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Realization of Ethnic Communities' Rights  
in the Republic of Macedonia



Realization of Ethnic Communities' Rights in the  
Republic of Macedonia

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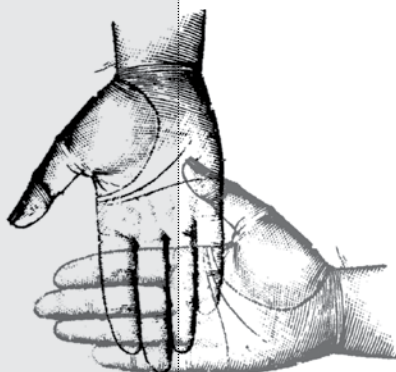
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# Preface


National or ethnic, religious and lingual minority groups in the European countries are traditionally considered as a problem or, in the best case, as a potential problem. Their existence implies a need for legal guaranteeing of the series of freedoms and rights defined in the international (universal and regional) documents for protection of the rights of minority groups' members. Their existence does not mean less than satisfying the substantial need for realization of the constitutionally and legally prescribed freedoms and rights. Ultimately, transfusing minority members' rights into more favourable condition always has a determined, relatively high cost, which, as a rule, seems higher in relatively poor states.

The amendments of the Constitution of the Republic of Macedonia in 2001 introduced changes in the list of freedoms and rights of the communities' members in RM. In the previous several years serious steps were undertaken in direction of accomplishment of the newly guaranteed rights.

The text that follows gives a short summary of the practical aspects of the realization of common guaranties for enjoying all human freedoms and rights contained by the Constitution and laws, and particularly of the guaranties for enjoying the special rights of minority members. The language in which this text is written makes it an easily conceivable reading for the persons that have no profound legal knowledge, for whom it is primarily designed. On the other hand, the style enables an insight of the activities that can be undertaken by the communities' members and provides a list of the competent institutions, as a guide for accomplishing the prescribed freedoms and rights.

From the author

# RIGHTS OF THE ETHNIC COMMUNITIES' MEMBERS



How does the list of rights, which the civilians who are communities' members enjoy completely equal as the majority members do so, look like?

**The list** of fundamental freedoms and rights of the man and civilian, which, under completely equal conditions, are enjoyed by the majority members as well as by the civilians that are members of all communities, as defined in the Constitution of RM of 1991, currently seems completely the same as it did before 2001, since the constitutional amendments adopted in 2001 did not intervene in this list at all. They are consisted of:

## **a) all personal freedoms and rights:**

- ▶ right on citizenship (article 4);
- ▶ right on equality (article 9);
- ▶ right on prohibition of discrimination (article 9);
- ▶ right on life (article 10);
- ▶ right on protection of the physical and moral integrity (article 11);
- ▶ right on freedom (article 12 (1));
- ▶ right on juridical pronouncement of a sentence (article 12 (2));
- ▶ right on defence (article 12 (3));
- ▶ right on presumption of innocence (articles 13 and 14);
- ▶ right on appeal (article 15);
- ▶ freedom of thought and assurances (article 16);
- ▶ right on inviolability of the secrecy of letters and other forms of communication (article 17);
- ▶ freedom of religion (article 19);
- ▶ right on privacy (article 25);
- ▶ right on inviolability of the home (article 26);
- ▶ freedom of motion and inhabitation (article 27).

**b) all political freedoms and rights:**

- ▶ freedom of speech and public appearance (article 16 (2));
- ▶ freedom of press and other types of informing (article 16 (3-7));
- ▶ freedom of association (article 20);
- ▶ freedom of assembly and of other public gathering (article 21);
- ▶ electoral right (article 22);
- ▶ right on performing public functions (article 23) and
- ▶ right on presentations and appeals (article 24).

