

UNIVERSITY "Ss. CYRIL AND METHODIUS" in SKOPJE



INSTITUTE FOR SOCIOLOGICAL, POLITICAL  
AND JURIDICAL RESEARCH



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## FOREWORD

Dear reader,

It is with great pleasure that I present to you the new issue of our Institute's international scientific 2018 Annual.

In this edition, the Institute for Sociological Political and Juridical Research has chosen to present papers that focus on several legal issues, like the concept of justice vs. the concept of equity, freedom of speech vs. censorship and Constitutional Court jurisprudence regarding bylaws. Included are also an array of topics tackling knowledge management, the gender perspective of the right to the city, increase of government accountability through protests, media effects over public impact and the still of vital national interest topic on the "name issue" between Macedonia and Greece.

I hope you will find this Annual both informative and interesting and that it will give you a greater understanding of the themes which have been elaborated by our contributors. Ultimately, our goal is to attract readers who have interest on these areas and to instigate academic exchange of thoughts and vigorous debate.

**Editor-in-Chief**  
**Natasha Gaber-Damjanovska PhD**

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## **THE CONCEPT OF JUSTICE AND EQUITY AND THEIR RELATION TO THE LAW**

### **Abstract**

The article aims at analyzing the concept of justice and equity as fundamental principles of law in general and the civil law in particular, respectively, the law of obligations. The basic idea of this research is to emphasize the role and importance of justice as a special value principle and equity as corrector of the law and its source material. By referring to the function of equity, as a corrective option, namely, the fulfillment of the law, the article tries to prove that equity is an individual case law, because by enabling the judge to implement in any concrete case a form of free and individual trial based on justice it serves to improve what is legally right. Referring to the provisions of the Law on Obligations of the Republic of Macedonia (2001), which promotes the principle of equity and at the same time flexibility in justice, the article attempts to analyze the cases and conditions under which may be acted according to the principle of the equity, depending on the legislator's conviction.

In an effort to incorporate the dimensions of the principle of justice and equity and to build the frameworks upon which these concepts arise, the research will be extended on the time and spatial plan, bringing theoretical and legislative references from comparative theories and legislation.

**Keywords:** law, justice, equity, legislation, court, principle

## INTRODUCTION

Justice is a particular value principle that refers to an ideal state of social interaction in which there is a reasonable, unbiased, and equitable balance of interests and the distribution of goods and opportunities between individuals or participating groups (Höffe 2004: 27), while equity is the value that makes the rule of justice possible.

The concept of justice and equity, as well as the concept of law and legislation, are considered as basic concepts of the philosophy of law and jurisprudence. Justice and equity are values that appear as fellows of the law in general, and in this context of civil law in particular. However, it would be wrong to treat the concept of justice only in the context of the concept of law because justice in terms of the law is only one kind of justice, while it can exist in other normative systems such as morality and religion. Therefore, as the justice of the law is only one of the several types of justice, it has its own features that set it apart (Лыжик 2007: 276). Unlike moral justice, the justice of the law aspires that within a given community the valid norms (laws) become mandatory. A mere arbitrary deviation from the mandatory norms within a legal system, no matter how it can be configured, constitutes a basic fact of justice which, as such, is guaranteed by a positive law, because, precisely from the legal system itself stems the freedom and legal security for individuals as subjects of the law. On the other hand, injustice is a violation of justice, while, in the sense of the category of injustice, the failure to perform any action that we have been obliged to perform is also included. Nevertheless, it remains indisputable that one of the main reasons for injustice is arbitrariness, in which case the principle of impartiality is violated (Tugendhat 1997: 6).

The principle of justice and equity is addressed in time and space by various authors and from different angles. The oldest position that dominates in the legal doctrine is the attitude that justice is the constitutive principle of the law and a criterion for determining the legal nature of social relations and the norms by which these relations are regulated. This, practically means that legal-positive norms, by the fact that their legal power derives from justice, are legally valid and binding only if they are in conformity with justice (Галев 2004:117). On the other hand, quite different views are presented by other authors, who exclude any kind of influence of the principle of justice on the norms of positive law. As far as equity is concerned, it is considered as a form of free and individual judgment based on justice.

The concepts of justice and equity, understood either as a category of natural law or simply as a material value principle, have a great and important influence on what needs to be the content of the juridical-normative order, the part of it related

to civil law, namely to the part related to the law of obligations. Justice as a value criterion is a guide on how to regulate relationships between certain entities within a society, while equity enables the realization of this aspiration.

Expressions used in different languages and at different timeframes to identify the category of law, justice and equity have not influenced their concept. Thus, Latin used these expressions: *ius*, *iusticia* and *equitas*; Croatian language used the following: *pravo*, *pravednost*, *pravičnost*; in English, the terms *law*, *justice* and *equity* are used; in German, the terms: *recht*, *gerechtigkeit*, *billigkeit*, etc.

## HISTORICAL PERSPECTIVE ON JUSTICE AND EQUITY

Justice and equity, as genetic and psychological phenomena are born along with man, as a socially conscious being. The roots of these phenomena are also encountered in the oldest cultures of humankind, for example: in the myth of the righteous ruler, the righteous king, etc. But in terms of the definition, systematization and clear designation of the notion of justice and equity, respectively, the concept of indivisibility between the notion of law, justice and equity, we will refer to Roman law and the ancient Greek law, and of course, the new legal theories that have dealt with these phenomena.

The principle of justice and equity is found to be applied in the classical and post-classical period of Roman law when the fierce formalism, characteristic of the old law, increasingly started to give space to informalism. An evidence of this is the fact that in the post-classical period of Roman law the maxim according to which: "It is determined that in all things, justice and equity, not rigorous law, will be considered" was applied (Aristotel 1970: 139).

Justice and equity have been well known in ancient Greek law (c. V BC) and have been dealt with by many thinkers. Socrates was a proven legalist and regarded the law as a guardian of the society, while justice as its watchdog. He believed that the highest human virtue is "goodness". Plato, Socrates' student, borrowed the notion of "goodness" as the highest goal of humankind, further cultivated it in his work "The state" and called it "justice". According to Plato, justice means giving everyone what belongs to him/her, and to enable him/her to do the job that he/she is capable of, but that should be good (Platon 443d). Such a definition of justice will be found later in other works of the Greek scholars, but also Roman, as is the case with the famous definition of Ulpianus, in which he considers that: "Iustitia est constans et perpetua voluntas ius suum cuique tribuendi" "(justice is the everlasting and constant will to give everyone the right that belongs to them).

Aristotle, by further cultivating the thoughts of his teacher Plato in his work “Nicomachean Ethics” considers justice as equality and divides it into two types: general justice, which means acting in accordance with the law, and special justice, which is part of general justice but refers to concrete situations. He then divides special justice into distributive justice, which defines the principle of distributing the rights of citizens according to geometric ratio in public law, where everyone wins according to merit. Whereas, the other type, the corrective or equalizing justice relates to justice in a private relationship, which may be created on the basis of the will of the participants (sale) or against the will of the participants (theft, violent actions ex. bodily injuries). The essence of commutative justice is the arithmetical proportion, that enables the achievement of equity, which means that everyone earns the same (in a sale the seller earns as much as the buyer, of course through the price, in theft the thief should return what he has stolen or pay its value. Therefore, justice represents the fundamental equality of the elements that exist in the report that it regulates (It is the duty of a judge to find the points of connection between commutative and distributive justice when applying the general norm in the particular case, primarily because distributive justice is dependent on space and time, taking into consideration that every legal system has its own criteria on which social values should be protected and to what extent). Based on this aspect, justice implies equality while injustice implies inequality.

Regarding the principle of equity, like *Ius aequum*, it stands alongside the law like *Ius strictum*. When defining the notion of equity Aristotle in his work “Nicomachean Ethics” moved away from the teachings of Plato, which is reflected in the further development of his concept of equity. Aristotle perceives equity as a distinct legal form of the concept of justice. What matters is that he treats them as two essentially different values, but in no case does he want them to be understood as different attitudes. According to Aristotle, equity is what is considered a law outside the written law (Dieterich 1804:26). Namely, where the legislator has not foreseen a solution for a concrete case equity intervenes and resolves the case; same was as the legislator would act if the case had existed at the moment of adoption of the law. He emphasizes that the law because of being a general act is incomplete, or limited, and that there should be a possibility of correction, namely, its amendment. By alluding to such an opportunity, Aristotle refers to equity, to define it as a correctional tool of positive law.

