



Prof. Dr. Tanja Karakamisheva-Jovanovska

Assoc. Prof. Dr. Aleksandar Spasenovski

God and Democracy

- A Handbook on the Rights of Religious Communities and the Freedom of Religion in the Republic of Macedonia

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God and Democracy - A Handbook on the Rights of Religious Communities and the Freedom of Religion in the Republic of Macedonia

Authors:

Tanja Karakamiseva-Jovanovska, full professor at the Faculty of Law "Iustinianus Primus", University "St. Cyril and Methodius University in Skopje

Aleksandar Spasenovski, assistant professor at the Faculty of Law "Iustinianus Primus", University "St. Cyril and Methodius University in Skopje

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Editor:

Tanja Karakamisheva Jovanovska

Lecture:

Magdica Shambevaska

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Vincent Graphics DOO Skopje

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FOREWORD

Democracy is an empty shell without substance, without content, if it does not secure undisturbed realisation and protection of the citizens' rights and freedoms, and if it does not guarantee the application of the rule of the law within the system. The rule of the law and the human freedoms and rights constitute the key constants and determinants of every democratic political and legal system. Without them there is no essential democracy, there is no democratic order.

Every individual has a constitutionally and internationally guaranteed freedom of religion, freedom in choosing his/her religion, including the freedom of having no religion as a personal and guaranteed right.

In the interest of protection of the freedom of religion, the European Court of Human Rights recognized the right of every country to individually regulate the principle of secularism in accordance with the provisions of the European Convention on Human Rights, as well as the right of every country to define in its own way the different degree of separation of the political power from the religious organizations, communities and groups in accordance with the Convention, by having in mind the need of inter-religious dialogue and religious tolerance among the citizens.

The principle of secularism is more and more becoming a key determinant in the life and development of the democratic countries. It is a practically common principle that the state and religion must not overlap in their activities and that they should live separately without concrete influence and interference.

However, the state should pay attention to the specific capacity of the religious organizations, communities and groups in preserving the peace, cooperation, tolerance and solidarity as well as the inter-cultural dialogue among the citizens.

In this sense, education plays an important role in nourishing of these values because the education is the key in the fight against all forms of ignorance against all stereotypes and civic intolerance.

The schools are the central forum where the inter-cultural dialogue ought to be nourished and where the foundations for peoples' tolerant behaviour ought to be created.

The schools, through the education, can stand efficiently against all forms of religious and other forms of fanaticism by enabling to the youth gain proper education about the history and philosophy of the main religions in an objective and unbiased manner. By familiarizing the youth with the religions, they will receive information about the beliefs and customs of specific religions worldwide.

Even in those countries in which one religion dominates, the state has an obligation to provide education to its citizens about the meaning and importance of the other religions.

The freedom of religion is protected with the Article 9 of the ECHR, and with Article 18 of the Universal Declaration on Human Rights. In this context, we should point out that this freedom can be limited only within the framework of its positive role in the system. The religions cannot be practiced if their preaching causes harm to the people's other rights and freedoms.

Restrictions in the practicing of the freedom of religion are a legal matter and are foreseen in the case when it is necessary to protect the public safety, public peace and order, health and moral of the citizens, or the rights and freedoms of the other people.

In the European countries, the principle of secularism is understood differently and this brings up different questions, depending on the criteria used for its defining. **According to the formulation by Victor Hugo - "a laic state...is a state in which the church is separated from it in its own space, same as the state who has its own space separated from the church."**

It is interesting to mention that the theory also makes difference between the terms of secularism and laicity. In this context, the term *laicity* is most often equalised with the *secularism*, although this term does not cover the anti-cleric, or even the anti-religious connotation of the laicity.

If we look from a historic angle, the laicity was a militant concept. Today, fortunately, this understanding of the laicity is generally forgotten or ignored, so many French understand the laicity as a neutral doctrine that unites the French society.

Laicity can be explained from several aspects.

First of all, as a legal laicity, whose principles originate from the legal acts of France, Article 2 of the French Constitution from 1959, which says that France is a laic republic, and the law from 1905 which refers to the separation of the church from the state.

Although these documents do not define the laicity as such, they do define the legal grounds for the laicity. What is interesting about these documents is the fact that they demonstrate serious inconsistencies which have so far not been subject of revision.

For example, the 1905 law says that the Republic does not recognise, finance or support the work of any religious group, however, it is notable that the French government is more concerned about the religious matters than any other government in the world.

For example, the French interior minister has a special office within the ministry that is in charge of formulating directions for passing decisions regarding the religious matters, which can be considered as religious association.

Further on, it is a public secret that the French interior ministry consults the Vatican when Catholic priests are appointed. Despite the concrete legal restrictions, the French government gives significant benefits to the religion.

The government, for example, owns and pays for all the buildings that have religious content, including the major cathedrals and the numerous smaller churches, mainly catholic, throughout France.

The religious bodies and organs can use these buildings only based on a prior approval from the government. The government supports the private religious schools and pays for the personnel that teaches religion, and it even finances the programmes with religious content that are broadcast on the national televisions.