**c) also, all economic and social rights:**

- ▶ right on ownership (article 30);
- ▶ right on work (article 32);
- ▶ freedom of work (article 32);
- ▶ rights of the veterans, military disabled persons and of members of families of veterans who lost their lives in the war (article 36);
- ▶ right on organization in syndicate (article 37);
- ▶ right on strike (article 38);
- ▶ right on social safety, social protection and health protection (article 39);
- ▶ right on protection of family (article 40);
- ▶ right on free decision for conceiving children (article 41) and
- ▶ right on healthy living environment (article 43).

**d) and last, but not least, all cultural rights:**

- ▶ right on education (article 44) and
- ▶ freedom of scientific and artistic creation and other types of creation (article 47).

How is the prohibition of discrimination operationalized in the relevant laws?

**The prohibition** of discrimination has been operationalized through the following legal provisions:

- ▶ article 7 of the Law on Courts that guarantees the right on equal access before the courts for protection of rights and legally based interests;
- ▶ article 40 of the Law on Courts that prohibits discrimination when selecting judges and judges-jurors;
- ▶ article 4 of the Law on Execution of Sanctions, which provides for unbiased execution of sanctions;
- ▶ article 3 of the Law on Inheritance, which provides for inheriting under equal conditions;

- ▶ article 8 of the Law on Organization and Operation of the Organs of State Administration that provides for obligation of the organs to ensure efficient and legal (which means, among other things, indiscriminate) accomplishment of the constitutionally guaranteed freedoms and rights;
- ▶ article 3 of the Law on High School Education and article 6 of the Law on Higher Education that guarantee the right on education under equal conditions;
- ▶ article 4 of the Law on Religious Communities and Religious Groups that contains a prohibition of discrimination derived from religious choice, affiliation to religious community or religious group, performing i.e. participating in performing religious ceremonies or other kinds of religious expressions;
- ▶ article 45 of the Law on Broadcasting that contains an obligation for the public broadcasting company and for commercial broadcasting organizations for broadcasting programs in communities' languages as well;
- ▶ The Law on Culture that regulates the indiscriminate way of founding and operating of communities' members' cultural institutions.

How does the list of special rights, which are enjoyed exclusively by the civilians who appertain to the communities, look like?

**The list** of rights of civilians that appertain to the communities, after the adoption to the constitutional amendments from IV to XVII, is longer than the one contained by the Constitution in 1991. The extended list looks as follows:

- ▶ right on free expression of national appurtenance (article 8 (2)(2));
- ▶ right on adequate and righteous presence of the members of all the communities in the organs of state authority and other public institutions at all levels (Amendment VI);
- ▶ freedom of identity expression (article 48 (1));
- ▶ right on usage of the symbols of own community (Amendment VIII);
- ▶ right on founding cultural and artistic institutions and associations (article 48 (3));
- ▶ right on founding educational institutions (Amendment VIII);
- ▶ right on teaching in own language (article 49) and
- ▶ right on usage of own language as official language (Amendment V).

# REALIZATION OF THE RIGHTS OF COMMUNITIES' MEMBERS IN THE REPUBLIC OF MACEDONIA

How is the first (common) level of rights of civilians who appertain to communities being realized?

**The common** level of rights of civilians who appertain to communities is being realized entirely identical as it has been realized before the constitutional amendments in 2001.

In accordance with the Framework Agreement, the following is particularly worth of mentioning:

- ▶ the right of every civilian that is a member of a determined community on free expression and
- ▶ the right of every civilian that is a member of a determined community to manifest his/her own religion or belief, as an aspect of the freedom of religion (article 19).

How is the right on free expression being realized?

**The right** on free expression is being realized as an aspect of the fundamental freedom of speech, public appearance and public informing, as well as of the free foundation of institutions for public information and, of course, free access to information and the freedom of receiving and transferring information, which is regulated by the constitutional article 16. The right itself, in accordance with the article 45 of the Law on Broadcasting, implies:

- ▶ obligation for the state not to preclude providing aid for projects in the media field;
- ▶ obligation for the public broadcasting company that broadcast a program on the territory of RM (MRTV), beside broadcasting programs in Macedonian, to broadcast also programs in the communities' languages;

- ▶ obligation for the public broadcasting companies that operate at local level to broadcast also programs in the language of the appropriate community in those regions where the communities' members represent the majority i.e. a significant number of the population and
- ▶ right of the commercial broadcasting organizations (trade broadcasting companies), beside broadcasting program in Macedonian, to broadcast programs in communities' languages, as well.