In the XII century AD Roman law had already been received as a legal-positive order and became the foundation of all rights in European space, surviving until the new century. The Roman law had managed to successfully penetrate into the English system, by then the immune “common law”, whereby the principle of justice will be seen as “justice”, and equity will be found in “equity law”. In this

context, we can refer to a very important document of the world legal culture, the great charter of liberties (Magna carta liberatum), where the principle of justice will find place in the expression “To no one will we sell, to no one will we refuse or delay, right or justice” (Article 40, The Magna Carta).

In later centuries, we can encounter Aristotle’s stances contained in the work “Nicomachean Ethics” discussed by various authors. Among others, his attitudes are also accepted by Thomas Aquinas, who as a proponent of Aristotle’s thought would say that justice implies the relationship with the other and the will (Akviski 2005: 579-580). Referring to the positive law and taking into consideration the shortcomings, that the law of humans (lex humana) brings with itself, he develops the doctrine “lex iniusta non est lex - unjust law is not law” because, always according to him, the positive law must not be in contradiction with the natural law, since otherwise, if it happens, then the positive law is not a law, but only a kind of violence (Metelko 1999:326). The philosopher Thomas Hobbes, in order to build his own theory, starts from another dimension: he considers that someone is just if he has not violated the agreement and someone else is unfair if he has infringed upon the same. In his view, the divine is neither just nor unjust, because he has not entered into an agreement with anyone. Such an attitude can not be taken into account in all cases because justice as such may take different meanings in certain life situations. Thus, in a real life situation, when the party being obliged by the principle “*Pacta sunt servanda*” (The principle “*Pacta sunt servanda*” says that “participants in the binding relationship are obliged to fulfill their obligation and are responsible for noncompliance,” see the Article 10, paragraph 1, Law on Obligations) must fulfill the contractual obligation, while, under the positive law in force, the contract to be fulfilled is invalid because it is unjust, the principle of equity comes into play, which as a correction of the positive law creates the possibility for the party not to fulfill the obligation deriving from the invalid contract, thus violating the principle “*Pacta sunt servanda*” and at the same time not to be considered unjust. Based on the fact that the party will not be considered unjust, even though it did not respect the contract, the conclusion is that the observance of the contract is not the only relevant criterion to judge whether one is just or not (Hobbes 1996:147). Therefore, the theory of Hobbes associated with being just or unjust based only on the respect or disrespect of the contract is not sustainable, because the idea of law can not be anything but justice.

Justice, as a special legal value, is an unwritten law, which includes what the law has failed to include, or which, when abolishing the general norm or law, should be circumvented so that the norm contains only the elementary specifics of several similar cases in order to be applicable. In this regard, the author Hans Kelsen, strongly believing that justice derives power from the law, brings a completely

authentic stance that does not reject justice as a value criterion, but states that “the notion of justice can only penetrate legal science in the sense of legitimacy” (Hans 1959: 27). This attitude served Fuller as the basis for building the “known rule” category, which alludes to the legitimacy of the law. In other words, he believes that laws are just only when citizens are allowed to judge whether a law is just or not (Fuller 1964: 57).

Justice and equity, as special values will be further passed on in history and will become the motto of the French Declaration on Human Rights and the American Declaration of Independence (Kurtović 1999: 54-58). Montenegro’s General Property Code (1888) will make an even more important step towards the promotion of these values. In the provisions of the Code we will find an aristotelian approach, where, justice and equity will be considered as formal sources of law: If there are no rules for any legal work or any particular case, neither in law nor in customs, it is necessary to act by analogy and according to other similar rules, or the case should be resolved according to the general principles of justice and equity. Thus, according to the Code, in the absence of legal and customary norms, but also in case applying the rules of analogy is impossible, justice and equity appear to the judge as a direct source, from which he should issue the rule for implementation (Галеб 2004:113). Nearly two decades later, a faithful promotion of Aristotle’s idea regarding the justice institute as a corrective to positive law is found in the Swiss Civil Code - SCC. In Article 1, paragraph 2, of the SCC, the legislator authorizes the court, if it finds that there is a legal gap, to supplement the same in customary law, and to establish the norm in cases where customary law is not sufficient, which it would create if it were a legislator (Art.1, paragraph.2 Schweizerisches Zivilgesetzbuch).

Justice as commutative justice, respectively, as a value that determines the exchange of equivalent values in the law of obligations, namely, in private law, at the same time represents the ideal of contemporary law. This concept is embodied today in contemporary legislation, which can be ascertained by some provisions of the Law on Obligations in the Republic of Macedonia (2001), as for example in the case of the principle of compensation for damage, according to which: one who causes harm to another is obliged to compensate him if he fails to prove that the damage was caused without his fault (Article 141, paragraph 1, Law on Obligations) therefore, the party that caused the harm must restore the property that existed before the damage was caused (*restitutio in integrum*); to the principle of the equivalence of the loans, which states that: in the establishment of the obligatory relations the participants start from the principle of equal values of mutual loans, what is given should have a value comparatively equal to the one what is received (Article 8, paragraph 1, Law on Obligations) ; or the institute of

enrichment without legal basis, under which that person is enriched without legal basis is obliged to return what he has gained as a result of this report (Article 199, Paragraph 1, Law on Obligations). The commutative justice is also encountered in some other legal solutions in the area of the law of obligations. For example, such are the rules governing the return modalities of what is given in the case of invalidity (Article 96, Paragraph 1, 2, Law on Obligations) or termination of the contract (Article 113, Paragraph 1, Law on Obligations) rules on legal liability in cases of physical or legal flaws of the item, namely the object of the obligation, (for example, in a sales, lease contract etc.) (Article 466, Paragraph 1,2 and Article 496, Paragraph 1) or the rules of liability for the malfunction of the item in these contracts (Article 489, Paragraph 1, Law on Obligations).

Since equity is oriented to the concrete case, namely, to the social content of the case, the body authorized to decide, applies the legal norm by adapting it to the concrete case and placing the same in direct relation to the dominant concept of justice. This is accomplished based on the necessary factual material, which includes: the material condition of the subjects of the relationship, their social status, the existence or absence of guilt on them, their honesty and conscience and the like. Thus, for example, we find in paragraph 1 of Article 156 of the Law on Obligations a concrete provision in which the legislator instructs the court to hold an account for the material situation of the subjects of the relationship, which states that: “Where damage is caused by a person not liable for it, and compensation cannot be obtained from the person responsible to supervise the damaging person, a court, taking into consideration the financial state of the damaged and the damaging party, may, when the principle of equity indicates so, decide on partial or full compensation by the damaging party”. The court decides according to equity even when deciding to terminate the contract, namely for its change due to the change of circumstances (*Clausula rebus sic stantibus*). In this case, it is guided by the principle of equity in circulation, taking into account the purpose of the contract, the normal risk to the contract, the interest of the parties and the general public interest. Provisions that authorize the court to take into account the material condition of the subjects of the relationship during the decision-making process are also found in the Law on inheritance of the Republic of Macedonia. The provision of Article 27 of this law states: “When a spouse who does not have the necessary means of subsistence has been called into inheritance with second-generation heirs, the court may, upon the request of the spouse, decide that the spouse inherits a portion of the share of the inheritance to be inherited by other heirs, while it may decide that the spouse inherits the entire heredit, if it is so small that by its sharing the spouse would remain in misery. During the decision, the court will consider all the circumstances of the case, in particular the property status and the husband’s ability to economize,



the status of the property of the other heirs and the value of the hereditary measure”. According to the provisions of Article 28 of this law, the same right and under the same conditions are treated also the parents of the decedent to the decedent’s spouse (Article 27, 28, Law on Inheritance).

