

THE GOVERNMENT VIEW AND CONSTITUTIONAL AMENDMENTS IN THE REPUBLIC OF NORTH MACEDONIA TOWARD EU INTEGRATION

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Abstract

North Macedonia, as a candidate country for admission to the European Union, has difficulties in fulfilling the criteria for membership, but also in solving the problems that arise with neighboring countries. The most significant recent accomplishments that substantially departed from the place of detention and contributed to the deepening of the reform momentum in terms of good neighborly relations are the historic Prespa Agreement between North Macedonia and Greece, as well as the Treaty of Friendship, Good Neighborliness and Cooperation between North Macedonia and Bulgaria. This paper analyzes North Macedonia's path towards the European Union, the problems and challenges it faces on this path, including the amendments to the Constitution. Dilemmas are opening up about the European future of North Macedonia, which are closely related to the resolution of internal challenges, as well as relations between neighbors. At the end, conclusions and recommendations are issued to facilitate the path of North Macedonia towards the European Union.

Keywords: International Relations, Constitution, North Macedonia, Bulgaria, EU Integration.

1. Introduction

The accession of North Macedonia to the European Union (EU) is a unique process. Historically analyzed from the moment of declaring independence and sovereignty, North Macedonia strives to be a part of the Euro-Atlantic family of countries. This process is burdened with additional factors that cause social distortions, and these affect the identity, cultural and multinational characteristics of the country. The process was largely complicated by internal indicators such as the system transition, the introduction of the multinational concept in the functioning of the state apparatus, the building of multinational, religious and multicultural tolerance, the introduction of the civic concept and the promotion of the "one society for all" concept. External indicators further add weight to the process. The decades-long dispute with Greece over the country's name has emerged as the main obstacle to the successful development of European integration. This dispute was the main obstacle to the process. The settlement of the dispute with Greece did not mean an unobstructed path in the integration to the EU. A new dispute surfaced, different in content, but again imposed by a neighboring country, i.e. Bulgaria.

Finding a compromise and concluding the Prespa Agreement marked the closing of a chapter in building a European future for North Macedonia. The position of the EU regarding the integration of the countries of the Western Balkans is to close any bilateral dispute before approaching full membership. Such a position currently does not contribute to the successful

realization of the European integration of the countries of this region (Đukanović, 2019, p. 95). In the case of North Macedonia, the implementation of the Treaty of Friendship, Good Neighborliness and Cooperation with the Republic of Bulgaria is the new challenge for the country in the process of full accession to the European Union.

The possible solutions that emerge from the resolution of the two disputes cause constitutional implications, i.e. they require amendments to the Constitution. The opening of the Constitution and access to amendments is always a challenging process, which has legal, political, national, ethnic and international repercussions. Therefore, the purpose of this paper is to provide an overview of the Government's position regarding the constitutional amendments that have been implemented and should be implemented as a result of accelerating the EU integration process of North Macedonia.

2. Legal Framework of the Procedure for Amending the Constitution of the Republic of North Macedonia

Amending the Constitution is a process that is complex and at the same time very sensitive. The complexity of the process can be seen in the legal procedure, which includes several stages. The sensitivity of the process is seen in the potential possibility of conflicts between political subjects, especially in societies that represent a terrain of deep segregation and whose democracy is not at an enviable level. Amendments to the constitution indicate the active involvement of all social actors, starting from political actors, parties in position and opposition, professional and scientific public, civil sector. Constitutional amendments are subject to a process that is incompatible with urgency in the action and superficiality in the preparation of the normative text. Constitutional theorists often emphasize that the Constitution should be intervened very rarely, with a "trembling hand" (Wigny, 1973, p. 314). The sensitivity of the constitutional amendments requires a high degree of sobriety, wisdom and caution in the preparation, proposal and incorporation of the amendments, in order not to cause certain turbulences with unwanted consequences in the social and legal order of the country (Majxonев, 2013).

The existence of several stages in the procedure for amendments to the Constitution, as the highest legal act, is also characteristic of the Republic of North Macedonia's constitutional order. Amendments to the Constitution are possible only with a determined procedure provided for it, in the Constitution itself. In the Republic of North Macedonia, this procedure has five stages. The procedure begins with the submission of a proposal to amend the Constitution, then the decision to accede to the amendment of the Constitution is made. The next step is the determination of the draft of the act and putting it to public discussion, after which the determination of the proposal of the act is approached. Finally, the Assembly of the Republic of North Macedonia approaches the decision-making and promulgation of the constitutional amendment.

A proposal for accession to the amendment of the Constitution is the first stage of the procedure for amending the Constitution of the Republic of North Macedonia. According to the provisions of the Constitution, the President of the Republic, the Government, at least 30 members of the Assembly of the Republic of North Macedonia and 150,000 citizens can submit proposals for accession to the amendment of the Constitution (Art. 130, Constitution of the Republic of North Macedonia).