How is the freedom on religion of the civilians that appertain to communities being realized?

**The freedom on religion** is realized through:

- ▶ the right on professing one's own religious beileif, freely and publicly, as a unit or as a member of a determined community;
  - ▶ the right on not professing one's own religion even if one has religious beileifs;
  - ▶ the right on confronting others' demands for professing a religion or other beileif that is contradictory to the own desire and;
  - ▶ the right on not being punished for selfdetermination for one, and not other, religion, or for religious indetermination within some of the churches and religious communities separated from the state and completely equal before the law:
  - ▶ Macedonian Orthodox Church
  - ▶ Islamic Religious Community;
  - ▶ Catholic Church;
  - ▶ Evangelistic - Methodistic Church and
  - ▶ Hebrew Community,
- that, according to the law on Religious Communities and Religious Groups, enjoy the following rights:
- ▶ right on founding religious schools;
  - ▶ right on founding social and charitable institutions;
  - ▶ right on founding religious schools in all educational degrees, except of elementary degree, for educating religious officers, as well as founding student dormitories for acomodation of the persons who are being educated in those institutions;
  - ▶ right on gathering voluntary contributions for religious and humanitarian goals;
  - ▶ right on usage of public information means and on publishing printed materials;
  - ▶ right on possessing and aquiring ownership of real estate and other assets necessary for performing their activities;
  - ▶ right on performing religious edification and
  - ▶ right on performing religious ceremenies and religious activities.

## How is the right on free expression of national appurtenance being realized?

**The right** on free expression of national appurtenance is one of the fundamental values of the constitutional order in RM (article 8 (1) (2)), i.e. one of the basic constitutional norms upon which the overall legal system of RM is established on. The right implies freedom of expression of the appurtenance to a nation/community in the following sense:

- ▶ freedom of expressing one's own national appurtenance;
- ▶ freedom of not expressing any national appurtenance whatsoever and
- ▶ freedom in the choice of the national appurtenance that is expressed.

The civilians that appertain to the communities enjoy all stated demonstrative forms of the freedom of expression of appurtenance towards nation/community, always and everywhere, without an obligation for tolerating any pressure in direction to any (in)expression. The feeling of one's own national appurtenance i.e. the desire that one belong somewhere or even no where is exclusively relevant. The need that this desire be kept away from others' knowledge is not less important.

There are numerous situations when the need for expression of the national appurtenance exists. One of them is the census of the population, households and apartments. According to article 9 of the Law on Census of Population, Households and Apartments in RM, the right on free expression of the national appurtenance during the census means a right of the civilians that appertain to the communities to freely (in)express, or to freely choose in this occasion as well:

- ▶ ethnical;
- ▶ lingual or
- ▶ religious (non)appurtenance.

According to the freedom of usage of the own language and writing in order to freely express their national appurtenance, the persons that are subjected to census have a right to:

- ▶ be informed about their right on free selection of the language of census procedure;
- ▶ freely choose the language of the census procedure that should not have to be the language of the community to which they appertain.

The right on free expression of national appurtenance is the basic, fundamental right upon which the right on free expression of national culture is set on, more precisely the following series of rights:

- ▶ the right on free expression of one's own identity and the characteristics of one's own community;
- ▶ the right on nourishing one's own identity and the attributes of one's own community;
- ▶ the right on developing one's own identity and the attributes of one's own community;
- ▶ the right on the usage of symbols of one's own community;

- ▶ the right on demanding protection of the ethnic, cultural, lingual and religious identity of the communities;
- ▶ the right on founding institutions and associations for expressing, nourishing and developing one's own identity;
- ▶ the right on education in one's own language in elementary school and in high school in the manner regulated by law.