## THE RELATIONSHIP BETWEEN JUSTICE AND EQUITY

Justice and equity can not be seen and treated separately because there is a permanent and inevitable connection between them. The principle of justice is the aim of every legislator on the occasion of the creation of the law. With the help of the principle of justice, the legislator creates the law, while, with the help of the principle of equity, it creates the possibility of its interpretation.

If we consider that from the past to the present day the law was intended to regulate only standardized relations, then it becomes clear to us that the principle of justice has not even been able to be incorporated in any other form, apart from the generalization level, namely, the average of the adjusted relationships.

It happens that justice embodied in the law, carried in a concrete case, which may be specific and by many elements deviate from the general and the standard, creates a situation when what on principle and abstract level is considered as just, in the concrete case to be presented as unjust. In this regard, the question is how can justice be achieved in the case of inclusion of subjects in concrete legal relationship? (Галев и Дабовиќ-Анастасовска 2009 :100). Since justice is an abstract and generalized value, if it can not produce the expected result when passed on in concrete cases where the subjects of the law are involved, the intervention of equity becomes inalienable. In this way, what is presented as justice in general plan is transformed into equity in a concrete plan, which means that these categories are not exclusive, but rather complement each other. Equity is a form of free and individual judgment according to justice, respectively, the method of enforcing the law through direct mediation between the dominant concept of justice and the concrete case (Esser 1949:20).

In some cases, justice can be achieved through interpretation, as a way of enforcing the law, or by the guideline that the provision itself determines, most often, the law. Such cases contained in the provisions of the Law on Obligations are the cases when the court in order to achieve justice is authorized to interpret the contract taking into account categories such as: “honesty and conscience”, “common”, “the purpose of the contract”, “the common purpose of the contracting parties” and many other similar categories (Article 91, Paragraph 2; Article 124, 125; Article 463, Paragraph 1, Law on Obligations). In some

situations, the norm is complemented by other elements of social rules, which are governed by the provision itself, and the case is settled by equity as a value category in the field of law. This can be illustrated by the content of the legal provision under which: when deciding to terminate the contract, respectively, for its amendment, the court is guided by the principle of equity in circulation, with particular regard to the purpose of the contract, the normal risk of the respective contract type, the general interest and interests of both parties (Article 124, Law on Obligations).

Equity is a special way of enforcing the law. During the process of applying the norm, though it departs from the norm itself, it abandons the same and seeks the answer related to the way that the norm will be applied in the concrete case outside of that field. This field represents an interaction relationship between the dominant incorporated concept of justice into the relevant legal system and order, reduced to the level of concrete legal norms on the one hand and concrete controversial case for which solution is sought through equity (Гале 2004:127).

Given the fact that the principle of justice is closely related to the principle of equity, while it is considered that equity precedes justice, or more precisely, is its source, the essential difference between these two concepts lies precisely in their method, namely in their approach on realization of the idea of equality. The word justice has a double character; it has the meaning of the principle, but also of the integrity of equity within a given society. While, its abstract level is a feature of the principle of justice, equity is oriented to the concrete case, respectively, to the social content of this case, and at the same time it is in direct correspondence with the dominant concept of justice.

As noted above, it can be concluded that equity is a tool for adapting the facts to the idea of justice. Thus, the concept of the principle of equity implies a certain ability of an individual or organization to decide or act in the just way in concrete cases, i.e. to use the principle of justice in real terms and to implement the idea of creating a just society, just decision, just procedure, etc..

In his work "*Nicomachean Ethics*", Aristotle has articulated his stance on the relationship between justice and equity as a complement to the law, claiming that justice is the queen of all values and that equity is a kind of justice but, for sure better than justice. In this context, he considers that equity is justice because it serves to improve what is legally right. Proclaiming equity as a way to correct the law, Aristotle was the first to promote flexibility in justice. The idea of both, justice and equity is equality, but they are distinguished by their method. As far as justice goes from the general to the individual, towards the individual case, equity starts from the individual case and its nature (Metelko 1999:178-182). With his attitude, Aristotle claims to prove that the law is the same as justice, but always if we

correctly interpret the will of the legislator. On the other hand, he considers equity as a “tool and material” with which we build justice, which means that without equity, justice would not be complete, because equity ultimately precedes justice, respectively is the source of justice (Miličić 2008:79).

The work of Aristotle “*Nicomachean Ethics*” was analyzed also by the German lawyer Gustav Radbruch. In his work, “*The Philosophy of Law*”, Radbruch has highlighted Aristotle’s standpoint on the relationship between equity and justice expressed in that work. According to Radbruch, Aristotle declares that equity can not be something that counters the justice, but rather is only one of its types. He has also found a solution according to which he considers that justice and equity are not different values, but are different ways to reach a single value, because equity as well as justice in the last instance have a generalized character. Otherwise, Radbruch defines justice as correctness in its focus toward the law. According to him, justice is the correct way of building the notion of the “law” and at the same time “truthfulness, intended to serve justice, whereas equity is the justice of the individual case” (Radbruch 2003:34).

The notion of the law can not be freed from the idea of justice and equity, as between these notions there is an inevitable intricacy, in the legal-political thought and in the daily talk alike, and this blend corresponds to the ideological commitment that the positive law should be promoted as a law ruled by justice and equity (Бајалциев 1999:389).

## EQUALITY AS AN ATTRIBUTE OF JUSTICE AND EQUITY

Justice means being equal, ie., it means the permanent and constant will to give everyone what belongs to them, while the same is achieved through equality. Under the idea of equality, we enumerate both justice and equity. But, while justice begins from the general principle toward the particular case, the beginning point of equity is the individual case and the circumstances surrounding it.

Although justice is closely related to equality and equality is its main and most important criterion, however, justice as equality opposes justice as inequality. However, it is not justice to act equally with the unequal. Therefore, at least in some situations, justice is presented as proportionality, as a verification of relevant differences among people, and afterwards as a proportional determination of the good or bad consequences that should be related to the verified differences (Pusić 1989:217).

In order to avoid possible uncertainties regarding inequality between people (individuals) and the determination of the equality principle, it should be noted

that equality principle implies equality of all subjects as individuals, regarding: conditions of realization of subsistence, realization of opportunities and aspirations, thereby equality in “authorizations” includes the equality of people in “loads”, respectively, equality in “rewards” includes equality in “punishments”.

The principle of equality, understood as equality of all people in the undeniable need for life, is absolute equality, whereas the equality of people with regard to the possibilities of realizing the subsistence, which according to the nature of the issue of individuality are unequally realized in individual cases, represents relative equality. The fact that each human represents a particular individual, it ensues that in reality people are not equal but unequal. Their inequality stems from the many and varied criteria of their social, individual, biosocial, and time-spatial position (Milčić 2008:37).

For the law it is important that the justice of law (Moral and religious justice evade from the principle of equality. In some situations they create the impression of injustice, because often for the performed obligation nothing is gained except for the blessing ) is closely related to the balance, equality. If this equality can not be measured accurately, different measurement methods are applied. Thus, ie. if we talk about the measurement of a delinquency punishment, according to the principle of equity to ensure equality, the value of the delinquency and the value of the punishment must be measured. In old laws, as it is known, there was the rule “an eye for an eye, a tooth for a tooth”, which was implemented easily. In contemporary law, this rule mainly has been abandoned, so physical and moral injuries have been replaced by property punishments or deprivation of liberty. But in some countries the death penalty is still being applied according to the principle “an eye for an eye, a tooth for a tooth”.

A possible kind, but, by its controversial nature of equality, is the formal principle of “equality before the law”, respectively, formal equality, expressed through legal rules. There is no doubt that equality before the law, as a fundamental right, is one of the key foundations of legal efforts for justice (Zippelius 1989:7). It is considered as the foundation of the rule of law and is integral part of most constitutions around the world, including the Constitution of the Republic of Macedonia, article 9, paragraph 2, which states that: “The citizens of the Republic of Macedonia are equal before the Constitution and the laws” (Article 9, paragraph 1, Constitution of the Republic of Macedonia). Theoretically, by all means it can be conceived the possibility that formal equality (established in the rule of law in a dogmatic way and with the will of power) approximates or even clashes with the equality, but even such a theoretical possibility clash of dogmatically formed equality, is just an important step that should be followed by other more important steps, such as: real guarantees of equality realization (Milčić 2008:38-39).