Thus inconsistency can be understood as a product of the French history, although no matter the reasons, it is quite clear that the legal laicity is a very complex matter to be implemented in practice.

The legal laicity must be put aside from the philosophical or political laicity, from the laicity as theory that studies the place of the religion in the French society. For example, the French state council has concluded that as a legal category the laicity does not foresee direct ban neither for wearing of any religious labelling by the students in the public schools, nor it foresees direct ban for wearing a burka in the public institutions.

Still, the National parliament adopted a law in 2004 which prohibits the wearing of religious markings and explicitly prohibited the wearing of burka in the public institutions.

The analysts in France often comment that the political laicity in France in fact means rigid secularism, as the ban on wearing religious markings and burka suggest.

However, it turns out that the political laicity is as complicated as the legal laicity. Many French still see on the laicity as on a pure secularism. But not all. The hard-core secularists stand against those, like the former president Sarkozy, who are in favour of positive laicism, or "open secularism", i.e. softer version of a doctrine which does not see on the religion as a direct threat for the values of the Republic, even though it must be noted that it was the Sarkozy government that gave leverage to the burka ban.

The third group, the one that stands for laicism in motion, is put somewhere in the middle. Key aspect of this theory is that the political laicism, same as the legal laicism, is in a state of constant development. As John Bowen says, there was never an agreement on the role of the religion in the public life in France, just a series of debates, laws and numerous efforts for defining of its place in the public space.

Secondly, in France, as in other countries, most of the debate on the religion in the public life is led in the public schools. Both the supporters and opposition to the religion see on the public schools as a key place for determining the future of the religion in the system and among the citizens.

The stakes are high here. Especially in France, where the public schools are traditionally considered as places where the national identity is shaped, which then reflects on the religious differences and on the acceptance of the rational values, vis-à-vis the values of the *Enlightenment*.

Thirdly, the discussions inevitably reveal the importance of the national history. For example, France and the US share the same commitments when it comes to the religious freedom. Both countries had had political regimes that dated from the same period. They are both inheritors of the Enlightenment.

Still, when we make a comparison in how they implement the religious freedoms, there are numerous differences. Habits that exist in one of these countries, are completely inadequate in the other. How do we explain this?

How is it possible for two countries that share common roots to apply differently the same principles?

The answer lies largely in the different history of the two countries.

Unlike France, the US never had **an old regime, inherited regime (ancient regime)**. There have been religious authorities during the colonial period and after it ended in certain areas where the protestant doctrine dominated. Still, the US never faced deeply enrooted cleric orders or a Gallic church that it had to deal with.

From the very beginning, the American society was pluralistic when it comes to the religion. As a result, the Americans historically did not perceive the religion as enemy for the freedom. On the contrary, throughout the history many Americans saw the religion as a constructive factor that contributes to the development of the political freedom.

These historic differences help understand the inconsistencies between the two countries.

For example, the fact that the 1905 Law has foreseen the French government to have the right to grant buildings to the religious communities and organisations proves the need of the authorities to control, or at least to have an insight in the work of these organisations. With this the state practically puts a hand on the religious organisations and groups.

The support the state gives for the financing of these activities, as well as the education staff composed of priests, is seen as an attempt for maintaining a *modus vivendi* between the two sides.

The laicism as a concept suggests neutral position of the state with regard to the religious matters, without giving support to any specific religion. The principle of laicism means that all religions are equal before the Constitution and the law. The freedom of belief and the freedom of religion must fully be in accordance with the respect of the individual rights, particularly the right to believe or not in what constitutes the choice and right to religious belief and dogma.

And what is the *right to thought*?

It is the right through which the country, through the public schools, tends to strengthen the emancipation of each citizen and his opportunities to think freely without being captured in the ideas and principles of his/her social group.

The public schools must allow and enable key references to every individual in order to face the different systems of opinion, the different systems of values, so that the individual can make his/her free choice.

But is the freedom of choice and belief directly harmed by the report of the Bernard Schasi's Commission which investigated the application of the laicism in France, based on which report a separate law was adopted in 2004, which prohibited to the pupils in the public schools to wear religious or political insignia, such as Islamic headdresses, Jewish headdresses or Christian crosses?

These legal measures are understood as extremely extraordinary and inapplicable in other countries.

This somewhat broader introduction aims to give an insight in the matters that are analysed in details in this publication and which concern the place and position of the religious organisations in the Republic of Macedonia and the relations that exist among them.

Although the publication refers mainly to the model of secularism in the Republic of Macedonia, the status and position of the religious organisations, communities and groups in the country, as well as the undisturbed realisation of the freedom of religion in the country and its systematic protection, this still does not minimise the need of analysing other experiences that exist in Europe and in the US, experiences from which Macedonia and the Macedonian authorities have learned in the past and will continue to learn in the future.

In fact, our model of secularism inter-links with those models that do not accept the inter-religious domination, but they still establish certain categorisation of religions according to their meaning and spread among the citizens, without making any discrimination among the citizens.