## How is the right on expressing, nourishing and developing communities' identity and attributes being realized?

**The civilians** that appertain to communities enjoy the right in every relevant opportunity, in every occasion, released from others' influences and taking into account only their own disposition, so that in accordance with the Law on Culture, the Law on Copyright and Other Similar Rights, the Law on Usage of Communities' Flags and other laws as well, they can:

- ▶ practice different expressive forms for their own ethnic, cultural, lingual and religious identity;
- ▶ nourish, stress, underline, everything that is a national attribute of the appropriate community, in every legally approved way, in order to affirm its ethnic, lingual, religious and cultural identity;
- ▶ develop and enrich every aspect of the national attribute of the community to which they appertain/want to appertain;
- ▶ use symbols as expression of appropriate community's identity;
- ▶ demand that the state exercises its own obligation to protect the ethnic, cultural, lingual and religious identity of communities;
- ▶ found institutions and associations for expressing, nourishing and developing their own identity;
- ▶ have education in their own language in elementary school and in high school in the manner regulated by law.

## How is the right on usage of communities' symbols being realized?

**The right** on usage of symbols has not been considered in the original version of article 48 of the Constitution of 1991. This right has been introduced by the Amendment VIII, and is being realized in the private and public life in accordance to the Law on Usage of Communities' Flags. In the public sphere, the civilians that appertain to communities can hoist the communities' flags in the following manner:

- ▶ in the local government units, in which the specific community represents majority, in front of and in the objects of the local government parallel to the flag of RM (article 4);
- ▶ in the local government units, in which the specific community represents majority, in front of and in the objects of state organs, public services and legal entities founded by the state, public services and legal entities founded by the local government units, on the streets, squares and other infrastructural objects, beside the flag of RM:
  - ▶ on the days of state holidays and other holidays of RM regulated by law;
  - ▶ on the days of communities' holidays;
  - ▶ on the days of municipal holidays and other holidays determined by the Decision of the Council of local government unit;
  - ▶ on welcoming and send-off ceremonies organized for the President of RM, the President of the Parliament of RM and the Prime Minister and the members of the Government of RM;
  - ▶ during official visits of Chiefs and Prime Ministers of foreign states and high representatives of the international community (article 5).
- ▶ in the local government units, in which the specific community represents majority, if the community flag is hoisted than the flag of RM should be hoisted also in front of and in the objects in which:
  - ▶ international gathering, competitions and other gatherings are held (political, scientific, cultural, sport and others), whose organizer is the local government unit, or it participates in them or it is presented according to the rules and practice of holding these gatherings and
  - ▶ celebrations and galas are held, as well as other political, cultural, sport and similar manifestations of a special meaning for the local government units.

The civilians that appertain to communities can freely hoist communities' flags in every occasion of private character, as well as on cultural, sport and other spectacles, which are not organized by the local government unit, but by the community.

How is the right on demanding protection by the state of the community's identity being realized ?

**The right** of civilians that appertain to communities on demanding protection by the state of the ethnic, cultural, lingual and religious identity is being realized through:

- ▶ the right of Parliament Representatives - Members of communities (in a role of one of the authorized nominators) on submitting Proposal for enacting a Law on protection of different aspects of the ethnic, cultural, lingual and religious identity;
- ▶ the right on using all constitutionally guaranteed mechanisms for protection of the minority members' rights (which are presented in the text that follows) in case of violation of separate segments of their identity.

## How is the right on founding institutions and associations being realized?

**The right** on founding institutional framework is being realized through creating different forms (prescribed by the law). Their basic purpose is to direct their overall personal, material and financial potential towards manifesting, cultivating, promoting and affirming the concrete-specific identity of the community. Their foundation is being performed according to the Law on Culture, Law on Civil Associations and other laws. The conditions defined by the mentioned laws are not directed towards limitation of the very right, but imply definition of a known, predictable framework, essential for the democratic society. The organizational forms are founded as:

- ▶ cultural institutions;
- ▶ artistic institutions;
- ▶ educational institutions;
- ▶ scientific associations and
- ▶ other types of associations.