Adoption of a Decision on accession to the amendment of the Constitution by the Assembly of the Republic of North Macedonia is the second stage in the procedure for constitutional

amendments. According to the rules, this decision is taken with a two-thirds majority vote of the total number of members of the Assembly. The decision is made on the basis of a reasoned proposal submitted by the authorized proposer of the constitutional amendment, on way that in the written proposal, the proposer clearly and concretely explains the conception and goals of the constitutional amendment.

The third stage in the procedure of the constitutional amendments is the Determination of the Draft Amendment to the Constitution, which is determined by the Assembly of the Republic of North Macedonia with a majority of votes from the total number of members (Art. 131, Constitution of the Republic of North Macedonia). In this stage, the proposal of the act, i.e. the constitutional amendment, is determined. The approved draft text is put up for public discussion. The proposal of the constitution is determined by the Assembly of the Republic of North Macedonia with a two-thirds majority of votes, taking into account the results of the public discussion. The results of the public discussion in the text of the proposal of the act are incorporated by the Commission for Constitutional Affairs of the Assembly of the Republic of North Macedonia, in close cooperation with the expert group, formed by the Assembly, and not by the Government of the Republic of North Macedonia (Шкарик & Силјановска-Давкова, 2009, p. 208).

The adoption of a Decision to amend the Constitution by the Assembly of the Republic of North Macedonia with a two-thirds majority of the total number of members, represents the fourth stage in the procedure for amendments to the Constitution. For the proposal of the act, a principle debate is conducted for the proposal of the act (constitution) and a specific debate for each article individually. Members of the Assembly have the right to propose amendments to improve the draft text of the constitution, i.e. the constitutional amendment.

The last, fifth stage follows immediately after the adoption of the constitutional amendment. This stage is characterized by the adoption of a Decision on the proclamation of the constitutional amendment by the Assembly of the Republic of North Macedonia. This Decision, as well as the constitutional amendment, requires a two-thirds majority of votes from the total number of members of the Assembly.

3. Constitutional Amendments as a Result of the Prespa Agreement

In North Macedonia, throughout the years after independence, there is a general consensus that the country is part of Europe geographically and culturally. Hence, the integration process until 2018, and even later, is exposed to the challenge of the relationship between the Macedonian nation and state by continuous external challenges arising from the dispute with Greece and now with Bulgaria. In this way, the specific policies undertaken with the aim of joining the EU were inconsistent and difficult to implement. In 2001, North Macedonia started the integration process by signing the Stabilization and Association Agreement with the EU. In this way, then conflicting ethnic elites showed their commitment to the EU. The EU encouraged both sides to work together for EU membership. Macedonian and Albanian politicians agreed on EU membership as a strategic priority, and the population supported it. However, the Greek veto brought the country's main foreign policy priority, EU membership, into direct conflict with the dominant narrative about the state, its name and national identity. For almost a decade (2008–2018), political elites avoided compromise with Greece for fear of undermining the historical narrative underlying Macedonian statehood. As a result, policies towards the EU have become less consistent, as noted in the annual reports of the European Commission (Koneska, Huskić &

Krasniqi, 2022, p. 11-12). The dispute with Greece was ended by the Prespa Agreement, which introduced obligations for both contracting parties. In order to strengthen the Euro-Atlantic integration, the Republic of North Macedonia approached the fulfillment of its obligations by amending the Constitution (Egeresi, 2020, p. 110-111).

The proposer of the amendments to the Constitution, which resulted from the obligations assumed by the Prespa Agreement, was the Government. The preface contained four points. The first point foresees the addition of the adjective "North" to the name of the Republic. The second point provided for changes in the preamble of the Constitution. The third point referred to stronger guarantees about the border. The last, fourth point referred to the care of Macedonians in the diaspora.

Regarding the first point of the Government's Proposal, it was foreseen in the entire text of the Constitution of the Republic of Macedonia to add the adjective North before the word Macedonia. The purpose of these amendments to the Constitution is the implementation of the Agreement with Greece, which should enable the accession of the Republic of Macedonia to the European Union and NATO. This constitutional amendment was a prerequisite for the ratification of the protocol for the accession of the Republic of Macedonia to NATO in the Parliament of the Republic of Greece. In accordance with the Prespa Agreement, a transitional period was established for the application of the provision regarding the validity of already existing documents and materials issued by the authorities of the Republic of Macedonia. Two transitional periods were foreseen, a technical and a political period. The technical transitional period applies to all official documents and materials of the public administration of the Republic of Macedonia for international use and for documents for internal use, but which can be used outside the country. The validity of such documents and materials is renewed upon the expiration of their validity, but no later than within five years after the entry into force of the agreement. The political transition period applies to all documents and materials, which are exclusively for internal use in the Republic of Macedonia. The issuance of such documents and materials will begin upon the opening of each chapter of the relevant area in the negotiations with the European Union and will be finalized within five years thereafter.