It seems that due to the socialist past, our country, as most of the other post-socialist countries, as a result of the ideological premises in the socialism which were basically considered anti-religious, through complete marginalisation of the role of the church from the social processes, did not participate in full capacity in the incorporation of the orthodox values and norms in the legislation of the international community, nor in the framework and the philosophy of the value systems in the numerous international and regional organisations.

On the other hand, it is notable that none of the major international organisations felt the interest to study the specifics of the relations between the socialist countries and the orthodox Christian church that was developed for decades, which was characterised by totally pushing the church aside and by marginalisation of its role in the overall political and social processes.

Due to this constellation, many of the west European countries and the US still cannot understand the specifics of the model of post-socialist secularism that is present in these country, and has been present particularly in the period of their transition from socialist into democratic.

These specifics were certainly not a result of only the constitutional and legal definition for the place and the role of the church in the country, but, primarily, they had a much broader social dimension extracted from the everyday relations the citizens have been building with the religious organisations.

Namely, in these countries, in certain regions it is still notable that the teacher and the priest, or some other clerical person, have much stronger influence on the citizens than any political or other authority, i.e. the authority of these persons is much stronger than the authority of the others thanks to the religious persuasion and church, and this authority does not come from the Constitution, but from the inner-system of values in that region.

The everyday life, everyday relations among the citizens and the clergy are often upgraded and expanded by the legal boundaries which sometimes go beyond the model of secularism. The tradition and the customs, the unwritten rules of behaviour, the religious beliefs and dogmas are often much stronger in modelling these relations than the official legislation can ever do, and in certain cases there is serious ignoring of what is written in the laws and what actually happens in reality.

In any case, the secularism remains the first and most important principle which officially stands against all forms of inter-religious, and especially inter-institutional religious domination. The secularism promotes the freedoms and rights of the citizens within the different religions and it maintains the equality among the religions.

The Macedonian model of secularism foresees institutional secularism, as well as non-theocratic establishment of the state. The state cannot be led by clerks, nor the state can interfere in the election of clerks or in the internal work of the religious organisations.

However, what should be remembered is that secularism, also, cannot, based only on its existence within the official legal system, oppose on or shape the inner feelings of the citizens towards the religious organisations and groups. The separation of the state from the political government is a constitutionally guaranteed category which is further processed in the laws from this field, however the personal feelings and belonging to a certain religion can hardly be fit in boundaries of those regulations.

The feelings and the belonging to a certain religious organisation are much more related with the environment in which the citizens live, with certain unwritten rules and customs of behaviour, rather than with legal regulations. The customs and the habits, tradition and conventions remain strong factors which can often come out of the secularism and cause problems in the legally defined relations.

This publication gives an insight and analysis for all significant aspects that regulate the relations between the state and the religious organisations in the Republic of Macedonia, as well as the legal protection of the freedoms and rights of the citizens vis-à-vis the religion, as well as the right of being an atheist in the Republic of Macedonia.

This publication introduces at one place the past experiences, practices, constitutional and legal solutions that guarantee and enable religious pluralism in the country, in order to bring this matter closer to the citizens, to a regulation that is of great importance for the future functioning of the religious organisations and groups in the country.

We hope that this publication will attract interest both from the citizens-believers in the Republic of Macedonia, as well as from the citizens who are not believers, but who feel the need and interest to get acquainted with this problematics in a more specific manner.

At the same time, we want to use this opportunity to express our great gratitude to the "Konrad Adenauer" Foundation, the leaders of the programme for the rule of law in Southeast Europe – Bucharest, for helping us realise this project which is of extraordinary importance for the citizens of the Republic of Macedonia as well as for the country itself.

With hope for successful realisation of the ultimate goal of this project, we put in front of you this publication for further discussion, expecting your remarks, criticism and well-intentioned thoughts.

Skopje, 10 May 2018

The authors,

INTRODUCTION

The separation of the Socialist Republic of Macedonia from the Socialist Federative Republic of Yugoslavia¹ happened in the light of the major tectonic movements in the former European socialist/communist countries in the last decades of the 20th century², as a result of series internal political, economic and social conditions and circumstances.

With regard to the SFRY, these processes **brought to the surface some conservative myths of constituent nations, which in the process of transition of the constitutional and political systems have build, on the foundation of these premises, new top priorities – national states with democratic order, free and competitive entrepreneurship, market economy and commerce, political and social pluralism in accordance with the standards of the developed west-European democracies.**³

Having in mind the opposing constitutional concepts, the one that was falling apart vis-à-vis the one that was to be created, and under the pressure from major global trends, the process of forceful collapse of the former Yugoslavia was initiated, which resulted in the formation of today's Republic of Macedonia⁴ as a sovereign, independent and