The principle of equality is strongly articulated in the United Nations Universal Declaration of Human Rights of 1948, which states: “All human beings are born free and equal in dignity and rights and each enjoys all the rights and liberties set out in this Declaration, without any restriction on race, color, gender, language, religion, political or other opinion, national or social origin, wealth, birth or other (Article 1, 2, The General Declaration on Human Rights). The principle of equality also constitutes the main appeal of the Convention for Protection of Human Rights and Fundamental Freedoms (2000). The introductory part of the Convention begins with the guarantee of equality of all subjects before the law: “Given the fundamental principle according to which all persons are equal before the law and are entitled to equal protection from the law” (Protocol No.12 of the Convention for the Protection of Human Rights and Fundamental Freedoms).

The principle of equality, as the most important criterion of justice and as the eternal will to ensure equality in the world, can be found also in all contemporary, national and international legal acts and instruments.

## CONCLUSION

With the progressive development of human thought and research, the terms justice and equity were accepted as compatible in the social reality and in historic retrospectives in the form of doctrine they were mounted on the foundations of some positive rights, to subsequently included a large number of them.

Historically there have been dilemmas about the concept, source, and goals of justice and equity. For a time, different authors have failed to agree on the sources of the principle of justice and equity, most of them have agreed with the goal that is to be achieved through these principles, and this obviously is the equality.

The right, justice and equity are phenomena that can be treated and defined separately, but none of them can be implemented separately and to yield the expected result. They represent relatively complex phenomena, which are in an exclusive, intricate and indivisible links. Therefore, the judge who will act according to them should not have only the necessary professional preparation, but also the pronounced intellectual and moral courage.

We can conclude that, as Kelsen claimed, the ideal justice and equity in reality does not exist because there is no perfect tolerance, general agreement or general good in the world. The aspiration for justice and equity seems to be eternal, only to change the subjects and the composition of the interests, for which equality is sought with others. However, justice and equity had, has, and will have, a very important place within the law, or more broadly within the legal system and order, has had, has and will have an essential impact on the category of right in general.

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**SOCIOLOGICAL REFLECTIONS ON THE  
GENDER PERSPECTIVE OF THE RIGHT TO THE  
CITY**

**Abstract**

The starting assumption is that the historical exclusion of women from the civil rights continues and is reflected on the city space through the domination of patriarchal relations. Although women today have more rights granted by the law than ever before, beyond the law, gender inequalities spill over into the daily life, which can be observed in the city space through various aspects. The paper shows some of these obstacles and types of inequalities, but also some possibilities to overcome them. It should also be emphasized that, regardless of ideological and political contexts or a dominant socio-economic system, seen from the perspective of gender, there are some basic common characteristics of the right to the city of women in all societies.

**Keywords:** right to the city, gender, city, citizenship, inequality

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## INTRODUCTION

The idea of *the right to the city* is a basic conceptual starting point for deliberating over gender relations and spatial matrices in this paper. The right to the city was introduced into sociology by French sociologist Henri Lefebvre with an intention to point first to fundamental social (class) inequalities, and then to the idea that by affirming cities as political communities (in contrast to state centralism), it is possible to reach equality in the right to make decisions, which has been seriously compromised in capitalism. According to the author, the issue of space production is of special importance, because space, once shaped by the dominant hierarchical, class structure, has a reverse effect on the reproduction of social relations, reinforcing the class system and the existent conditions of unequal power distribution in society.

Although Lefebvre's analysis allows expansion from class to other dimensions of the analysis of the right to the city, some criticize the author for not taking into consideration the patriarchal relation in space, treating space as a gender neutral category (Fenster 2006: 43). Contemporary approaches in urban sociology, as well as in other disciplines, however, do consider the reflection of patriarchal patterns onto space. There are no charters on the right to the city which are concerned with the gender dimension of cities in a serious manner.<sup>1</sup> Feminist critics indicate cities as places where most rights are given to a citizen that fits into the identity category of a white heterosexual male of the upper middle class, which implies that the gender is always to be considered in an intersection with class, race and other identities. As Shelley Buckingham emphasizes, neither gender nor space is a neutral category. Both are socially constructed concepts that need to be analyzed and considered in the context of different actors who participate in the creation of everyday life (Buckingham 2010: 58).

From a historical perspective, changes in the everyday life of women and, in general, their struggle for liberation from rigid patriarchal clutches, can be observed since the 19<sup>th</sup> century, alongside with the processes of urbanization and industrialization. Back then, women were deeply bound to the private sphere and, therefore, not acceptable participants of expanding urban spectacles. However there were certain women who were a part of a street scene along with flâneurs, urban dandies and urban outsiders

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<sup>1</sup> Patriarchy, meaning the rule of fathers, i.e. men, has different definitions and its genesis is sought for in different factors. Even among feminist movements there is no unanimity in this regard, but what is certain is that such a system restricts aspirations of women and permeates all areas of society: "Our society is a patriarchy... military, industry, technology, universities, science, political office and finance – in short, every avenue of power within the society, including the coercive force of the police is entirely in male hands" (Kate Millett according to Houle 2000: 33).

(McDowell 1999: 154).<sup>2</sup> These were mostly widows, prostitutes, lesbians, masculine women, girls who posed as live models for artists, writers, and other “loose” persons, who were already excluded from the society, since they did not fit the standard Victorian values. However, public space, or some of its parts, became also a place of freedom for some women other than those mentioned above. Women of the middle class regarded shopping malls as some kind of an envisioned better world, a refuge from the traditional clutches of a patriarchal family, and it was there that they used to find a place *just for themselves*, at least for a short time during the day. But although they broke free from male domination for a moment, this still did not mean that this place of their relaxation was not pervaded by the same matrix of values. Besides being subject to the lurking danger of sexual assaults, the culture of consumerism, which was becoming rife, also pushed them into a subordinate position. In this world, women have remained passive consumers, not creators, while their bodies are used in commercials in order to attract visitors and shoppers, which confirms the hypothesis that capitalism and patriarchy are, in fact, compatible. Sylvia Walby also reaches this conclusion when she explains that capitalism does not also mean the advancement of women’s rights, emphasizing that by allowing women to “penetrate” the public sphere from the private one, patriarchal relations merely reflect the private onto the public sphere, thus leading to no essential changes. The difference is that women are no longer dominated only in households, but also in the spheres of work, politics and other areas of the public domain (Walby 1990: 185).

Ambivalent experiences of the city space, as the space of freedom and a lack of it, is testified by studies conducted in societies that are predominantly traditional and patriarchal. Findings of Tovi Fenster show that most of female respondents in her interviews associate home with *prison*, and city with *freedom* (Fenster 2006: 44). However, this should not be taken as a rule.<sup>3</sup> Women in all societies and ideological systems feel the city space as a location of unease, fear, a lack of freedom, and male dominance. To a large extent urbanism is responsible for this, since it is an activity that assumes planning and designing, which are never free from ideology and political influences, as Lefebvre wrote. Besides class, ideology and other aspects, gender-related aspects that reproduce the patriarchal relations

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<sup>2</sup> Dandyism in a sociological sense represents a subcultural style within a culture of urban society. According to some interpretations, the first dandies were found in the antique times, but precisely speaking, it is a phenomenon associated with the socio-economic ascent of the citizens in the 19<sup>th</sup> and 20<sup>th</sup> century, primarily in England and France. Dandies are not singled out only by their perfect look and extravagant clothing, but also by their exceptional manners and sharp wit. He is an individual, a typical personage of an urban milieu. According to Scottish writer and essayist Thomas Carlyle, the dandy has developed a philosophy of dressing. And even more than that: “... as others dress to live, he lives to dress” (Carlyle, 2013: 11).