The cultural and artistic institutions operate on the protection, reproduction, development, increase and publishing of the cultural treasure. Scientific associations are engaged with collecting, systematizing and studying the cultural heritage as a function of self-recognition, self-definition, but also self-comparison to surrounding cultures, majority culture or the culture of the numerous communities.

The novelty, brought by the Amendment VIII, in the sphere of the institutions that can be founded by the civilians who appertain to the communities, is the right on founding institution of a special quality, to what previously they didn't have right on - educational institutions, as institutions for giving knowledge and receiving information related to the spectre of community identity's elements. Most tightly connected to this right is the right provided in the article 45 of the Constitution, according to which, the civilians of RM, including the communities' members, can found private educational institutions in all educational degrees, except of the elementary degree. The article 34 of the Law on Higher Education guarantees the right on founding private institutions for higher education.

## How is the right on education in one's own language in elementary school and high school being realized?

**Communities' members** realize the right on education in their own language through:

- ▶ the right on overall preschool education in communities' language;
- ▶ the right on overall elementary education in communities' language;
- ▶ the right on overall high school education in communities' language; that is provided by the Government of RM, according to the conditions regulated with the Law on Elementary Education and the Law on High School Education. In respect to the communities' members that attend courses in language different from Macedonian language and its Cyrillic writing, it means that:
- ▶ the overall pedagogic-educational activity is performed in the language and writing of the appropriate community, while
- ▶ the overall pedagogic documentation is in Macedonian language and its Cyrillic writing and in the language in which the teaching is performed.

Nevertheless, these rights do not revoke the obligation of the communities' members, who attend the courses in their own language, to learn the Macedonian language and its Cyrillic writing, as well.

The article 95 of the Law on Higher Education guarantees the right of communities' members on attending courses at the state universities according to adequate teaching programs and contents in community's language different from Macedonian language, while the state provides funding of the higher education implemented in the language that is spoken by at least 20% of the population in RM, as well.

## How is the right on appropriate and righteous presence of all communities' members in the organs of state authority and other public institutions at all levels being realized?

**The right** on appropriate and righteous presence of communities' members does not imply revocation of constitutionally guaranteed principle of equal access to job positions and of the merit principle - selection on basis of capabilities, with highest respect of the principles of speciality and competence. The members of all communities enjoy this right when being employed in all professions determined by the Law on Public Servants. This right and the instrumental right derived from it imply that the Agency of Public Servants will publish the public advertisement for employment of public servants in at least two daily journals, of which at least one is published in the language that is spoken by at least 20% of the civilians who speak official language different from Macedonian language.

## How is the right on the usage of communities' languages being realized?

**The right** on the usage of communities' languages is being realized in the private and in the public life. The usage of communities' languages in the private life is not disputable, it has been used perfectly even before the Amendments of 2001. Given this fact, there is no need of more detailed exploration of the free usage of the languages of all communities in the ordinary communication, within the family, with the relatives, friends, close persons etc. We pay all attention to the public usage of communities' languages in all other spheres, except of education, since we have already examined this subject previously within the chapter 3.4. This is completely apprehendable, given the fact that the public usage of communities' languages and of their writings, have been extended by the Amendment B:

- ▶ in official records, in the process of issuing personal documents;
- ▶ within the local government units;
- ▶ in communication with Ministries and regional units of Ministries and in the organs of state authority;
- ▶ in juridical procedures;
- ▶ in plenary meetings of the Parliament of RM;
- ▶ when publishing laws and other regulations.