¹ The collapse of the SFR Yugoslavia is characterized by a series of military conflicts that took place on the territory of this country, with the exception of Macedonia that has gained its independence peacefully. The wars were marked by fierce ethnic conflicts between the Yugoslav People's Army and Slovenians in Slovenia; between Croats and Serbs in Croatia; between Serbs, Croats and Bosniaks in Bosnia and Herzegovina and between Serbs and Albanians in Kosovo. These bloody conflicts, which were a result of the dissolution of the Federal Yugoslavia, ended with the signing of the Dayton Peace Agreement in 1995. After the collapse of this country, 5 new countries were created: Slovenia, Croatia, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia (which included Serbia and Montenegro). On 21 May 2006, as a result of a referendum, Montenegro became an independent state, and therefore so did Serbia. On February 17, 2008, members of the Kosovo parliament passed the Declaration of Independence. Yugoslavia's wars are considered one of the worst armed conflicts on the European continent since the end of the Second World War, due to which the UN established the International Criminal Tribunal for the Former Yugoslavia, which initiated war crimes proceedings against large number of participants in these military conflicts (See Petar Radan, *Breakout of Yugoslavia and International Law*, Routledge, September 21, 2001; Henry H. Perritt, *The Road to Independence for Kosovo: A Chronicle of the Ahtisaari Plan*, Cambridge University Press, Cambridge, 2010).

² As a result of people's uprisings across the countries of Eastern Europe, the process of fall of the communism began. These events begun in Poland in 1989, continued in Hungary, East Germany, Bulgaria, Czechoslovakia and Romania. The Soviet Union collapsed in 1991, as a result of the decision of the Russian Federation and 14 other nations proclaiming their independence. Between 1990 and 1992, this system of state power also collapsed in Albania and in Federal Yugoslavia. These processes had their influence in other socialist states outside the European continent, such as Cambodia, Ethiopia and Mongolia, who also rejected this system of state regulation (See Bartłomiej Kaminski, *The Collapse Of State Socialism*, Princeton University Press, Princeton, New Jersey, 1991).

³ See Carole Rogel, *The Breakup of Yugoslavia and its Aftermath*, Greenwood Press, 2004.

⁴ The processes of acquiring Macedonia's independence through the dissolution of the then SFRY began in the course of 1990. On September 20, 1990, the Parliament of the Socialist Republic of Macedonia adopted 25 amendments to the Constitution that made the first changes in the constitutional and legal system (Decision on the adoption of the Amendments LVII - LXXXI of the Constitution of the Socialist Republic of Macedonia, Amendments to the Constitution of the Socialist Republic of Macedonia, Official Gazette of the Socialist Republic of Macedonia, XLVI, No. 28, Skopje, 21.9.1990, p.: 506-511). On September 24, 1990, the President of

democratic country which stood for full observing of the common democratic principles of the international law contained in the UN acts⁵, as well as in the documents of the other international, European and regional organisations.

By installing the new constitutional, legal and political order, the Republic of Macedonia was to respond to the challenges of the new age.

The system that was set up with the adoption of the Constitution on 17 November 1991⁶ projected Macedonia as a civic and democratic state with a key position of the rule of law principle and the guaranteed human rights, civil freedom and national equality.⁷

With regard to the relations towards the religious communities and, in that sense, the guarantees for the human rights and freedoms, the Republic of Macedonia has developed a model based on:

- the international west-European standards;
- The traditions of the majority population that belong to the orthodox Christianity, and
- the realities that come from the current religious landscape in the country.

the Parliament called the first democratic multiparty elections, which took place on November 11 of the same year, and the Macedonian Assembly in this composition was constituted on January 8, 1991. Furthermore, on 27 January 1991, the MPs elected the first President of the Republic, Kiro Gligorov, and on March 20, 1991, the first expert government led by Nikola Kljusev was elected. In the meantime, on January 25, 1991, the MPs adopted the Declaration of Sovereignty of Macedonia (Declaration on the Sovereignty of the Socialist Republic of Macedonia, Assembly of the Socialist Republic of Macedonia, No. 08-220-1). Furthermore, on June 7, 1991, the constitutional amendment LXXXII was adopted, which deleted the term "socialist" from the name of the SRM (Decision on the promulgation of amendments LXXXII to LXXXV of the Constitution of the Socialist Republic of Macedonia, Amendments to the Constitution of the Socialist Republic of Macedonia, Journal of the Republic of Macedonia, Year: XLVII, No. 27, Skopje, 11.6.1991, p. 357). In this sense, on May 7, 1991, the President of the Republic of Macedonia submitted to the Members of the Parliament a proposal for the adoption of a new democratic Constitution, which was enacted on November 17, 1991, preceded by the Referendum on Independence of September 8, 1991, and the Declaration on public will of the citizens for a sovereign and independent state Macedonia, adopted at the session of the Assembly on September 17, 1991 (Declaration on the plebiscite expressed will of the citizens for a sovereign and independent Macedonian state of Macedonia, Assembly of the Republic of Macedonia, No. 08-3786, 17.9.1991). Finally, on December 19, 1991, with the adoption of the Declaration on International Recognition of the Republic of Macedonia, started the process of international recognition of the already established Macedonian state (Declaration on International Recognition of the Republic of Macedonia, Assembly of the Republic of Macedonia, No. 08-5099, 19.12.1991).

⁵ See: Brad K. Blitz, *War and Change in the Balkans: Nationalism, Conflict and Cooperation*, Chapter 9 Andrew Rosos, *Disintegration of Yugoslavia: Macedonia's Independence and Stability in the Balkans*, Cambridge University Press, Cambridge, 2006, 118). Declaration on the Plebiscitarily Expressed Will of Citizens for a Sovereign and Independent State Macedonia, Assembly of the Republic of Macedonia, No. 08-3786, Skopje, September 17, 1991.