<sup>3</sup> The study was conducted in Jerusalem between 1999 and 2002.

can also be recognized in it. Men are mostly in the position of power when it comes to urbanism, since planning is a technical discipline, regarded mostly as “manly” (Pajvančić Cizelj 2016: 67), and, consequently, the absence of women results in their interests being bypassed when creating a city ambient. One of the more significant factors of patriarchal space production is the urbanistic idea of La Corbusier which still dominates today. According to this architect, cities should be divided into four zones in relation to their functions: working, residential, recreational and traffic. Although this could seem to be a logical solution at first, sociologically speaking, it has more profound consequences. It is, namely, the case of separation between the public and the private sphere, whereby women are pushed back deeper into the private zone, while the public one, the working sphere, remains the space of male dominance. Even though the role of women changed during the second half of the 20<sup>th</sup> century into the direction of her emancipation and employment, this urbanistic plan has not corrected the separation of zones, which has, as a consequence, a more difficult functioning of all those women who simultaneously perform the duties of a business woman, on the one hand, and a mother and housewife, on the other.<sup>4</sup>

In the following, I will present some of the most common and universal manifestations of exclusion of women, which are a part of academic literature and all urban agendas and charters on the right to the city.

## FEAR AND SAFETY

One of the most prominent issues concerning the women’s perspective on the right to the city is the question of safety in urban areas, or in other words, the fear that women experience when they walk through a city. Although laws both at the international and national level grant the right to a safe life without violence to women, the problem is unfortunately not solved in practice. Therefore, more concrete regulations need to be introduced at a local level. Although urban design and city planning do not have it in themselves to provoke violence, they are still not very sensitive to gender differences, and they make cities a place of male power and control (Buckingham, 2009). Different studies from around the world indicate certain shared characteristics, and that is the fact that women are scared of being attacked at night. When this does indeed happen, the public discourse is such that women are burdened with guilt more than offenders. It can be frequently heard that women themselves provoked an attack, because streets are no place for women at

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<sup>4</sup> Although it can be said for modern young generations that they improve this image, the household is still primarily women’s business, while men usually find excuses in a lack of competence for such a type of work (Houle 2000: 54).

night, which in fact denies them the right to use space freely. In order to change such attitudes and to stop cities being a place of reflection of patriarchal relations from the private into the public sphere, the women's collective right to safe and secure life in the city has to become a part of all urbanistic plans and activities, and women need to participate in them.

One of the attempts to create a policy for improving the living conditions of women in the city by means of their active participation in a project was conducted in 2007 in Warsaw by UN HABITAT-a (see: UN-Habitat's Safer Cities Program, A Women's Safety Audit Pilot Project). A paradoxical fact was established on this occasion, showing that large business buildings were better protected with security cameras, lighting and guards on duty, so that the city appeared more building-friendly than people-friendly (Buckingham, 2009). This confirmed once more that cities are designed in the interest of capital, i.e. *economic citizenship* (Sassen, 2004), and that private economic rights are protected instead of the collective right to the city of the citizens who reside in it.

There are, nevertheless, positive examples as well, such as the Swedish municipality of Umeå. This local community took seriously the problem of vulnerability and fear that women feel in the city and with that in mind they undertook concrete studies and found concrete solutions. The local government organized walks with female citizens so as to identify the precise places that could be dangerous and that needed to be redesigned.<sup>5</sup> An entire new tunnel in the city was built with a gender sensitive design, with more curved angles, better lighting, interesting Swedish literature quotes on the walls and pleasant music. The attractive design resulted in an increased flow of people, which also significantly contributed to the reduction of danger and the increase of subjective feeling of safety in women. This city, known for its gender oriented urban planning, organizes tourist city tours in order to acquaint foreigners with the specific kind of sensitive urban policy (More on this: <http://umea.se/download/18.2e9e2c2914ce7d186cf17c06/1431333187734/The+gendered+city.pdf>).

However, since there are not many examples of gender sensitive urban design, parks, dead end streets and dark or dim streets and passages, public transport, tunnels, large car parks, but also districts known for prostitution (*red light districts*), remain the riskiest places to wander about in the majority of cities. Parks, particularly at night, are perceived by women as the first on the list of hostile spaces. According to studies, men also do not feel completely safe there at night, but the fear is especially pronounced in women (Fenster 2006: 47), and feminists have reacted to this with campaigns under

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<sup>5</sup> Incidentally, the statistics in Sweden indicate that 29% of women up to 25 years of age are afraid of violence in the city area and that they choose their routes carefully, whereas this is the case for 5% of men (See: Gender Equality Through SKGO Action, 2015: 86).

the slogans: “Reclaim the Streets” and “Reclaim the Night” (McDowell 1999: 150). While both men and women are afraid of robbery, women suffer an additional fear of a sexual assault. Although it is known that raping occurs predominantly in private places, committed by someone who knows the victim, sexual comments, touching and other kinds of frequent street sexual harassment acts lead women to feel that, besides sexual harassment, a sexual assault could also occur in the street. In short, sexual harassment causes the fear of sexual assault (Rachel Pain according to Houle 2000: 62-3), which results in voluntary withdrawal of women from the space deemed unsafe.

Street harassment is an insufficiently studied topic in sociology, law and other disciplines, but it imposes itself as a significant problem. It is a specific kind of harassment that is not recognized by the law, but which has psychological consequences for women.<sup>6</sup> This phenomenon appears to be the most common form of sexual harassment of women throughout the cities of the Western countries and other parts of the world (Thompson 1993: 314). It consists of overt observation, evaluation, remarks, wolf-whistles and other inappropriate, degrading, sexist comments and proposals coming from unknown men. Street harassment is not forbidden by the law, and since it is in the mentality of people, it is commonly believed that it is something natural, normal, and that it does not harm in any way those who are targeted. In this sense, it is expected from women to tolerate the rude behavior of men in the street. A lack of institutional recognition of this phenomenon as a social problem that demands reaction results in the ghettoization of women in the private sphere. This phenomenon is further swept under the rug by the reactions of women themselves, who in those moments withdraw and ignore the harasser, because it has been shown that stronger reactions lead to more intense attacks by men.<sup>7</sup> It is an interesting finding of a research conducted with men who were identified as those who make inappropriate comments, which shows that these men do not perceive their behavior as inappropriate or violent, but they also do not have an explanation for it. They usually describe it as youthful or fun, saying that it comes out of boredom or amusement (Thompson 1993: 326).<sup>8</sup>

Charters on the right to the city make a broad review of the issue and emphasize as an imperative that the city space needs to be organized in the way that makes moral

<sup>6</sup> In the academic literature concerned with this problem, street harassment is called spirit murder, because it assumes a psychological and spiritual undoing of a person due to the cumulative effect of micro-aggressions in the everyday life (Thompson 1993: 316).

<sup>7</sup> An especially vulnerable category of women are those who work in the street, i.e. street vendors, who are exposed to comments of other male street vendors stating that their place is at home, and not in the street. This menaces these women by sending them the message that they cannot professionally fulfil themselves and causes their embarrassment or anger (Thompson 1993: 324).

<sup>8</sup> This year France is implementing the law against sexist comments, shouting and other harassment on the street.

and physical integrity of women possible, regardless of class, race, ethnic or any other cultural differences. Incidentally, regarding class, it is believed that women from higher classes are less affected by this problem, because they less often go on foot or use public transport, but use cars, taxis or have drivers instead. By contrast, among the most exposed are elderly women, as well as women with disabilities, who move slowly and are a vulnerable part of female population in the physical sense. Therefore, when designing the city space, special attention has to be paid to their needs.<sup>9</sup>

In the 1994 *European Charter for Women in the City*, problems and needs of women in urban areas are analyzed in details, and suggestions and recommendations are formulated accordingly, indicating in what way the situation in cities is to be changed so as to make it more sensitive to women's needs. Nothing of the mentioned is completely new, but being insufficiently spread it requires additional attention to be drawn to the needs to expand such an infrastructure. Some of the suggestions are: to increase the number of phone booths with emergency call buttons, especially in critical zones; to install alarm devices in buses and other public transport vehicles, so that passengers could inform the driver if harassment is occurring during the ride; to improve street lighting, as well as traffic signs to make spatial orientation easier; to develop transport systems that offer greater sense of security at night, such as, for example, female taxi drivers; to redesign buildings and entrances so that they have, for instance, more transparent doors in elevators, automatic door locks and similar safety measures.

