments of tackling linguistic rights in the country is carried out by discussing the requests, needs and rights of all constitutionally recognized ethnic communities. This paper will present the analytical content research conducted by the authors on the topic.

**KEYWORDS:** *North Macedonia; language rights; power-sharing; policy; identity formation; multilingualism*

## INTRODUCTION

According to structuralist and post-structuralist theories (Barker, 2010) (Choat, 2014) (Herman, 2010) (Caverly, 2014) identities are relational, and as such they are formed and shaped through communicative processes (Kolb, 2003). In order to communicate, individuals need a common system of signs that can be understood by every member of the group, and that is “language”.

Languages symbolize identities by those who speak them (Byram, 2006). As in theory and in practice, one of the elements from which human beings are different from one another is the language they speak. Language can also determine individuals’ affiliation to a social group and social identity. An individual can be “a researcher”, “a violinist”, “a European”, “a Macedonian” or “an Albanian”. \*\*\*\*These several distinct social identities of individuals can, and in most cases do, share the same language as a mother tongue or second spoken language. Each social group can also have its own language or a variety of that language (regional, dialect, jargon). Speaking these varieties can also give a feeling of belonging to a certain social or ethnic group. As rightly noted, languages and varieties of language are ways of expressing and recognizing the many social identities that people have (Byram, 2006).

Languages not only determine the sense of belonging to a particular social or ethnic group but they are also the key element of state-building and formation. They have played a central role in the construction of modern national identities through the “*one language – one culture – one nation paradigm*” (Pujolar, 2007). Human beings emotionally identify themselves with their own language and literature, and language-based identity can be a viable basis for the democratic governance of a country or a region within a country. It doesn’t mean that a language-based model of governance is the sole option in a democracy, especially in multi-lingual or multi-dialect modern states (such as India, Switzerland, Australia, Germany, Canada, United States and many more). We could also argue that language has a strong and direct impact on national or sub-national identity, however that would suggest that in the example of Switzerland there could be no national identity (but many sub-national identities), because of the existence of four official languages. Or taking the example of Latin America countries, under these premises we could argue that the people there “feel Spanish”. Considering these simple examples, scholars argue that language is not, and cannot be the sole component in the formation and promotion of identities (Kolb, 2003).

Language policies are under a huge pressure when we talk about minority (and non-official) languages (somewhere greatly promoted under the auspices of the Council of Europe; somewhere prohibited and persecuted such as in Turkey and Greece). There are many consequences related to the steps of nation-building and language(s). Sahlins (1989:7) points out that: “modern nations were built from political centers outward and imposed upon marginal groups or peripheral regions in a process of cultural and institutional “assimilation” and “integration””. Some states go for assimilation practices and declare a sole official and only one language of communication in the country, whereas others opt for integration practices, where a few (minority or regional) languages co-exist and are used for official purposes. States can use language as a tool for unification (see Italy for example) having one official language as an adhesive that connects the population, and thus creates a unique national identity (Italian in this case), no matter if in the state regional or minority languages exist and are officially recognized and used. National languages, state languages, and official languages can serve different functions (Davies and Dubinsky, 2018).

The case of the language use and language rights of North Macedonia is unique. As many point out the country builds its language use policy on the premises of Macedonian nationalism and the effort to have a state on the language-nation-state axis (Ibrahimi, 2021: 247). Kambovski (2014:31-34) states firmly that: “Macedonia is defined as a state of the Macedonian nation and all its citizens living in it...the process of its creation was based on one of the two models of the emergence and development of contemporary European nations: state-language-nation or language-nation-state”.

In 1991, the Republic of Macedonia (the constitutional name at that time) declared independence and entered a process of social transition common to all socialist countries in Eastern Europe. Not long ago, however, it faced a denial of its identity from the outside as well as amended identity definitions from within. Despite being the only former Yugoslav republic to make a peaceful transition to statehood and democracy, Macedonia encountered a number of blockades by Greece over the imposed ‘name issue’. At the same time, Bulgaria, though recognising the state, continued to deny the distinctiveness of the Macedonian language and the existence of a Macedonian national identity as such (Dodovski, 2012: 92).