⁶ Constitution of the Republic of Macedonia, Official Gazette of the Republic of Macedonia, Year: XLVII, No. 52, Skopje, 1991, (pp. 805-815).

⁷ See: Gerhard Robbers, *Encyclopaedia of World Constitutions*, Igor Spirovski (author), Macedonia, VB Hermitage, (p. 551-555).

The challenge for the Macedonian model of relations with the religious organisations, as well as the guaranteed religious freedoms and rights is contained in the ability to provide balance among the three above-mentioned factors.

The international west-European standards incorporated in the Macedonian constitutional and judicial system are, in fact, part of the values from the theory of natural rights from the 17th and 18th century, the Renaissance⁸, the Enlightenment⁹, and the Protestant Reformation, which are values that are part of the history of the West European countries and the North America¹⁰.

According to these ideas, as indicated in the first part, the human rights and freedoms are seen as secular version of the Judeo-Christian ethics, while the relations between the state and the religious organisations is seen through the prism of the model of their separation.¹¹

In accordance with these values and ideas, the American Declaration of Independence¹² was adopted in 1776, in 1789 in revolutionary France was adopted the Declaration on the Rights of the Man and the Citizen¹³, and in 1791 the American Charter on the Rights¹⁴ was adopted. These are all documents which are considered founding stones for the contemporary system of human rights and freedoms, and an inevitable part in this system are the religious rights and freedoms.

With the development of the temporary constitutionality, these values found their place also in the constitutions of the west European countries, as well as in numerous other international acts, particularly in the UN Universal Declaration on Human Rights from 1948¹⁵, as well as in the documents of the Council of Europe, NATO, the former European communities, i.e. in today's EU.

⁸ See: *The Renaissance, A Very Short Introduction*, Oxford University Press, Oxford, 2006.

⁹ See: Martin Fitzpatrick et al., *The Enlightenment World*, Routledge, New York, 2004.

¹⁰ See: Stathis N. Kalyvas, *Religion and Democratization: Belgium and Algeria*, Estudio/Working Paper 107, 1997 и Sabine C. Carey et.al., *The Politics of Human Rights: The Quest for Dignity*, Cambridge University Press, Cambridge, 2010, (p. 16).

¹¹ See: Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era*, University of California Press, 2008, (p. 64).

¹² *Declaration of Independence*, (archives.gov), 7.3.2018.

¹³ *Declaration of the Rights of Man and of the Citizen*, (hrcr.org), 7.3.2018.

¹⁴ *Bill of rights*, (archives.gov), 7.3.2018.

¹⁵ *Universal Declaration of Human Rights*, (un.org), 7.3.2018.

In the documents of these organisations, the issues taken over in the legislations of the national states and by some other conventions and treaties are further elaborated¹⁶.

Generally speaking, the Macedonian model of secularism uses the experience from the traditions of the orthodox version of the Christianity, which is closer to the majority of the population in the country, as well as from the rest of the orthodox acumen, which uses the Byzantine empire as a model of ideal state¹⁷.

The Byzantine model rests on the system of **unity (symphony) between the church and the state power**¹⁸.

The Emperor, who led the Empire, was the reflection of the spiritual and the worldly power¹⁹. In this model, the orthodox church did not realise its primary role only based on the activities incorporated in the spiritual premises, but also in the function of the worldly state, as part of it²⁰.

There was also the rule that if the church was not fully connected with the state, that state could not be considered completely functional. That is why the jurisdiction of the orthodox church was connected with the specific state boundaries, and if the boundaries of the state were to be expanded, it was normal to expect that the boundaries of the church will also grow²¹.

And vice-versa.

If the jurisdiction of the church was expanded, it was normal for the political tendencies for changes of the state boundaries to come to the surface²².

In the period when the orthodox people fall under slavery, the church had for its mission to "maintain the fire" in order to renew the state on the territory that was under its jurisdiction.

¹⁶ See: Blandine Chelini-Pont, *Religion and Society in Europe*, Conference: "Law and Religion in Transitional Societies", Norway, 2006.

¹⁷ See: John Meyendorff, *The Byzantine Legacy in the Orthodox Church*, St Vladimir's Seminary Press, Crestwood-New York, 1982.

¹⁸ Pedro Ramet, *Eastern Christianity and Politics in the Twentieth Century*, Duke University Press, 1988, p.: 37-58.

¹⁹ Pedro Ramet, *Eastern Christianity and Politics in the Twentieth Century*, op.cit., strp.: 40.

²⁰ See: Mile Bogović, *State and Church in Serbian Orthodoxy*, Center for political research cpi.hr), 7.3.2018.

²¹ See: Mile Bogović, *State and Church in Serbian Orthodoxy*, op.cit.

²² Ibid

With regard to the religious freedoms and rights, the Byzantine Empire, which was an orthodox model of a state, recognised the orthodox Christians as a constitutive element of its statehood.