## How is the usage of communities' languages being realized in official records?

**The right** on the usage of language is being realized through the following rights:

- ▶ the right of the civilians who speak official language different from the Macedonian language to obtain personal documents in Macedonian language and its Cyrillic writing, and in the official language and writing used by the civilian, as follows:
  - ▶ the form of the registries, data that is written in the form and certificates from the registries;
  - ▶ the form of the driving licence, licence for tractor and driving certificate, as well as the form of the traffic licence and the certificate for registration and for writing data in them;
  - ▶ the form of the personal identification card;
  - ▶ the form of the passport and travelling list;
- ▶ the right of civilians who appertain to communities to use the language and writing of the specific community when entering personal name in the registries and in personal identification cards;

- ▶ the right of civilians who appertain to communities that speak official language different from Macedonian language, to demand that the form of the passport and of travelling list be printed in the official language and writing used by this civilian;
- ▶ the right of civilians who appertain to communities that speak official language different from Macedonian language, to demand that data be entered in the passport and in travelling list in Macedonian language and its Cyrillic writing and in the official language and writing used by these civilians and
- ▶ the right of civilians who appertain to communities that speak language different from the official language, to demand that data for personal name be entered in the passport in Macedonian language and its Cyrillic writing and in the language and writing used by these civilians.

## How is the right on the usage of communities' language being realized within the local government?

**The right** on usage of communities' language within the local government is being realized in the following way:

- ▶ the official language in local government units, besides the Macedonian language and its Cyrillic writing, represents the language and writing used by at least 20% of the civilians (Amendment V), while
- ▶ the organs of local government units decide on the usage of the languages and writings that are used by less than 20% of civilians within this local government unit (article 41 of the Law on Local Government). The Decision is passed by the Council of the local government unit, upon initiative of the representatives of appropriate community, which participates with less than 20% in the adequate local unit, and on basis of the relevant constitutionally and legally guaranteed possibility. The Council passes the Decision upon majority votes from present members (relative majority) (paragraph 2), except in cases when special majority is not determined, as it is demanded when passing regulations regarding, among other issues, the usage of languages and writings that are used by less than 20% of the civilians in the municipality, in which cases paragraph 3 demands majority votes from present members of the Council and in the same time majority votes from present members that appertain to communities that do not represent a majority in the appropriate municipality.

## How are communities' languages used in communication with the Ministries and regional units of Ministries and within the organs of state authority?

- The use of communities' languages in communication with Ministries and regional units of Ministries and within the organs of state authority is being realized through:
- ▶ the right of the civilian, who live in the local government units, in which at least 20% of the civilians speak official language different from the Macedonian language, on communication in any of the official languages and their writings;
  - ▶ the obligation of the regional units competent for these local government units to respond in Macedonian language and its Cyrillic writing and in official language and writing used by the civilian;
  - ▶ the obligation of Ministries and other organs of the state administration and administrative organizations, as well as public companies, legal and other entities authorized for performing public functions by law, to print bilingual forms and
  - ▶ the right of the communities' civilians to demand the bilingual form.

## How is the usage of communities' languages being realized in juridical procedures?

- a) The usage of communities' languages in administrative procedure is being realized through:**
- ▶ the right of any civilian, who lives in local government units, in which at least 20% of the civilians speak official language different from the Macedonian language, to submit documents to authorized organs in that language and
  - ▶ the obligation of the organs to respond in the official Macedonian language and its Cyrillic writing and in the official language and writing that have been used by the other party.
- b) The usage of communities' languages in criminal procedures implies the right on translation of complete procedure and of documents that, on the other hand, includes:**
- ▶ the right of the person, who is called, arrested or deprived from freedom, on immediate information about the reasons for calling, arresting or depriving from freedom and for any criminal accusation against him/her, as well as about his/her rights, in the language that this person understands;
  - ▶ the right of the persons that participate in the procedure (the accused, damaged party, private pursuer, witnesses and other persons), who speak official language different from Macedonian language, to use their own language and writing when

performing pre-investigative, investigative and other juridical activities, at the main proceeding and during the complete appealing procedure;

- ▶ the obligation of the court to provide oral translation of everything that participators expose in procedure, and of documents and evidential material, as well;
- ▶ obligation of the court to provide translation of written material relevant for the procedure or relevant for the defence of the accused;
- ▶ the right of other parties and of witnesses on free help by the translator in the procedure before the court, if they do not understand or speak the language in which the proceeding is led;
- ▶ the right of the civilians who speak official language different from Macedonian language, to submit documents in their own language or in the language in which the proceeding is led;
- ▶ the obligation of the court to provide translation of documents submitted in this way;
- ▶ the obligation of the court to direct invitations, decisions and other written documents in the language, in which the proceeding is led;
- ▶ the obligation of the court to send letters to civilians that do not speak Macedonian language in the official language different from the Macedonian language, as well, and
- ▶ the right on annulling the verdict because of relevant violation of the procedure, if the obligation for translation has not been respected in all parts of the proceeding.