These open issues with the neighbouring states have been coupled with internal frictions over the rights of minorities living in the country. Macedonia’s mixed population structure comprises ethnic Macedonians as the dominant nation and ethnic Albanians as another large group, alongside a few other ethnic communities that are smaller in size. According to the last census in 2021, 58.44per cent of the population declared themselves as Macedonians, 24.30per cent as Albanians, 3.86per cent as Turks, 2.53per cent as Roma, 0.47per cent as Vlachs, 1.30per cent as Serbs and 0.87per cent as Bosniaks and others (State Statistical Office, 2021). According to the same census 1,145,327 (62per cent) of the resident population of the country use the Macedonian language in the household, while 444 026 (24per cent) use the Albanian language. With regard to the other languages of the ethnic communities in the country, Turkish is used in the household by 61,596 (3per cent), Bosniak by 15 509 (around 1per cent), Romani by 28 088 (around 2 per cent), Serbian by 4,993 and Vlach by 1,795 (less than 1per cent of the population).

Following the country’s independence, tensions between ethnic Macedonians and ethnic Albanians manifested themselves in different forms. The Albanian parties called for autonomy and pressed demands for greater political participation and representation rights (Andeva, 2013: 215-216). The antagonism went along with the political processes of democratization and state building but culminated in violence in 2001. The conflict was put to an end with the signing of a peace accord dubbed the Ohrid Framework Agreement (OFA). The accord resulted in a new constitutional setting designed to advance minority representation. The constitutional amendments deriving from the OFA introduced changes to the terminology by replacing ‘nationalities’ with ‘peoples’ and ‘ethnic communities.’ The country was essentially re-defined as a state shared by ethnic Macedonians and other constituent peoples (ethnic groups) who benefit from the various instruments of representation and the protection of their rights at both national and local levels.

This paper aims to provide an overview of the state identity formation through examining at first language policies developed in time. It touches upon the modalities of language use regulation and recognition before and after country’s independence in 1991. Through the presentation of the past and current legal framework, the paper discusses also how constitutionally the identities of the ethnic communities are determined and how languages affect identities of ethnic communities and how they contribute to forming a multilingual and multicultural state.

## **HISTORICAL OVERVIEW OF LANGUAGE USE AND ITS PROTECTION IN NORTH MACEDONIA**

The country was a specific federal unit from 1944, until 1991, as a unit of the Socialist Federal Republic of Yugoslavia, while from the 1991 it has been an independent state. In the meeting of ASNOM (Anti-fascist Assembly for the National Liberation of Macedonia) held on 2 August, 1944, in the St. Prohor Pčinjski Monastery, when the foundations of the statehood of Macedonia were placed, the Macedonian language was positioned as the official language of the Macedonian country, and it was stated that:

*“The official language of the Macedonian state is the Macedonian people’s language”.*

The issue of the Macedonian language was discussed at a regular session held on 3 May 1945, just two weeks after the formation of the First People’s Government of the Democratic Federal Republic of Macedonia (16 April 1945). On 3 May 1945, with the proposition from the Commission of Languages, the people’s government of Federal Macedonia decided to accept the Macedonian alphabet (Official Gazette No. 7 and 8 in 1945), whereas on the 7 June 1945 the first orthography which standardized the Macedonian language was legalized (Decision on Orthography from 7 June 1945, published in the Official Gazette no. 12, 1945).

The Constitution of the Federal People’s Republic of Yugoslavia of 1946 (Art. 2) recognized Macedonia as an equal unit of the federation; in the People’s Republic of Macedonia, the Macedonians were accepted as a nation within Yugoslavia thus confirming the fact that the language policies in the country are firmly based on the paradigm of “one state – one nation – one language”.