Namely, the main condition for one person to gain a state status and full capacity in Byzantine was to be an Orthodox Christian.²³

Unlike today's international standards that developed under the strong influence of the Catholic-Protestant tradition, where from the very beginning the concept of separation of the spiritual and worldly power was present thus opening the path to pluralism, the orthodox European East was more keen to the unity of the church and government, i.e. to state-church monolith existence and collectivism.²⁴

The Republic of Macedonia does not have a religiously homogeneous society.

Besides the followers of the Orthodox church, the Macedonian society envails number of other confessions, such as the Islam, the Catholic Christians, Protestant Christians, Jews etc.²⁵

This plural religious reality in Macedonia has additionally shaped its model of relations with the religious organisations, as well as the character of the religious freedoms and rights in the country.

In the spirit of the Western European and international standards, the historical traditions of Orthodox Christianity, as well as the principles of religious pluralism, the state has provided several guarantees for practicing and nurturing other minority confessions.

The Republic of Macedonia has set several practical postulates in relations with religious organizations, as well as freedom of religion based on:

First, the Western European spiritual heritage that states that the state power is separate from religious organizations, and that the principle of secularism is accepted as a principle of non-interference of state institutions with the competencies of religious organizations, and vice versa.

²³ See: Philip Schaff, David Schley Schaff, *History of the Christian church*, Charles Scribner's Sons, New York, 1910.

²⁴ Mile Bogović, *State and church in Serbian orthodoxy*, op.cit., p.: 89.

²⁵ According to the results of the 2002 census, 64.7% of the population stated that there were Orthodox religions, 33.3% Islamic, 0.34% Catholic, and 1.5% other religions (stat.gov.mk), 7.3.2018 .

Secularism is also expressed through the constitutional prohibition of any involvement and interference of religious organizations and communities in matters that are within the competence of the state;

Secondly, the guarantees provided for the exercise of religious freedoms and rights of citizens based on universal and Western European standards;

Thirdly, the traditions of the Orthodox Christianity in the light of the legacy of the Byzantine Empire. It should be emphasized that the Orthodox Church in Macedonia, as well as its historical and spiritual heritage, have a primary place in the system;

Fourth, the heterogeneous character of the religious landscape in the state that is built on the basis of the existing system of secured guarantees of free existence and action of the Islamic community, the Catholic Church, Protestant churches, the Jewish community, and other smaller religious organizations.

Since gaining its independence to date, in the Republic of Macedonia the ideological-political pillars that determined the Macedonian model of secularism did not always function in full harmony and cohesion. This conclusion can be derived from the nature of the legal regulations adopted in this area, which will be discussed below in the text.

Namely, as noted, the nature of the legal solutions was largely conditioned by the ideological positions or matrixes of the actions by the ruling parties.

Namely, the parties, of the conditionally speaking, the left wing, advocate a more pronounced form of secularism according to which the state should develop only a general attitude towards all religious organizations and communities, while, opposite of them, the right wing parties, as a rule, aspire towards establishment of less pronounced secularism, which, in the framework of the established general attitude towards religious organizations, endeavors to elevate the status of the Macedonian Orthodox Church.

On the other hand, the parties of the ethnic communities, in the frames of the constitutionally defined concept of separation of the state from the religious organizations, emphasize the importance and the role of the Islamic religious community, in conditions when such status is to be given to the MOC.

This fact points to the conclusion that in the Republic of Macedonia there is still no unanimity regarding the question of finding the perfect balance between the three factors that determine the state model of relations with religious organizations and in that sense, the freedom of religion.

In addition, in accordance with the goals of this paper, we will present an overview of the most important features of the constitutional and legal system of the Republic of

Macedonia regarding the status of religious organizations, as well as the issue of freedom of religion.

First of all, we will review the constitutional and legal framework in the country regarding the bodies and institutions that deal with this extremely important topic within their work.

1. THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA AND THE PRINCIPLE OF SECULARISM

The principle of secularity determined in the Constitution of the Republic of Macedonia versus European experiences

The principle of secularism or separation of the state from the church (churches), religious communities and religious groups in the Amendment 7 of the Constitution of the Republic of Macedonia is set up institutionally, which means that the state and churches, religious communities and religious groups are separated from each other without leaving space for state interference in church activities or in the activities of the religious communities and religious groups, nor the church, religious communities and religious groups can interfere in the activities of the state, or in any political activities.

If we look at the problem of secularity in a more pragmatic way, we can come to the conclusion that the state is secular when its legislation and regulation do not establish de facto discrimination among citizens according to their beliefs, including their religious beliefs.

The categorization of European countries in this regard is very different.

In the spirit of the Universal Declaration and the ECHR, a number of countries aim to provide "religious freedom and religious education", while applying different systems.

In multi-confessional countries, such measures are necessary in order to guarantee peace and tolerance among people who have different religious affiliations.

In the EU, the concept of a laicism that develops on two levels is becoming more and more popular:

- the first level is the development of a secular society, but
- the second level refers to the right to freedom of expression of thought and freedom of religion.

In our Constitution, the institutional separation or the institutional secularism is clearly defined in item 1 of Amendment 7 which states that: "The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish Community and other religious communities and religious groups are separated from the state and are equal before the law".

