

The respect of implementation of the fundamental attributes of legal institutions expressed and democratic, over the last decade in the Republic of North Macedonia

Review
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Abstract

The state determines the rules of people's behavior in society through legal norms. Legal norms are written and applied through the state apparatus, which includes the rules of conduct of a society where executive power takes care of the enforcement of legal norms (the Constitution, laws and other legal acts). Democratic and legal institutions expressed through three fundamental attributes:

1. Legitimacy
2. Authority and
3. Political power

Through the implementation of free, fair and democratic elections, the legitimacy of power is ensured. Apparently in many world systems there is suspicion and concern about fraud and manipulation of the electoral process. The implementation of the elections in accordance with the Electoral Regulation, correctly and with integrity is seen as a mechanism for securing the legitimacy of the elected leaders. Authority has its source in the constitution and the law, where they simultaneously make their limitations and secure a process of power restraint. In particular, political power manifests with the relations between the legislature and the executive (Parliament and Government).

The construction of the rule of law in the Republic of Macedonia represents the essential element of democratic transition, which began after the declaration of independence in 1991. When we talk about the state of law, we understand that this represents a broad legal and political concept which includes a set of principles that ensure the rule of law and democratic relations in society.

Keywords: legal, institutions, expressed, and democratic, political power.

1. Introduction

Through the implementation of free, fair and democratic elections, the legitimacy of power is ensured. Apparently in many world systems there is suspicion and concern about fraud and manipulation of the electoral process. The implementation of the elections in accordance with the Electoral Code, correctly and with integrity is seen as a mechanism for securing the legitimacy of elected leaders. But it also appears that in many electoral systems in the world there is growing and worry about electoral deception and manipulation of the electoral process.

The practice so far in our experience of assessing the parliamentary, local and presidential elections can not be assessed as positive, because the norms related to the implementation of the electoral process have not been met. This is evidenced in the parliamentary elections, in this regard can not be considered as positive, because in the current practice of holding elections, whether parliamentary, local and presidential, the written norms for their implementation are not

fully met. Referring to the parliamentary elections of 2006, 2008, 2011, 2014 and 2016, it is clear that the Republic of Macedonia is obliged to organize fair and democratic elections by the country and international observer missions and the missions accredited in our country, have registered a large number of irregularities.

Democratic and correct choices are those where the right to vote is universal, equal, secret and free. This requires a lack of cheating, pressure and yet assurance that votes are earned correctly and in accordance with the electoral regulation.

In the history of all countries, where fewer and more varied forms of electoral irregularities have appeared. However, today, electoral irregularities can not be generalized as appearances because they are part of the past for some countries, this shows how the elections are organized in those countries. This is owed to a high level of awareness among citizens aware that their contribution is equal to one vote, in the strong public opinion, as well as the existence of institutions with the capacity to impede or sanction irregularities.

In the Republic of North Macedonia, the electoral legislation includes: the provisions of the Constitution of the Republic of Macedonia, the Electoral Code which has been amended many times, the Law on Political Party Financing, the Law on Administrative Disputes, the Criminal Code, the Law on Minor Offenses, the Law on Courts, Law on State Revision, Law on Prevention of Corruption, etc. Our country is also a signatory and has ratified international acts regarding the right to vote. From all that was emphasized above, the question is how effective is the legal protection that is envisaged in these legal acts, how functional are they? This is why the Electoral Code has been analyzed as a fundamental act, an act that regulates election development norms and electoral violations in the Electoral Code, where acts against elections and voting have been incriminated, offenses punishable by criminal offenses.

2. Legitimacy of power

When it comes to electoral irregularities, it is thought of all the irregularities that start from the day of the announcement of the elections. All irregularities from that moment are significant and they should be given special importance because they affect the fabrication of a democratic or incorrect pre-election atmosphere that can escalate on the day of voting. In this context, it is important to evaluate the Voters List and its leadership, to control the data, to change the same, to submit the candidate lists and to submit their procedures, to fund the election campaign, and to organize the whole campaign, incidents of the type of fractures and attacks of party headquarters, clashes between political party activists, which in the population introduce a great deal of insecurity and frigate. All of these are possible types of electoral irregularities that affect the evaluation of the election process.

From the irregularities that appear in many polling stations can be highlighted: family voting, group voting, ballot box decay, bribery of members of election commissions, filling of ballot boxes, voting on behalf of others, non-use of color invisible to escape to vote again, non-respect of the voting procedure provided by law, violent behavior and physical clashes, use of firearms to frighten the population, non-signing of voters in electoral roll certificates, irregularities and intimidation outside the polling stations, the breaking of ballot boxes, agitation, attacks on distributors and voters of propaganda material, irregularities and intimidation at polling stations, lack of election material, direct participation of members of electoral organs in violation of electoral law, non-implementation of the procedure to check the identity of the voters, ie of a large number of ballot papers in the ballot boxes from the number of voters who voted, delays in

opening of ballots, inadequate use of UV lamps, non-use of spray, failure to observe the secrecy of voting, in cases when blind and illiterate people seek help.