In 1963 the Socialist Federal Republic of Yugoslavia issued a new constitution, in which again (Art. 2) reconfirms Macedonia as an equal unit of the Yugoslavian federation, whereas in Art. 131, in relation to the use of the official languages it is stated that: “Federal laws and other general acts of federal bodies are published in the official gazette of the federation in authentic texts in the languages of the people of Yugoslavia, Serbo-Croatian or Croatian-Serbian, Slovenian and Macedonian” (Official Gazette of the Socialist Federal Republic of Yugoslavia. n. 14., year XIX, April 10, 1963). The Macedonian language remained an official language within Yugoslavia. In Art. 61 of the Constitution of Socialist Republic of Macedonia, it was stated that: “The work of all the state bodies, the bodies of social self-government and organizations that carry out work for public interest, is done in the Macedonian language.” (Official Gazette n.15/1963). Furthermore, in this article (para. 3) the use of mother language is guaranteed in judicial procedures, procedures in front of other state organs and organizations performing public duties.

The Constitution of the Socialist Republic of Macedonia from 1974 for the first time mentioned the Albanian and Turkish nationalities as a constituent part of the state: “The Socialist Republic of Macedonia is a national state of the Macedonian people and a state of the Albanian and Turkish nationalities within it, based on the sovereignty of the people and the government and the self-management of the working class, and of all working people, and the socialist self-governing democratic community of working people and citizens, of the Macedonian people of Albanian and Turkish nationality is equal in this.” (Art. 1) (Official Gazette of the Socialist Republic of Macedonia n. 7/1974). The formulation of the use of official language is kept as in the 1963 constitution, stating again that the official language is the Macedonian language (Art. 1973). In articles 179,



180, 181 and 182 the constitution guaranteed the use of nationalities' languages and placed them on equal stand with the Macedonian language in the areas where members of nationalities live (Art. 180. Para. 1). The constitution guaranteed the right to use the language and alphabet in realizing rights and duties and in front of state organs and organizations performing public duties (Art. 181). Specific conditions of the use and the procedures of realization of these rights were left to be regulated by specific law and statutes of the municipalities where the nationalities live.

With this amendment LVI in 1989 (Amendment LVI, Decision from 19 July 1989) (Official Gazette of the Socialist Republic of Macedonia n. 29/1989), the words: "and state of the Albanian and Turkish nationalities, in it" are deleted in paragraph 2 of paragraph 1 of the preamble and paragraph 1 of article 1 and replaced with the words: "members of other nations". While the original 1974 Constitution specifically recognized nationalities, the later amendments introduced in 1989, took one step back in acknowledging that there are nationalities living in the state without specifically declaring who they are. There were also changes made to the constitution on 20 September 1990, and 7 July 1991, but these questions had not been touched upon. It can be rightfully said that in the period 1946 – 1991, the languages of the nationalities in Macedonia had a status of "minority languages" with limited use.

On 17 November 1991, after the Referendum for the Independence of Macedonia from Yugoslavia (8 September 1991), a new pluralist constitution was adopted (Official Gazette 52/1991). In the 1991 constitution the official language remained the same, the Macedonian language and Macedonian Cyrillic alphabet (Art. 7). Other languages were also recognized as languages to be officially used in the units of local self-government where the members of the nationalities are in the majority (Art. 7, para. 2), under conditions laid down by law. In 1997, the "Law on the languages in which teaching is conducted at the Faculty of Pedagogy "St. Kliment Ohridski" in Skopje" was adopted in which it was regulated that the teaching, the course curriculum, plans, and programs should be carried out in the languages of the nationalities in the country (Art. 2) (Official Gazette n. 5/1997). The implementation of this specific provision was conditioned by the number of enrolled students from the nationality - at least 20 students, members of the specific nationality, or less if the Ministry of education and physical culture approves it (Art. 5, para 2 and 3). Scholars point out that, specifically for the use of the Albanian language, almost half of the lectures were offered in Macedonian and not even the names of the professors were allowed to be written in Albanian language (Maksuti, 2021:144).