**c) The usage of communities' languages in legal procedure implies:**

- ▶ rights of the parties and of other participators in procedure that use other official language spoken by at least 20% of the civilians, and, the following obligations that the court have, as counterpoint:
  - ▶ to inform the party i.e. other participator in the procedure that uses other official language spoken by at least 20% of the civilians and its writing, as well as the community member that as a party or participator in procedure do not understand Macedonian language and its Cyrillic writing, about the right on usage of that language or the right on translator;
  - ▶ to cover the translation expenses;
  - ▶ to enable the parties and other participators in the procedure who speak other official language to use that language when participating in court appearances and when undertaking other trial activities before the court in writing;
  - ▶ to provide oral translation for participators in procedures in their own language of everything that is exposed during the court appearance;
  - ▶ to provide oral and written translation of documents used as evidence during the court appearance for participators in procedures in their own language;
  - ▶ to deliver invitations, decisions and other juridical letters to the parties and other participators in procedure, whose mother tongue is official language different from Macedonian language, written in Macedonian language and its Cyrillic writing and in that language, as well;
  - ▶ to translate documents written in language of a specific community into Macedonian language and its Cyrillic writing and to submit them to other parties and participators in procedure;

- ▶ the obligation of the parties and other participators in procedure, whose mother tongue is official language different from Macedonian language and its Cyrillic writing, to submit accusations, appeals and other documents in their own mother tongue, as well;
- ▶ rights of the parties and other participators in procedure that are Macedonian citizens, whose mother tongue is not the Macedonian language and its Cyrillic writing, nor official language different from Macedonian language and its writing, on:
  - ▶ getting informed that they can follow the oral procedure before the court in their own language through translator;
  - ▶ giving up the right on translation, if they state that they understand the language, in which the procedure is led;
  - ▶ participating in court appearances and orally undertaking other procedure activities in their own language and
  - ▶ also the court has an obligation to cover the translation expenses in such procedures.

# PROTECTION OF THE RIGHTS OF ETHNIC COMMUNITIES' MEMBERS

The system of protection of the rights of communities' members is a component of the system of protection of human rights, in general. Namely, the protection of the rights of communities' members is performed upon the same principles, in the same kind of procedures and before the same organs, as for all other fundamental human freedoms and rights. That system implies protection of the rights in procedure before:

- ▶ regular courts;
- ▶ Constitutional Court;
- ▶ Ombudsman;
- ▶ Permanent Poll Commission for Protection of Freedoms and Rights of the Civilian within the Parliament of RM.

The protection of the rights of communities' members before the regular courts is provided upon the principles of urgency and priority. The application of the principle of two instances in juridical procedures is guaranteed. All original first instances verdicts against which an appeal had been submitted are subjected to revision by a directly higher court. The appeal against the second instances verdict has suspensive and devolutionary effect. The Supreme Court enacts decision upon this verdict. The juridical protection (legal dispute) of legality of individual acts of the state administration is guaranteed, as well as of other institutions that perform public functions.

The protection of the rights of communities' members before the Constitutional Court is provided through the right on petition submitted to the Constitutional Court any time when specific person considers that some of his/her rights or freedoms are violated by a separate act or activity, in the term of two months from the day of deliverance of the final or valid separate act i.e. from the day of apprehending about undertaking activity through which the violation has been done, but no later than five years from the day of its undertaking. If the Constitutional Court has determined violation of fundamental freedoms and rights by a specific act, the Court shall annul the indicated act by the same decision and it shall apply the institute of returning to previous condition, and where it is not possible, it shall enact a decision for material satisfaction.