The Charter also states that the safe urban environment from the women's perspective is the one which allows them to know where they are and where they are going, to see and to be seen, to hear and to be able to be heard by others, so that they can escape and find help nearby (ECFWITC, 1994). The importance of spreading awareness of gender dimensions of cities through the educational system and the media is emphasized, but it is also highly important for men to get involved, because complex problems can be solved only with the full capacity and solidarity of a local community.

## MOBILITY AND PUBLIC TRANSPORT

The issue of the city transport builds on the previous problem. Women are still persons who are associated with housework, which means also providing care for children and elderly in the household. However, they are also engaged in their

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<sup>9</sup> Pregnant women are also an especially vulnerable category, because they fear twice as much, not only for their life, but also for the life of their baby. For that reason, they choose to avoid certain parts of a city, and it appears as if they are now punished for their reproductive role by the feeling of the public space not being completely friendly to them (Koskela 1999: 120).

professions and careers, so it is very important that parts of a city are well connected. The spatial dispersion of home, work, shopping malls, social institutions, schools, kindergartens makes the adequate performance of daily chores more difficult for women. In that sense, it is important for urban planning to reduce spatial distances so as to allow the performance of all roles of women with the least possible difficulties.<sup>10</sup> Although, due to the size of a city, it is sometimes impossible to expect that all establishments could be located in the direct vicinity, and that it is possible to reach them on foot, one should strive to provide all parts of a city with as many services and institutions as possible or, at least, make public transport so efficient that it connects all parts of a city. An adequate and frequent public transport is important since women possess cars to a lesser extent than men, but class differences should also be taken into account, because they dictate the means of transport. Those on positions of power usually do not come from vulnerable and lower social strata, so they often do not have an insight into their needs and their daily life, which does not assume automobiles, but public transport and other cheaper options.

Some of the suggestions for improving the situation that are mentioned in gender oriented charters on the right to the city are related to recommendations to local authorities to additionally promote the so-called flexible forms of transport, such as small electric cars or bicycles, which serve the common good. There should be a sufficient number of them, as well as sufficient parking spaces. A good example of such an urban organization are cities in the Netherlands and Scandinavia, i.e. in countries with developed ecological awareness. It is perfectly clear that the use of such means of transport has an ecological benefit for the city, and besides, it reduces crowdedness in motorized traffic. As one of the recommendations, it is also mentioned that more women need to be employed in the positions of city planners and public transport drivers (ECFWITC, 1994), because it is assumed that they would have more understanding when it comes to other women's needs.

## CULTURE OF REMEMBRANCE

Discrimination of women in space appears in other spheres as well, such as politics of raising and naming squares, memorials, streets. Monuments are raised in remembrance of people and events in order to praise their role in history, establishing thereby the system of values in a society. Numerous studies have been conducted in Serbia and the world, showing that, even though we

<sup>10</sup> It should be emphasized that composing a space by reducing spatial distances and introducing better connections between important institutions would improve the functioning of the private-public relation not only for women, but also for men, who are found in roles located in both spheres.



differ in ideological, economic and other codes, what appears the same is the near invisibility of women in history. This gender discriminatory culture of remembrance is recognized primarily in the fact that there is a significantly smaller percentage of streets, parks, monuments and other sights dedicated to famous women. In addition, even when streets are named after a woman, they are usually small, located on the outskirts or dead end. By contrast, boulevards, well-known buildings and central streets are dedicated to men. As well as in other areas of the right to the city which have been previously discussed, class inequality can be found here as well, so names of women from the upper social strata are found more often (for instance, queens, female rulers, etc.), less often names of female artists, and the least often women from the lowest classes who have left a trace in history (Sekulić, 2014).

These underappreciated roles of women and their significance for society create psychological barriers for women and send them a message that their social engagement, devotion and work will never be recognized in an adequate way. Not only are women excluded from the historical memory, there are also other marginalized groups such as ethnic and racial minorities, members of the working class and members of the gay and lesbian population. In Los Angeles, for instance, half of the population are women, whereas almost 60% are Latin-Americans, Afro-Americans and Asian-Americans. However, 97.5% of cultural sights remember only the Anglo-history dominated by males of the Caucasian background. Miami is in the lead among the USA cities with eight monuments in remembrance of women in history, while Boston has none (Houle 2000: 66).

## CONCLUSION

Even today, after they have won many liberties in comparison to previous historical periods, women are still not citizens of countries and cities with equal rights. Feminist organizations succeeded in winning various civil rights for women in the second half of the 20<sup>th</sup> century. However, when it comes to the right to the city and the need to take their needs into consideration when making urbanistic plans, there are no significant improvements, even though it is an irrefutable fact that they have made a significant contribution to the construction of the very same cities (CFWRITC, 2004). Society still perceives them primarily as mothers, wives, and housewives, but not in any other way beyond that. Additionally, poverty, gender-related division of labor, inequality and discrimination according to class, race, religious, and other aspects, as well as violence against women (both in private and public space), are the basic social problems that create an unavoidable context for

understanding the complexity of consideration of civil rights of women and their right to the city (Falu 2014: 59).

Today, the neoclassical liberal ideology (neoliberalism) especially supports this state of affairs and it is an important contributor to the creation and the reproduction of gender inequality in space. Harvey writes that in neoliberalism, laws are oriented towards individual rights, especially to the rights of capital, i.e. of corporations (oriented towards the maximal economic profit), and this is done at the expense of collective rights, so that many categories of city dwellers become “second class citizens”, and women are certainly among them. Furthermore, the neoliberal economy increases the already existing polarizations. The poor become poorer, and those underprivileged are pushed further down. Such logics certainly affects women as well, and they become a cheap labor power of the global economy. A historically assigned role of performing unpaid or volunteer work still falls on their shoulders, even after the emancipation and the freedoms won during the 20<sup>th</sup> century. An increasing privatization and the reduction of social services, i.e. the weakening of the welfare state, have caused women to accept the role of those who take care of others, as something that is understood and self-explanatory. For instance, it is a well-known fact that, in the 1980s, during the rule of Margaret Thatcher, when class inequality became deeper than before, women replaced the institutional care for the elderly and other groups that could not take care of themselves (*community care*) (McDowell 1999: 115-116).

In order for cities to live as democratic communities, not only on paper, but in practice as well, what is necessary is inclusive decision-making, which assumes a multi-actor approach of the central and local authorities, non-governmental organizations, social movements, private sector and various civil organizations. Only in this way, the needs of different social groups that live in cities will not be neglected. But in order to achieve this, it is necessary to increase the number of women in political bodies in cities.<sup>11</sup> One of the suggestions is affirmative action, which would determine quotas that would guarantee women’s participation in local bodies, but it is also recommended to increase the participation of feminist organizations that would be appreciated as an equal partner when it comes to defining problems and finding solutions (CFWRTTC, 2004). It would be wrong to infer that all these charters and academic papers dealing with this issue demand women’s dominance. On the contrary, equality is highlighted everywhere, and it is

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<sup>11</sup> One of the examples in practice, which was beneficial for the so-called municipal feminism or femocracy, was founding an institution which dealt exclusively with the needs of female residents of London, regardless of their background and class; this was a result of a concern that the city is accessible to women in every way (The Greater London Council Woman’s Committee). This institution was founded in 1982, but it was shut down four years later, due to a lack of political will to maintain it (More in: Bashevkin, 2005).

emphasized that a gender balanced approach is needed when it comes to planning cities, starting from their material form and physical environment, to the cultural, social and other contents, and to forming political local institutions.