The second point of the Proposal provided for an intervention in the text of the Preamble. The purpose of such changes in the Preamble of the Constitution is the implementation of the Agreement with Greece as a condition for the future accession of the country to the European Union and NATO. As a result of the Prespa Agreement, in the Preamble of the Constitution of the Republic of Macedonia, when citing state-legal traditions, specific documents of Anti-fascist Assembly for the National Liberation of Macedonia (ASNOM) should be named, i.e. a reference to the Proclamation from the First Session of ASNOM to the Macedonian people for the held session of ASNOM, with its constituent decisions.

The next foreseen amendment is directly related to Article 3 of the Constitution, where it is regulated that the territory of the Republic is indivisible and inalienable. The existing border of the Republic of Macedonia is inviolable. The Republic of Macedonia has no territorial claims against neighboring countries. The border of the Republic of Macedonia can only be changed in accordance with the Constitution, based on the principle of voluntariness and in accordance with generally accepted international norms. This article was already amended in 1992 with Amendment I, when the principle of voluntariness for border changes and compliance with generally accepted international norms was added. Also with this amendment it was declared that the Republic of Macedonia has no territorial claims towards neighboring countries. With the new constitutional amendment, a precise declaration was proposed that the sovereignty, territorial

integrity and political independence of the neighboring states will be respected, thereby specifying a firmer guarantee for the permanence of the borders and that the Republic of Macedonia has no territorial claims. According to the Government's Proposal, that means protecting the territorial integrity of the country and neighboring countries. With the Prespa Agreement, the existing mutual border between the Republic of Macedonia and Greece is confirmed as a permanent and inviolable international border, with the commitment that neither of the two countries will have, nor support any claims towards any part of the territory of the other country, nor claims to change their mutual existing border. In addition, both the Republic of Macedonia and Greece have undertaken not to support any such claims that may be made by third parties. The Republic of Macedonia and Greece have committed to respect the sovereignty, territorial integrity and political independence of the other state and not to support any activities of third parties directed against the sovereignty, territorial integrity or political independence of the other state. The two countries also undertook, in accordance with the purposes and principles of the Charter of the United Nations, to refrain from the threat or use of force, including the threat or use of force with the intention of violating their mutual existing border.

The fourth point, as well as the last point in the Proposal, is related to Article 49 of the Constitution. In this article, it is prescribed that the Republic takes care of the position and rights of the members of the Macedonian people in the neighboring countries and for emigrants from Macedonia, helps their cultural development and promotes relations with them. The Republic takes care of the cultural, economic and social rights of the citizens of the Republic abroad. The Republic will not interfere in the sovereign rights of other states and in their internal affairs. This article, like the previous one, was amended by Amendment II in 1992 which provided that the Republic shall not interfere in the sovereign rights of other states and in their internal affairs. With the constitutional amendment that is the subject of this Proposal, care is declared for the cultural, economic and social rights of the members of the Macedonian people and all our citizens abroad, without this implying interference in the sovereign rights of other countries and in their internal affairs, in any form and for any reason. The purpose of this proposed amendment to the Constitution is the implementation of the Agreement with Greece. According to the Prespa Agreement, the Republic of Macedonia and Greece undertook that no provision of the Constitution can or should not be interpreted in a way that constitutes or will ever constitute a basis for interference in the internal affairs of the other state, in any form or for any reason, including for the protection of the status and rights of any persons who are not its citizens.

4. Treaty of Friendship, Good Neighborliness and Cooperation between North Macedonia and Bulgaria and Possible Constitutional Amendments

Bulgaria was the first country to recognize Macedonian independence on January 15, 1992. However, such recognition did not imply recognition of Macedonian ethnicity and language. Bulgaria did not accept the Macedonians as a separate nation from the Bulgarian nation. Although the identity issue was not mentioned in Bulgaria's statement upon the recognition of the Macedonian state, the Bulgarian authorities still defined that the Macedonian language has many common characteristics with the Bulgarian language, which makes it different from other Slavic languages, and at the same time it means that the Macedonian language is a dialect of the Bulgarian language. (Azizi, 2013) Such an attitude significantly reflected the relations between the two countries and the different interpretations of specific periods of their history, which, when it comes to neighboring Macedonia, Bulgaria considered its own. In general, Bulgarian-

Macedonian bilateral relations were quite bad, which threatened that Bulgaria would use the right to block Macedonia's admission to NATO and the European Union (Đukanović, 2019, p. 93). In order to avoid a new scenario of stagnation in the process of integration of North Macedonia into the EU, it is necessary to close another bilateral issue. An attempt to achieve this goal was the conclusion of the Treaty of Friendship, Good Neighborliness and Cooperation.