The lack of regulation of the nationalities' language implementation, specifically referring to the Albanian language, brought about a well-articulated request for ethnic and language equality of the Albanians with that of the Macedonians. The results faced resistance from the state, which culminated with the conflict in 2001 and the Ohrid Framework Agreement (OFA) signed on 13 August 2001. OFA made changes to the constitution (Amendments IV to XVIII), and these amendments amended the provisions of the Constitution relating to the official languages in the country and their use, the rights of persons belonging to the communities, the protection of the historical and cultural heritage of the Republic, the operation of the Assembly, the procedure and type of parliamentary majority necessary to adopt particular laws, the selection and competences of the Ombudsman, the Committee for Inter-community Relations, local self-government, part of the procedure for amending the Constitution, and others. With regard to the official languages, the constitution once again specifically declares that: "the Macedonian language, written using its Cyrillic alphabet is the official language throughout the Republic of Macedonia and in the international relations of the Republic

of Macedonia”, however it provides for another official language to be used alongside the Macedonian language and that is: “any other language spoken by at least 20 percent of the population” (Amendment V, point 1, amending Art. 7). The official use of this “above 20 percent language” according to the constitution is to be used in addition to the Macedonian language, in accordance with law, and in units of local self-government in which at least 20 per cent speak that language. The use is constitutionally guaranteed in terms of communicating with the regional offices of central government within each specific municipality, possibility to use that language when communicating with a main office of the central government.

The long period between these constitutional changes and a specific law regulating the use of languages has significantly contributed to further tensions in the country. Finally in 2008, the Law on the use of the languages spoken by at least 20per cent of the citizens of the Republic of Macedonia and in the local self-government units (Official Gazette n.101/2008) was adopted. Withregard to the position of these two languages, Macedonian and the language spoken by at least 20 percent of the population, again there was a clear stand point and that is that: “the only official language as the only code of communication in the country remains the Macedonian language”, whereas the language of those “over 20per cent” (the Albanian language isnowhere specifically mentioned, to preserve the identity of: “one state – one nation – one nation language”), is a language with special regulation on how and how much it can be used. On another note, as it is regulated, this language can only be used only beside the Macedonian language.

The Law for the Use of Macedonian Language (Official Gazette 5/98), together with the changes that have advanced its use, determines that the status of the Macedonian language remains untouchable as the only official language in all the territory, and as the language that the state communicates in. Whereas the Albanian language ) remained to be interpreted in the Law on the Use of Languages that are spoken by at least 20per cent of the citizens in the Republic of Macedonia and in the units of local government, which had some advancing changes in 2011 (Official Gazette 100/2011). The 2011 changes allowed for members of Parliament, elected or appointed officials from the Assembly, which speaks a language different from the Macedonian language, spoken by at least 20per cent of citizens, to speak that language at a session of the Assembly and at a session of an Assembly working body.

The last effort for the advancement of the Albanian language was carried out on 11 January 2018, when the Assembly of the Republic of Macedonia adopted the Law on the Use of Languages (entered into force on 14 January 2019) (Official Gazette n.7/2019). Although this law has not placed Albanian on an equal basis with Macedonian, it has for the first time labeled that language as “the Albanian language” in Art. 1, whereas in the rest of the text it still remains as “the language which is spoken by at least 20per cent of the citizens”, it has widened its official use in the bodies of the executive, legislative, judicial branch, and local government, as well as in international communication, in the army, in the police and in the currency, but also in other activities. But, even in this law the formulation “besides the Macedonian language” remains, which means that the status of Macedonian has remained “the only code for state communication”.

In reference to the position of the Albanian language in the language regulation process and its historical development, some scholars structured and consequently labeled a part of this process in three phrases. The first comprising the period from 1945 to 1981 as a “phase of the relative integration process” of the Albanian language, the second covering the period from 1981 to 1990 as a process of “discrimination and minority treat-

ment of the Albanian population” and the third covering the period from 1991 to 2001 defining it as “rehabilitation of Albanian culture” (Iseni, 2013: 176). The fourth and still ongoing phase began in 2001, initiated in 2019 with the adoption of the Law on the Use of Languages. This last and current stage of the status of the Albanian language in North Macedonia can be labelled as “phase of the full integration process”.