The protection of the rights of communities' members via the Ombudsman is provided through practising his/her authority to determine that a specific organ or organization has violated a specific freedom or right and to undertake one of the following measures:

- ▶ proposing to the organ or organization a repeated implementation of appropriate procedure according to the law;
- ▶ submitting a request to the organ or organization for temporal cease of execution of the act;
- ▶ proposing commencement of disciplinary procedure against an officer of the organ/organization;
- ▶ submitting a request to the competent public prosecutor for commencement of procedure in order to determine offense or criminal responsibility and
- ▶ giving proposals to the organs/organizations for improving their activities and relations with other parties.

However, the Amendment XI of the Constitution of RM increases the competence of the Ombudsman through stressing his/her particular care for the protection of:

- ▶ the principle of indiscrimination;
- ▶ the appropriate and righteous presence of communities' members in the organs of state authority, organs of local government units and in public institutions and services;

which, according to the Law on Ombudsman, is realized through:

- ▶ submitting presentation to the Ombudsman by persons who consider that their constitutional or legal rights or the principles of indiscrimination and of adequate and righteous presence of communities' members in the organs of state authority, organs of local government units and in public institutions and services, have been violated (article 13);
- ▶ giving an opinion by the Ombudsman regarding the constitutional or legal rights or the principles of indiscrimination and of adequate and righteous presence of communities' members in the organs of state authority, organs of local government units and in public institutions and services, about the matter that is in procedure, regardless of the type and level of the ongoing procedure before the organs of the state administration and other organs and organizations with public authorizations (article 28);
- ▶ following the conditions by the Ombudsman regarding the constitutional or legal rights or the principles of indiscrimination and of adequate and righteous presence of communities' members in the organs of state authority, organs of local government units and in public institutions and services;
- ▶ performing visits and insights in the organs of state administration and in other organs and organizations with public authorizations (article 29);
- ▶ forming and organizing departments by the Ombudsman in

purpose of more efficient protection of the civilians' rights in separate areas and

- ▶ proposing members in the Committee for Relations among Communities, upon consultations with relevant representatives of the communities, in case that some of the communities do not have their own representatives.

The protection of the rights and freedoms of communities' members by the Permanent Poll Commission for Protection of Freedoms and Rights within the Parliament is realized through its findings for the real situation as basis for implementation of a procedure for determination of responsibility of the public functions bearers.

Finally, depletion of all local legal instruments is a postulate for accomplishment of the right for requesting protection of the rights before the European Court for Human Rights within the European Council.

# CONCLUSIONS

- ▶ The actual system of guaranties of the rights of civilians that appertain to communities in RM implies two levels, general and special one.
- ▶ In spite of that, the rights of the civilians that appertain to communities are part of the human freedoms and rights, but also a special concept qualitatively different from the concept of equality of all and everyone before the Constitution and law.
- ▶ The formulation "rights of the civilians that appertain to communities" used in the amendments of the Constitution of 2001, demonstrates continuity with the formulation used in the Constitution of 1991 "rights of the members of the nationalities", in sense of stressing the individual, but not the collective dimension of the rights of minorities. The bearers of the rights are persons, individuals, although according to the very nature of the rights, their largest part could be practised in collective, in interaction with other individuals that share identical cultural milieu.
- ▶ If the Constitution of 1991 affirms the European integrative model for protection of the rights of nationalities, than the amendments of 2001 affirm the concrete-specific Macedonian model of unique example of multi-cultural state in the wider region.
- ▶ The basic goal of the Macedonian model is preserving the integrity of the state, with parallel rising of the rank of the rights of civilians that appertain to communities at highest level implied by relevant international documents for protection of human/minority rights.
- ▶ The establishment of such legal framework has been result of a hard, contradictory and painful process that had been evolving in conditions of conflict, with key influence by USA and EU.
- ▶ Since the constitution of RM as independent state till present time, it is permanently opened for monitoring by all international control mechanisms and for adoption of their notes.