Treaty of Friendship, Good Neighborliness and Cooperation between North Macedonia and Bulgaria, instead of being about building friendly relations, as stipulated in its name, i.e. to contribute to the rapprochement of the two countries, turned into an act that led to the opposite effects. The treaty between the Republic of Bulgaria and the Republic of Macedonia was concluded between the two governments as the first treaty, or before the conclusion of the Agreement between the Republic of Greece and the Republic of Macedonia. The conclusion of the Agreement with Greece was initiated as a necessity for the Republic of Macedonia to change its name to "Republic of North Macedonia" as a condition for the country's admission to NATO and for starting negotiations for the country's admission to the European Union. The Prespa Agreement did not create any problem, despite the fact that the public in Bulgaria, especially the scientific public, was not convinced that the name North Macedonia was the most appropriate, i.e. this did not entirely exclude territorial claims, which could arise in the future from Greece towards the Pirin part of Macedonia, which is within the territorial scope of the Republic of Bulgaria.

The Treaty of Friendship, Good Neighborliness and Cooperation, Bulgaria chose to sign with the Republic of Macedonia, without expecting that it would be used as a motive for signing the agreement with the Republic of Greece, with which the Republic of Macedonia commits itself and is required to change its constitutional name. In that way, the signing of the treaty between the Republic of Bulgaria and the Republic of Macedonia happened very easily and very quickly. Such conditions of conclusion of the Treaty contributed to not fully declaring the complete situation and not predicting the possible positive as well as negative consequences of the conclusion of the Treaty. So, the signed treaty was insufficiently designed and what is more important in many segments of the treaty, insufficiently applicable as an international act and unenforceable in the light of historical processes and developing historical relations between the two states (EuroThink).

Bulgaria requested a revision of the agreement and its addition with an annex, which caused resistance among the Macedonian public, especially in relation to the opposition. Mainly due to domestic political needs, the opposition did not agree to such a treaty, and even less to possible amendments and additions. Thus, the idea remained to work on the fulfillment of that treaty, such as it is. Implementation as such is possible by eliminating mistakes on both sides, with flexibility, concessions and patience on the part of the Republic of North Macedonia and the Republic of Bulgaria.

The Treaty has the possibility to be fulfilled and to implement its provisions. The French proposal provides this possibility. But at the same time, it is a serious instrument that blocks North Macedonia in its goal, that is, to become a member state of the EU. It is most realistic to approach gradual rapprochement. In that direction, in order to achieve the European integration of North Macedonia, a new intervention in the Constitution is needed. Primarily, this refers to an amendment to the Preamble of the Constitution in which the Bulgarians would be added as a constituent nation, and a secondary intervention in the normative part of the text. This implies the formation of a working group that would prepare a proposal for constitutional amendments.

5. Conclusion

Within the framework of EU integration, North Macedonia had and must deal with several major problems. These problems date back to its declaration of independence and continue to be reflected in both internal and external relations. The political elites managed to overcome some of the challenges, but the goal, membership in the EU, still remained unachieved. Like any pro-European oriented country, North Macedonia strives to minimize bilateral disputes and leave no room for them to be transported as additional criteria for membership. The EU emphasizes that good neighborly relations and regional cooperation represent an essential part of the European integration process of North Macedonia and contribute to stability, reconciliation and a climate suitable for solving open bilateral issues and the legacy of the past.

Unresolved bilateral issues create a counterproductive atmosphere and signal a lack of will to resolve the dispute. In that direction, it is not necessary to create a regional and international image that North Macedonia does not want compromises, because in this way the country is put in an unfavorable position and increased international pressure. The long-running name dispute with Greece is paralyzing the country's accession to the EU and NATO. By signing the Prespa Agreement, North Macedonia has rejected the epithets that it is a hostage to history, it has shown that it is departing from the policy of isolation and is certainly working on integration into the EU. Negotiations with the EU have received a new boost, but a new bilateral challenge has emerged.

The resolution of bilateral disputes from the perspective of North Macedonia is closely correlated with its integration path. The existing structure of the EU includes the Republic of Greece and the Republic of Bulgaria as full members. In principle, this means that both countries may not agree to the development of the integration process of North Macedonia. For North Macedonia, it is extremely important to close all possible issues that would prevent it from achieving its ultimate goal, membership in the EU. All these current and future solutions require intervention in the country's Constitution. The Constitution, as the highest legal act, should be characterized by flexibility, when it is most needed. The obligations assumed by the agreements have their own repercussions in the legal order of the country, and that is why in recent years the amending of the Constitution has been especially intensified in order to provide reliable guarantees in the European future.

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