As regulated in the current language legal framework (the Law on the Use of Languages, for the purpose of promotion, protection and the unique application of the official language spoken by at least 20per cent of the citizens of the country and its alphabet, the Agency for the Use of Language spoken by at least 20per cent of the citizens of the Republic of Northern Macedonia is (hereinafter Language implementation Agency) is formed as a legal entity responsible for the standardization and uniform use of the language (art. 1 para.3 and art. 2 para. 3, art. 18, para.8 of the Law on the Use of Languages). The Director of the Agency is elected by the Government of the Republic of Northern Macedonia on a previously announced public call with a mandate of 4 years with the right of re-election. According to the Law on the use of languages (2019), the Agency is in charge of: supporting the institutions in fulfilling the obligations of this law, including the translation and proofreading of documents, the proofreading of all acts published in the Official Gazette,. The Agency alsopromotes and undertakes measures for the promotion of the use of the language spoken by at least 20per cent of the citizens, and the preparation of reports for informing the Government for the implementation of its competencies for the needs of the Government to prepare expert analytical materials within its competence. The Agency provides expert opinions on the use of materials in the function of implementing and promoting the use of the language spoken by at least 20per cent of the citizens, and other matters related to the implementation of the objectives ascribed by this Law (art. 19).

The Inspectorate for the Use of Languages is a special institution that will monitor the implementation of the law, for this a special law has been adopted, the Law on the Inspectorate for the Use of Languages (2019) which will determine the manner of election of the director, the mandate, the defined competencies, the way of working and other organizational and functional issues for the normal functioning of this institution. For the supervision over the full and consistent implementation of the provisions of this Law that refer to the use of languages, an Inspectorate for the use of languages is established within the Ministry of Justice with the status of a legal entity. Principles, competence, the organization of inspection and inspection procedures of the Inspectorate on the use of languages are regulated by a specific law. The Government as the highest executive institution is obliged to take measures to promote the official languages (Macedonian and Albanian) in the country.

## **STATE IDENTITY VS. THE IDENTITY OF ETHNIC COMMUNITIES**

As pointed out in the introduction, which took into consideration examples where language was not the sole component of identity formation, it can be confirmed that in the case of North Macedonia several other elements were also present in the process of state identity formation. At the beginning of this process , language would certainly play a crucial role; however, the Macedonian Slavic language would also share its status of being an identity builder with the orthodox religion.

It has been pointed out by several scholars that in Ottoman Macedonia the Slavs had not developed such a clear feeling and understanding of national identity as other peoples (Stojanovski et al. 2014: 300) (Sielska, 2018: 79). In the Ottoman period, people had



an attachment to their tribes, families and churches but did not feel any attachment to the whole nation of Macedonia. Macedonian identity (self-identification) was shaped around religion, which was consequently under pressure from neighboring Churches such as the Patriarchy of Constantinople, the Bulgarian Exarchate, and the Serbian and Greek Autocephalous Churches. The Macedonian Orthodox Church, perceived by most Macedonians as being an eminently national institution, remained unrecognized in the Christian Orthodox world. This was due to the refusal of the Serbian Orthodox Church to acknowledge it as a canonical church within present-day Macedonia, a territory over which the Serbian Orthodox Church gained jurisdiction only in 1918; a century and a half after the illegitimate abolition of the autocephalous Archbishopric of Ohrid, in 1767, of which the Macedonian Orthodox Church claims to be the rightful heir and re-institutor (Dodovski, 2012: 92). It was not until recently (May, 2022) that the Serbian Orthodox Church recognized the independence of the Orthodox Church in North Macedonia, and ended decades of isolation for the Macedonian Orthodox Church (Marusic, 2022).

Identity formation in the country witnessed many turbulent periods, and not only in the past, such as in the aftermath of the Balkan wars and the dissolution of the Ottoman Empire and later with the ASNOM. Another identity builder, apart from language and religion, can be seen in the status of the state especially when its independence is at risk, and there is the lack of a prosperous future in a social and economic sense), reinforced by obstruction against entering into political unions and alliances. The situation is exacerbated when there is the strong presence of the myths of Ancient Macedonia. When in power, the VMRO-DPMNE political party, from 2007 onwards revived () the symbols and myths of a perceived Ancient Macedonian past by worshiping Alexander the Great and developing a process, which according to Sielska (2018: 80) created an “anti-image” of Macedonian identity.