To minimize irregularities, the role of the elected bodies is important, ranging from the State Election Commission, the Municipal Election Commissions and Electoral Boards, as well as the Electoral Councils in the diplomatic and consular missions of the Republic of Macedonia. To have successful elections from the elected organs mentioned above requires independence, responsibility, efficiency, impartiality, professionalism, transparency and integrity. All of these features are an important part of the electoral organs, because if they are not able to respond to these demands, the whole electoral process will be questioned, first of all it must be repeated or it is appropriate to eliminate the shortcomings that have occurred as a result of non-transparent work. Given the fact that some of the members of the electoral bodies are persons employed in the public administration, the question arises as to whether the electoral administration should be more trusted, particularly because they are chosen randomly. But there is still a reservoir because some of the members of the electoral bodies are sometimes led by their personal sympathies to any political entity, their political affiliation, but may also be subject to certain threats or mitigation.

There is a dilemma as to how the composition of the electoral organs affects the way elections are run and the biggest dilemma is whether the partisan administration records are taken into account and are being recruited by the "spoils system" system instead of merit system. Also due to the irregularities that occurred during the 2006, 2008, 2011, 2014 and 2016 elections, the issue for the protection of the right to vote is raised and we conclude that from this analysis of the last decade in the Republic of Macedonia with these many abnormalities that have been highlighted, then we have fragile legitimacy of state power.

3. Authority and political power

Authority has its source in the constitution and the law, where they simultaneously make their limitations and secure a process of power restraint. Political power manifests itself in particular with the relations between the legislature and the executive (Parliament and Government). The construction of the rule of law in the Republic of Macedonia is an essential element of the democratic transition that began after the declaration of independence in 1991. When we speak of a state of law, we understand that this represents a broad legal and political concept which is itself a set of principles that ensure the rule of law and democratic relations in society. As far as the political power is present to the state institutions in the Republic of Macedonia, we have visibility from reading the full EU expert report with fierce criticism of the Government (Brussels, June 8, 2015).

This report concretely covers the rule of law in these areas: law enforcement, communication tracking, prosecution and judiciary, human rights and transition reforms.

1. The pursuit of communication whereby, according to the above mentioned report, the power expressed in the National Security Service (NSS) and the misuse of the oversight mechanism (SNN) that has a monopoly on the use of intelligence tracking equipment also in criminal investigations which bypasses other bodies such as the Financial Police, the Customs Administration and the Prosecutor's Office, it is undeniable that genuine legal, personnel and other reforms of this state-of-the-art, state-owned institution are to be made.

2. The judiciary and the prosecution where judges, prosecutors and judicial administration are trained and highly qualified, with a sufficient number to ensure the judicial system and the prosecutor's office efficient and effective functioning.

The Academy for Judges and Prosecutors needs to set criteria to make the selection of candidates admitted to this relevant institution of the part of the judiciary and prosecution.

At the same time trainings of judges, prosecutors and police who decide on the protection of the right to vote and in taking or reviewing the decisions of the State Election Commission.

3. The Ombudsman and the Directorate for the Protection of Personal Data, where for the assurance of a fair and transparent adjudication by national courts through the legal mechanism, have the right to participate and provide adequate suggestions in court hearings, a condition that guarantees that the role of participation of the Advocate in court and pre-trial hearings in the prosecutor's office and police to protect human rights and freedoms in the comprehension of the word. While the mandate of the Directorate for Personal Data Protection guarantees full independence in the work and duties performed by this Directorate in accordance with the law and other legal acts that work the same.

4. Elections and media from the OSCE / ODIHR Reports from 2006 to 2017 in the Republic of Macedonia nearly reiterated similar remarks about the abnormalities that occur in the electoral process and presiding over the independence of electoral organs, funding of political parties in electoral processes and their financial oversight by an independent institutional mechanism. While the media are released from what kind of political pressure, commercial whether it is the national public service or the public / private service in informing the citizen, interruption of self-censorship.

When we talk of a state of law, we understand that this represents a broad legal and political concept which includes a set of principles that ensure the rule of law and democratic relations in society. From what we have outlined above, we come up with questions that have been respected or applied in the last decade in the Republic of Macedonia, the basic attributes of state and democratic institutions, and we also value the observance and implementation of the main principles of the state legal background that we have emphasized in the text above.

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