Amendment 7 of the Constitution of the Republic of Macedonia does not specify or elaborate the levels, degrees and different forms of secularity, but separates the

religious institutional forms of the state and its institutional forms and vice versa in a very general way.

There is a list of different types of separation of the church and other religious organizations from the state that are implemented in different countries:

- legal and financial separation from the state – the state has no right to establish a state religion;
- The state must not officially finance any religious activities of religious organizations, nor of believers;
- the state must not unofficially finance religious activities;
- The state must not finance non-religious activities sponsored by religious organizations;
- the state should not define or supplement citizens' religious beliefs;
- The state must not try to favor or criticize any religious beliefs or practices;
- the state must not interfere in the religious hierarchy, nor in the matters that are strictly related to the membership of citizens in a religious organization, religious community or group;
- No state activity should influence or interfere with the practice of religion;
- No state activity in its primary goal can restrict the practice of religion;
- the state should not express any religious beliefs or persuasions, nor imply state authority on any religious authority;
- Political leaders should not express their religious beliefs and choices in a religious direction while exercising their state obligations;
- no religion can determine, prescribe or alter civil laws;
- Religion must not be misused in direction of civil institutions to perform religious services.

Different countries have a different degree of separation of powers of the state from the religious organizations. While the United States is known as the first state to completely separate the state from the spiritual, ecclesiastical authority in the Constitution, numerous other states did it later than the US, and introduced some differences in the level of that separation. In some countries, both institutions remain strongly linked, especially in those of the post-socialist world. There are numerous forms of separation, in some countries with strong practice of freedom of religion and tolerance combined

with a strong secular political culture. For example, in the United Kingdom, there is a "constitutionally established" state religion, while in Norway the King is the leader of the state church, with the Constitution of this country envisaging that more than half of the Norwegian Council of States members should be at the same time members of the state church. In Norway there is an officially recognized church, teaching of religion in public schools is obligatory, but in a cultural, not in a confessional sense.

According to the agreement that exists between the church and the state, the Catholic religion is taught in all public schools, but students have the right to choose whether they will attend classes or not. Religion teachers are paid by the state, but they are elected and controlled by the church. On the other hand, there are two similar examples of the most common type of separation of the state from religion; the case of Turkey and France. The French version of separation is known as laicism. This model of secular state protects the religious organizations and communities from any form of state influence and interference, but also restricts the level of public expression of religious conviction. This is in order to protect the public authority from the interference of religious organizations, especially in public services.

The French believed that in order to get a State truly based on laicism, it was necessary only to pass a law, such as the one from 1905, known as the Law of separating the church from the state. According to many authors, this law in fact only favored the Roman Catholic Church, so such a political and legal framework could not have been sufficient for the secularism in the country. In fact, the institutional secularity that this law has established, concerned only the relations between the state and the church.

The state is secular only if it does not maintain any special relations with a church.

FINAL CONCLUSIONS

The proclamation of independence of the Republic of Macedonia from the other former Yugoslav republics and its formation as an independent, sovereign and democratic state fulfilled the national goal of the Macedonians and other citizens who live in the territory of the state for having their own state.

The independence of the state marked the era of legal discontinuity which fully ended the processes from the socialist period and marked the beginning of the development of a new democratic order, through development of new political institutions and new democratic values. These processes took place gradually, through the "democratic transition" that also affected the situation with the protection and guarantee of human rights and freedoms.

Unlike in the previous period the human rights and freedoms began to be regulated in an authentic way through the implementation of appropriate Western European standards recognized in this sphere. These standards were incorporated in the Constitution of the Republic of Macedonia, which brought fresh insight in regard to issues related to the status and position of religious organizations, as well as guarantees for the application of religious freedoms and rights.

With this new constitutional-legal and political order, the Republic of Macedonia was to respond to the challenges of the new era. Regarding the issues concerning the relations with the religious organizations and, in this sense, the guarantees to the religious freedoms and rights, the Republic of Macedonia has built a model that rests on both international Western European standards and on the traditions of the majority population that is closer to the Orthodox version of Christianity. Despite the majority traditions, Macedonia did not forget the religious pluralism as basis in creating the national identity of the state. The challenge for the Macedonian model of relations with religious organizations, and the guaranteed religious freedoms and rights, was directly related to the ability of state factors to find the right balance between the different elements.

The Macedonian model of secularity created specific relations between the religious organizations, as well as with the state where the unhindered realization of the freedom of religion of the citizens in the country is ensured.

At the same time, the secular model of relations between the state, on the one hand, and religious organizations, on the other, applies not only the values that come from the Western European heritage, but also from our traditional relations that have autochthonous nature and character.

The Macedonian principle of secularity is a constitutional principle that in a direct and unambiguous way determines the boundaries of non-interference from state institutions and bodies with the competencies of religious organizations, and vice versa, i.e. there is a ban on any involvement of religious organizations in matters that are within the competence of the state. The Constitution of the Republic of Macedonia provides guarantees for the exercise of religious freedoms and rights of the citizens based on universal and Western European standards.