The Macedonian people have been identified as the citizens of the country speaking the Macedonian language as their mother tongue, and this terminology is still used in the Preamble of the constitution. The Preamble has been subject to many changes, which could give an idea of how the state and identities of its ethnicities have been changed and formed through time.

In analysing the 1991 Preamble “the historical, cultural and statehood heritage” of the “Macedonian people” and their struggle for self-determination is clearly mentioned at the beginning only by: *“Taking as the points of departure the historical, cultural, spiritual and statehood heritage of the Macedonian people and their struggle over centuries for national and social freedom as well as for the creation of their own state, and particularly the traditions of statehood and legality of the Krushevo Republic...”*

Other citizens belonging to other nationalities are acknowledged as being equal only later on in the text of the Preamble, but the wording clearly points out that state identity and formation was exclusively linked to the Macedonian people only, and that the identity of the Macedonian people was linked with the identity of the state.

The Fourth Amendment arising from OFA in 2001 renamed the “nationalities” as “people” placing them in a closer and more equal position with the Macedonian people. Right at the beginning of the newly changed Preamble we may now find the following: “The citizens of the Republic of Macedonia, the Macedonian people, as well as citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Roma people, the Bosniak people and others taking responsibility for the present and future of their fatherland, aware of and grateful

to their predecessors for their sacrifice and dedication in their endeavours and struggle to create an independent and sovereign state of Macedonia ...". Amendments XXXIII and XXXVI have changed the country's name, and have placed the legal decisions and provisions of OFA as a constituent part of state formation, but have not changed the term "people" neither as an attribute to the Macedonians or the other nationalities in the country. The nationality "Macedonian/citizen of the Republic of North Macedonia" it is now clearly stipulated as a nationality which does not define or predetermine the ethnic affiliation of the citizens (Macedonian, Albanian, Turkish or others) but rather includes all ethnicities as one nationality (Art. 2, para 2 and 3 of the Decision on the promulgation of the Constitutional Law for the implementation of Amendments XXXIII to XXXVI of the Constitution of the Republic of Macedonia).

The Macedonian people along with the Albanian, Turkish, Vlach, Serbian, Roma and Bosniak people (all citizens of the Republic of North Macedonia) are now placed as a constituent people even closer to being equal and linked with the state identity. If we analyze closely again the wording used in the first part of the actual Preamble we can still see that perhaps there is a presence of dominance of the Macedonian people as a constituent people over the others, as in the following: "The citizens of the Republic of North Macedonia, the Macedonian people, as well as part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Roma people, the Bosniak people and others taking responsibility for the present and future of their fatherland..." with the wording "as well as part of". This is regulated like that due to the historical development of the nation-state and definitely the fact that historically-speaking the Macedonian people had no other home state than the Macedonian state, and the ethnic communities that are parts of other nations, listed in the Preamble of the Constitution, have their own other home states (kin-states), with a positive exception made for the Roma and Vlachs who are considered ethnic groups because they do not have their own home states. The constitution as it is today, points out that all ethnicities in North Macedonia are constituent people and should perceive North Macedonia as being their homeland.

The dichotomy between a constituent people and ethnic communities has been contested in front of the Constitutional Court of the country regarding the position of the Macedonian people with the others mentioned in the Preamble. An initiative was sent to the Constitutional Court for initiating a procedure for evaluating the constitutionality and legality of Part IV "Characteristics of the census population", Item 6 "Ethno-cultural characteristics", subsection 6.1. "Belonging to an ethnic community", from the Methodology for the preparation, organization and implementation of the population, household, and housing census in the Republic of North Macedonia, 2021 ("Official Gazette of the Republic of North Macedonia" no. 30/2021). According to the allegations in the initiative, the Constitution distinguishes between the terms "people" and "ethnic minority". In the disputed part of the Methodology, according to the allegations, it was impermissible and contrary to the Constitution and the laws that the members of the Macedonian people were not allowed to declare themselves in the census as members of the Macedonian people, but the only thing left for them, according to the disputed part of the Methodology, was to declare themselves as members of ethnic community. Thus, according to the allegations, in this way, the Methodology was not in accordance with the Constitution and discriminated the Macedonian people. The Constitutional court ruled that: "from the norms in the Constitution ..., which determine the legal subjectivity of the state with population, territory and sovereign power, which, in addition to its uniqueness, is also a subject of international law and possesses the basic rights and duties of a state, but also the contractual rights and duties within the framework