What is certainly not encouraging, but makes a dominant impression when examining the literature on the gender perspective of the right to the city, is the fact that women are concerned with this issue in the highest percentage. Here it becomes clear that concrete changes are possible only if their local political participation is increased. It appears that men do not have enough sense or will to change things in order to balance the needs and power. Solidarity and understanding of the position of others are lacking in this case, so the general conclusion is that the local political participation of women, i.e. their greater participation in centers of power and decision-making, is one of the crucial conditions for a step forward towards asserting their right to the city. The precondition for this is to increase the awareness of women for their common interest, which, obviously, only they alone can generate. Although there are numerous feminist organizations, it will be necessary to work on providing more information and better education through the educational system and the media regarding their position and the endangered collective rights.

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## CONSTITUTIONAL COURT OF THE REPUBLIC OF MACEDONIA - PRACTICE ON BYLAWS

### Abstract

The Constitutional Court of the Republic of Macedonia holds within its authority the duty to analyze the constitutionality and legality of bylaws. Being the handy practical instruments of further regulating the general legal principles, rights and freedoms of citizens they may show some inconsistencies and/or non-compliance with the more general constitutional and legal frame. Some illustrations of such examples are the several that are commented in this article, coupled with the theoretical basic description of the nature and role of these acts in the legal system in general. Special attention while drafting these acts, should be dedicated to the way in which a certain right or obligation of the citizen is stipulated, in order to preserve the harmonious link to all other higher legal acts, as well as not to exceed the already given limits or powers of the enacting body.

**Keywords:** Constitutional Court, bylaws, constitutionality and legality

## INTRODUCTION

Bylaws have always been the handy practical instruments of further regulating the general legal principles, rights and freedoms of citizens. At times, they may show some inconsistencies and/or non-compliance with the more general constitutional and legal frame. It is the Constitutional Court of the Republic of Macedonia who holds within its authority the duty to analyze and decide upon their constitutionality and legality. This article offers some illustrations of such examples, coupled with the theoretical basic description of the nature and role of these acts in the legal system in general. Deficiencies located by the Constitutional Court from the aspect of their constitutionality and legality, should serve as guidelines while drafting these acts in the future. The final goal is to preserve the harmonious link to all other higher legal acts, as well as not to exceed the already given limits or powers of the enacting body.

## BYLAWS – NOTION AND ROLE IN THE LEGAL SYSTEM

Bylaws are effective implementing instruments of the executive power, but also acts of numerous other governmental and non-governmental bodies and organisations at state or local level. Plainly defined, they represent “a rule adopted by an organization chiefly for the government of its members and the regulation of its affairs”<sup>12</sup>. They *vivify in practice* the higher normative acts ranging from the Constitution and to the more general standards, definitions, rules and criteria regulated by laws. Like other sources of law, bylaws are a tool enabling application of the principle of legal certainty and equality, because all potential participants in certain social relations know in advance how to behave, and on the other hand social rules have a uniform effect on everybody. They are general legal acts lower in hierarchy from the laws, vary by name and purpose, as well as by the body that introduces and applies them.

Bylaws as a source of law in the material sense represent the need for *more specific regulation* of certain matter. They reflect the current social “living” dynamics which by using wider legally set frameworks resolves all practical issues related to the regulated phenomenon. Bylaws are useful practical tools - executors of the statutory imperative, its embodiments through which the principle of the rule of law in a state is most directly reflected. They are the product of a delegated legislation, lead by bodies beneath parliament to pass their own legislation.

Anyway, the *process of adopting* laws fundamentally differs from that which refers to laws. The main difference between the bylaw and the law is that the first

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<sup>12</sup> Merriam-Webster definition

is passed by a non-sovereign body, which derives its authority from a higher body and can refer to a limited list of issues. In material terms, the relation between laws and bylaws is that laws are an expression of popular will and they may determine rights, duties and powers, while lower regulations can only determine the way in which these powers and responsibilities should be exercised. This principle is covered by Article 51 paragraph 1 of the Constitution which stipulates that in the Republic of Macedonia laws shall be in accordance with the Constitution and all other regulations with the Constitution and law. The case law of the Constitutional Court is based on this general principle and approach. Laws are adopted by the Assembly of the Republic of Macedonia<sup>13</sup> having previously gone through the parliamentary procedure, while bylaws are adopted in a much faster way by the executive power and are not subject to such a system of “check” or debate. It is therefore very easy for the executive to adopt them and to directly maneuver with the practical application of the laws in a highly efficient manner. After all, it is the concrete application of laws that citizens feel the most.

In terms of the *subordination* of the acts, statutory legal rules governing the matter concerned are not actually able to comprehensively and in all details regulate it. Thus, there is a need for further regulation with other lower-ranking normative acts. In addition, there is a technical reason from which originates such hierarchical regulation of acts, given that the legal text must be clear, precise, unambiguous and perspicuous in the regulation of the rights and obligations of citizens and bylaws unburden the legal text of the details that are not an immanent legal element. The further development or further specification of the legally set criteria and rules is the task of the bylaw, which vivifies the specific details, procedures, technical parameters, the formal operating rules, etc. and whose starting point should be clearly and precisely laid down in the legal text<sup>14</sup>.

By definition in legal theory, bylaws are *general acts of lower legal force than laws* which differ in their name, adopter and legal nature. They may be adopted by the executive power, that is, the bodies of local self-government units, organisations with public mandates, political parties, trade unions, associations of citizens, and they must comply with the law and the Constitution. These acts which the Constitutional Court considers on their merits, by its content are acts - rules prescribing a general

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<sup>13</sup> Under Article 68 paragraph 1 line 2 of the Constitution.

<sup>14</sup> Identically, the legal “open” or wider provisions set at the end of the article, used for practical reasons in regulating future currently unforeseen conditions, have similar role. Such “open” clause must enable dynamic input of changes and anticipate future developmental changes for which the law transfers it such capacity through new, practical shapes, forms and standards acceptable in nomo-technics and manageable at the level of a bylaw. However, within the entire process attention must be paid not to violate the principled hierarchy of the normative acts and the limits of the allowed range of regulating relations through a bylaw.

and abstract rule for an unlimited number of social subjects, cases and persons (*erga omnes* effect) to which the regulated matter refers. Bylaws are *characterized* with: legality, concreteness, authoritativeness, legal effect and enforceability.

Considering the heterogeneous function that bylaws perform, practice knows very extensive list of *types* of bylaws, which include: regulation<sup>15</sup>, the Rules, the decision, order, instruction, rules of procedure, resolution, conclusion, statute, collective agreements, acts of various regulatory bodies, government authorities and organisations, as well as local self-government units including urban plans. The Constitutional Court has the authority to examine them in terms of their constitutionality and legality. Also, the Constitutional Court in accordance with Article 110 line 7 of the Constitution has jurisdiction to rule only on the constitutionality of the programs and statutes of the political parties and associations of citizens. This Article states that the Constitutional Court is competent to decide only on the acts specified in this article, not all acts adopted by these entities. For this reason, initiatives aimed at assessing other bylaws adopted by them are rejected by the Court for lack of jurisdiction.

Most often, bylaws are a dynamic *tool of the administration* and include all legal acts and material action it adopts or takes in performing administrative activities. The regulatory activity of the organs of administration consists in adopting secondary general legal acts only when they are empowered for that by law. They may not establish new rights and obligations for the citizens, but only specify and further develop the laws. In the Republic of Macedonia often the need for adoption of the bylaws is directly stated in the substantive laws due to the need of more detailed and more practical regulation of the area concerned, which at the same time may be subject to more dynamic modification or adaptation according to changing social needs. In addition to the legal ground the law may also determine the period within which the bylaw is to be adopted, the subject that should adopt it (person, body or authority), and the general form and content of the elements that should be included and detailed. Those bylaws that are not specifically mentioned in the substantive law to be adopted but there is, nevertheless, indication of the need for the further regulation of the matter with a bylaw are adopted in sole discretion, with reference to Article 55 of the Law on the Organisation and Work of Bodies of State Administration, which states the general authorisation of the Minister and/or Director of the independent state body to adopt bylaws<sup>16</sup>.

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<sup>15</sup> Article 91 paragraph 1 line 5 of the Constitution, “the Government of the Republic of Macedonia ...adopts decrees and other regulations for enforcement of laws“.