On the other hand, the traditions, customs, unwritten behavior of the majority population of the Orthodox variant of Christianity as their of the religion associated with the Byzantine Empire, the Orthodox Church in Macedonia, as well as its historical and spiritual heritage, have a primary place in determining the pattern of secularity in Republic of Macedonia.

Naturally, in the core of this autochthon model, the plurality coming from the rest of the religious landscape in the state is ensured by determining and protecting the guarantees for the activities of the other religious organizations in the country - the Islamic community, the Catholic Church, the Protestant churches, the Jewish community, and other smaller religious organizations.

Taking into account the historical and political circumstances, as well as the contemporary constitutional composition, the Macedonian model of relations with religious organizations is located somewhere in the middle between the model of state religion and the model of secularism, because in the historical-state-building sense, as well as in a symbolic sense, the Orthodox Church in Macedonia stands separately from the other religious organizations, although the basic scope of rights, as well as the guarantees of freedom of religion, are at the level of the democratic European standards.

This fact is confirmed by the hypothesis presented at the beginning of this publication according to which the democratic character of the Republic can be determined from the practical realization of the standards for the position of the state towards the religions, as well as from the degree of realization of the freedom of religion. The elevation of a certain religion against the others does not necessarily have an immediate connection with the issue of the democratic deficit of the Republic of Macedonia in this sphere.

SUMMARY (EN)

"God and Democracy - A Handbook on the Rights of Religious Communities and the Freedom of Religion in the Republic of Macedonia" is a joint work of Prof. Dr. Tanja Karakamisheva-Jovanovska and Assoc. Prof. Dr. Aleksandar Spasenovski from the Department of Constitutional Law and Political Systems of the Faculty of Law "Iustinianus Primus" at the University "Ss Cyril and Methodius" in Skopje, Republic of Macedonia.

As its title indicates, the publication aims to explain and bring closer to the reader the legal framework for the position and role of religious communities in the Republic of Macedonia, as well as on the guarantee of the realization and protection of the religious freedom of the citizens in the constitutional-legal system.

The main purpose of the publication is to analyze the most important aspects of the constitutional principle of secularity in the Republic of Macedonia, the constitutional and legal provisions that directly refer to religious organizations and groups, their status, rights and duties, their competences and the relations with their followers. It also shares practices of other countries, as well as provisions from international and European documents on human rights and freedoms.

The first chapter provides analysis of the key elements of the Macedonian model of secularism. It starts from the constitutional norms and continues with the provisions of the Law on the legal status of churches, religious communities and religious groups, as well as other legal provisions covering this issue. Drawing on the normative framework of the Republic of Macedonia, the authors offer a detailed overview of the work of the Constitutional Court, based on numerous citizens' initiatives and court decisions on the abolition of legal articles inconsistent with the Constitution.

The next chapter analyzes other important acts and regulations which reflect the character of the Macedonian model of relations between religious organizations and groups, on the one hand, and the state, on the other. More specifically, this section provides an analysis of issues related to proof of religious affiliation, return of property of religious communities in the course of denationalization, the protection of citizens from all forms of religious discrimination, the right to conscientious objection, religious education in the public education system, the issue of religious blessing in public schools, the position of higher education institutions of religious organizations, public

celebration of religious holidays, the status of the acts of religious organizations, as well as public support of the struggle for autocephaly of the Macedonian Orthodox Church.

In the last section of the paper, the authors clarify the position and role of the state institutions dealing with issues concerning the relations between the state and religions, as well as religious freedom. It offers detailed analysis of the following state institutions: the Commission for Relations with Religious Communities and Religious Groups, the Constitutional Court, the Standing Inquiry Commission for Protection of Civil Freedoms and Rights in the Assembly of the Republic of Macedonia, the Ombudsman, and the Commission for Prevention and Protection against Discrimination.

Finally, the authors offer their concluding remarks, pointing out that, in the Republic of Macedonia, consistent with Western European legacy, the state power is separated from religious organizations. From this follows that state institutions do not interfere with the work and competences of religious organizations, neither are religious organizations involved in matters within the competence of the state and its institutions.

The Republic of Macedonia provides all guarantees for citizens to exercise the religious freedoms and rights, based on universal and Western European standards.

Given that the majority of the population is Orthodox Christian, and in the light of the legacy of the Byzantine Empire, the Orthodox Church in Macedonia, as well as its historical and spiritual heritage, hold a primary position in the country's religious system.

Having in mind the religious diversity in the society, the Republic of Macedonia has built a democratic system that provides for the realization, protection and free functioning not only of the Macedonian Orthodox Church, but also of the Islamic Religious Community, the Catholic Church, Protestant churches, the Jewish community, as well as other religious organizations.

For this paper, the authors consulted the relevant professional and scientific literature in the field, including the latest findings of domestic and foreign authors and scientific authorities.

The authors sincerely believe that this publication provides useful information and further clarifies this complex and multifaceted issue to all interested readers.

Notwithstanding the thorough systematic approach to studying the topic, as well as the comprehensive explanation of all the major segments that relate to religion and religious organizations, the authors hope that their conclusions will inspire future research on this complex and multifaceted area of study.