of the international community and the ratified international agreements in the context of which are also human rights and freedoms, it follows that the people as an ethnic group is connected to the population on the territory of the states, it cannot be formalized or defined in isolation from the population which is an element of the legal subjectivity of a state because it essentially determines the population. The Macedonian national community clearly defined and distinguished as the Macedonian people by the Constitution and the national communities as parts of the other nations enumerated by the Constitution, on the territory of the Republic, are the population of the state that belongs to the ethnic communities of the mentioned nations. Hence, the determination in the “ethno-cultural characteristics” in the Methodology, where “belonging to an ethnic community” is mentioned as characteristics of the population, among other things, with the question of the Census about the “ethnicity” of the person being recorded, the membership of the Macedonian people is not violated or parts of other peoples, but with this questionnaire it is allowed to express a broader concept of belonging to the peoples within the population that is the subject of the 2021 Census” The court considered that for the contested part of the Methodology, a procedure for evaluating the constitutionality and legality cannot be initiated (Decision U. no. 29/2021).

## **STATE UNITY AND THE PRESERVATION OF COMMUNITIES' IDENTITIES**

The concept of a federal structure is not mentioned anywhere in the Constitution of North Macedonia. Since independence, the country has clearly been a unitary state governed as a single entity. If we consider that this unitary state has many nationalities living in its territory and it is establish as such to preserve its unity and identity as a multinational state, the policies, regulations and the modalities of keeping equal rights, human rights and promoting and protecting cultural identities, somehow at first sight resembles that of a “national cultural autonomy” (NCA) model of governing; or otherwise in contemporary literature is known as non-territorial autonomy (NTA). The NCA has its origin in the Habsburg Empire when there was “the attempt by Austrian socialists to convert the Dual Monarchy from a conglomerate of bickering cultural communities into a democratic federation of individuals” (Nimni, 2013: 15). The main aim of this model was to keep the Empire integrated whilst having the cultural communities organized as autonomous collectives regardless of their residential location within a multinational state. This implies a management in a two-tier system where all participating communities are endowed with a collective persona in the form of legally guaranteed autonomous corporations (Nimni, 2013: 16). NCA is based on the personality principle, reflecting the legal relationship of an individual with a certain public autonomous institution, wherein this relationship is based on this individual's characteristics other than residence. In the case of North Macedonia, there are no such autonomous corporations for communities to participate in as collective (power-sharing arrangements apply). The integration of the communities is present and its spread throughout the whole territory no matter the location; however certain cultural rights such as linguistic rights are still linked with territory and numerical threshold.

If we look at how other scholars depict NCA such as Porter (2003) we can see that there are elements of NCA which can be applied to the case of North Macedonia and linked with the arguments for state unity as opposed to the protection of ethnicities and their identities. He illustrates five principles, which ‘go beyond the existing literature and may be adapted to provide a practical way forward from the complexities of the realization of minority rights’ (Porter, 2003: 66) and in our case the rights of the ethnic communities which in numerical terms can be defined as minorities in terms of their actual percentage of the overall population. The first three principles that Porter (2003)

explains are the ones relevant to this analysis. The first principle stipulates that the minority should assure the state that it does not seek to secede; the second principle is the acknowledgement by the nation state that the national minority is entitled to maintain its distinct cultural identity; and the third principle requires that a state should publicly acknowledge the freedom of the minority to maintain its own identity and commit to protect that minority from discrimination. The OFA (Art. 1.2 and 3 of OFA), and consequently all legal provisions since then, clearly assured the state unity and overcame the fears of secession by introducing provisions which bar territorial segregation with a compromise found in a system of tailored self-governance. Maintaining the distinct cultural identity is guaranteed through numerous legal provisions, starting from Art. 20 of the Constitution where it is prescribed that the state guarantees its citizens “the freedom of association for the purpose of exercise and protection of their political, economic, social, cultural and other rights and beliefs. Citizens can freely form associations of citizens and political parties”. According to the Article 48 of the Constitution, “members of nationalities have a right to freely express, foster and develop their identity and national attributes”. This guarantees the protection of the ethnic, cultural, linguistic and religious identity of the ethnic communities. As language is part of the individual’s or communities’ identity (as mentioned above) in the case of North Macedonia, language rights of particular ethnic communities are well established in the legal framework. What concerns Porter’s third principle, in particular the Law on the prevention of and protection against discrimination (2010) and the existence of other anti-discrimination instruments and measures incorporated in other legal documents concerning the freedom of association, as well as access to education and employment. Porter’s suggestion of publicly declared allegiance seems to lack a sufficient clarity. In practice, such declarations are made indirectly, by the mere fact of taking a citizenship wherein the person assumes the obligation to obey the state rules and regulations. Declared allegiance can be traced back to the concept of social contract developed during the Age of the Enlightenment: having consented, either explicitly or tacitly, to surrender some of their freedoms to the authority of the state, the individuals receive protection of their remaining rights in exchange.

Some scholars, such as Lytra (2016) consider two approaches to language and ethnic identity. The Essentialist approach is the one according to which language and ethnic identity are fixed and bounded categories pre-imposed on individuals and groups in a given interaction, where language is a marker of an inherited ethnic identity. On the other hand, the constructionist view regards language and ethnic identity as social constructs that are relational, negotiable and recognised as historically, contextually, socially and discursively constructed in discourse. The identity and language of the Macedonian Albanians and other ethnic communities are best preserved by a thorough observation of the liberal principles of nation building (Daskalovski, 2002: 2), thereby arguing that liberal nation building, within the context of liberal theory, does not promote a strict relationship between individuals and ethnic belonging as it leaves the choices pertaining to the development and preservation of culture and national identity to interested citizens.

## CONCLUDING REMARKS

For some observers, North Macedonia is a unitary state where a non-territorial principle of accommodating minorities applies (Frckoski, 2000). For others, Macedonia has become a ‘bi-nation state’ (MCIC 2011: 72) and an ‘atypical unitary state’ (Penev et al. 2011) with the opportunity for its ethnic communities to express their characteristics and participate in power sharing. Such perceptions emerge perhaps because: ‘one of the



constituencies of Macedonian independence and sovereignty is the relationship between the state and the Albanian minority' (Frckoski, 2005). If we go back to the historical developments of the state vs. identity formation, we can see that the present status is a major step towards creating North Macedonia as a multi-ethnic country. In terms of language rights and use we can hardly conclude that there is a multilingual feature; to be more precise we can talk about a bilingual society or bilingual state where smaller-in-size ethnic communities (Turks, Vlachs, Serbs, Roma, Bosniaks and others) find themselves in a particular position. This geographical region of what represents today's North Macedonia has always been characterized by widespread multilingualism which originated through the historical mixture, coexistence and interaction of people from different ethnic, cultural, religious and linguistic background. But, as aforementioned, it is arguable whether the society has fully matured and entered the stage of becoming a real multilingual society with all its features and without having the need to reach a certain percentage threshold in order to exercise one's linguistic rights within the system.

Language is an aspect intrinsically connected to an individual's identity. It contributes to identity formation by providing a sense of cohesion and unity for its speakers (Bucholtz and Hall, 2004: 385). Everyday interactions offer information about the manners to reaffirm and construct identity, through speakers' language choice. Moreover, identity formation requires a certain level of awareness as it involves individuals making a conscious decision that impacts a change in their identity (Vizuette, 2021).

The Republic of North Macedonia has advanced legislation governing the use of languages in institutions from the public sector, both at a central and local level. However, in its real and practical implementation, a series of difficulties and challenges appear which indicates the need for continuous advocacy with joint efforts and work to achieve an effective system (Sela and Matovski, 2022:14).

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