<sup>16</sup> Law on the Organisation and Work of State Administration, Official Gazette of the Republic of Macedonia, no.58/2000.



The bylaws must be *passed* in the legally prescribed procedure, whereby the expected outlined for of the act must be observed. The authorisation the bylaw obtains and which is transferred from the law must not be exceeded and may not be used contrary to the purpose for which it is given. In case these limits are not respected, the adopted act shall be unconstitutional and unlawful. Therefore, constitutional provisions are the starting point in appraising the bylaws in terms of the separation and structure of state government, including the mutual relations of the bodies of the state, and in particular executive power. The Constitutional Court of the Republic of Macedonia often finds itself in a situation to appraise the constitutionality and legality of a number of bylaws from these very aspects. If the bylaw is in breach of the Constitution or law it may be repealed or annulled<sup>17</sup>.

The Constitutional Court of the Republic of Macedonia *takes into consideration* the initiatives relating to the assessment of the constitutionality of a *regulation or other general act*<sup>18</sup>. The determination as to *what* the Constitutional Court of the Republic of Macedonia considers to be a *regulation* that would be eligible for a constitutional court assessment is cited in numerous cases, which generally covers the approach that the act, *inter alia*, should contain general norms, regulate relations in a general way, and that rights and responsibilities for an indefinite number of subjects in the law derive from it. The Court considers the merits of all writs that regulate in a general way rights and obligations, whatever the formal title of the act<sup>19</sup> but taking into account its legal effect on citizens. The specific legal acts do not fall within the jurisdiction of the Constitutional Court, except when falling under Article 110 paragraph 1 line 3 of the Constitution which relate to the protection of the freedoms and rights of citizens<sup>20</sup>.

## CONSTITUTIONAL COURT CASE LAW ON BYLAWS

Although in theory an impression may be prevailing that the limits of the scope of laws vis-à-vis the *matter* de facto governed by bylaws are clearly divided, in

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<sup>17</sup> The annulment annuls all legal consequences that this act has produced since the moment of its entry into force (*ex tunc*), while with the repeal of the act it cannot have legal application in the future, starting from the moment when it is repealed (*ex nunc*). However, even in cases where no proceedings are initiated for assessing the constitutionality and legality of the bylaw, with its stated position the Constitutional Court aids in the unification and standardization in the understanding and application of the provisions.

<sup>18</sup> Articles 11, 12, 13 and 14 of the Rules of the Constitutional Court of the Republic of Macedonia, 1992.

<sup>19</sup> In practice examples with letters addressed to citizens imposing on them obligations.

<sup>20</sup> This procedure is elaborated in Chapter IV Articles 51-57 of the Rules of the Constitutional Court.

the constitutional case law is reflected the real situation, where there are a number of issues of this kind. In some cases it is appraised whether the way in which the competent minister based on the law governs the subject matter by a bylaw in a certain way is constitutional or not. This can be seen in the case 87/2013 where Article 6 paragraph 4 was challenged in the part “the content and” of the Law on Termination of Pregnancy<sup>21</sup>. Given that Article 6 paragraph 3 precisely states and lists the contents of the counseling that the pregnant women will get<sup>22</sup> the question arises whether there is a violation of the constitutionality and legality of paragraph 4 of the same Article which stipulates that “The content and the method of counseling referred to in paragraph 3 of this Article shall be prescribed by the Minister of Health by a special act.” The Court did not initiate proceedings on this matter, but the dilemma remains<sup>23</sup>.

In the case law of the Constitutional Court there is often challenging of the constitutionality and legality of collective agreements. An indicative example is U.br.73/2014 where the collective agreement of air navigation M-NAV AD Skopje was challenged<sup>24</sup> fully and separate provisions of its. Concomitantly, it should be noted that the collective agreements of this joint stock company had been before the subject-matter of constitutional court assessment<sup>25</sup>. In the present case, the Court repealed some of the contested provisions finding that they were not in accordance with the Constitution and the law stating that: it is legally unfounded when filling in vacant posts to give priority to those who are already employed by the employer; coefficients for the complexity of the jobs that are used to determine the various

<sup>21</sup> “Official Gazette of the Republic of Macedonia“ no.87/2013.

<sup>22</sup> Lists the possible advantages of continuing the pregnancy, the risks of implementation or non-implementation of the intervention for termination of pregnancy upon the health and life of the woman, the methods for carrying out the termination of pregnancy, and the opportunities and methods to prevent pregnancy.

<sup>23</sup> As the dissenting opinion states: “With the mere fact that the contents of the special act that should be adopted by the health minister is again mentioned and legally authorizes him to regulate it with a separate act, the Law continues to leave a room for intervention by the Minister in the content of the bylaw, and beyond the already set legal framework, with new elements of counseling that are unknown in advance. In case the intention of the legislator was still to understand the advising of pregnant women only as operationalisation of the law, and not as right to original determination of other contents of the consultation, makes this legal formulation fully redundant and pointless, and also justified for constitutional court intervention“ - Quote from the dissenting opinion accompanying the Resolution on this case.

<sup>24</sup> Under number 02-103/1 from 17.01.2014, concluded between trade unions at M-NAV AD Skopje Air Traffic Control (SSKL) and Air Traffic Staff (OHR) and the Board of Directors of M-NAV AD Skopje.

<sup>25</sup> With its Resolution U.br. 60/2013 the Constitutional Court initiated proceedings for assessing the constitutionality and legality of several provisions of the Collective Agreement of M-NAB AD Skopje under No.03-1793/1 from 10.12.2012.

titles under the law should not be considered an official secret and be regulated in a separate annex to the collective agreement; there is no legal limit to the number of union representatives who may be selected by the union, and their legal protection applies to all of them irrespective of whether they originate from a representative trade union or not; and consent to the cancellation of the employment contract of the trade union representative during the performance of duties is required from the union that selected the worker and whose interests he represents, and not the “representative trade union” as stated by the collective agreement.

Also illegality represents the deadline assigned to the re-enactment of a new collective agreement, given that the Labour Law states that “the collective agreement may be concluded for a definite time period of two years, with the possibility of extension, with the written consent of the contracting parties”<sup>26</sup> given that in this case the time dynamics of changing the act, without thereby containing any essential changes, is again less than the prescribed minimum period specified in the Law. Given that such agreements are the foundation and safeguard of labor and social rights of employees, it is more than clear that their frequent change undermines legal certainty for all concerned, leaving a room for irregularities and possible abuses.

A general stance of the Court, both in this and other examples, and at the same time in accordance with the Labor Law, is that *collective agreements may not determine fewer rights than those stipulated by law*, and if they contain such provisions they are considered null and void and the relevant legal provisions apply.

The Constitutional Court has extensive case law<sup>27</sup> of reviewing the decisions on the adoption of detailed urban plans (DUP) whereby the jurisdiction of the Court in reviewing these bylaws is generally whether there has been observance of the statutory procedure for drafting and adoption of the act under the Law on Spatial and Urban Planning<sup>28</sup>, and whether there has been compliance with other legal provisions of the respective area. This procedure is developed in Articles 7 and 48 of the said Law and the preparation, adoption and implementation of urban plans is of public interest. In these provisions in order to ensure the organisation and humanisation of space and protection and improvement of the environment and nature as a fundamental value of the constitutional order of the Republic of Macedonia the legislator has established precise regulations relating to spatial

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<sup>26</sup> Article 226 of the Labour Law.

<sup>27</sup> Examples from recent case law of the Constitutional Court: U.br.63/2014, U.br.73/2013, U.br.3/2013, U.br.6/2013.

<sup>28</sup> “Official Gazette of the Republic of Macedonia”, nos.51/2005, 137/2007, 151/2007, 91/2009, 124/2010, 18/2011 and 53/2011.

planning, specifically defining the plans for spatial and urban planning, their content and the procedure for their adoption<sup>29</sup>.

With its Resolution U.br.14/2013 the Court initiated proceedings for assessing the constitutionality and legality of the Decision on adoption of the changes in and supplements to the DUP “Dolno Vodno” Centar Municipality - Skopje. As stated in the reasoning: “... the spatial planning which is performed in a procedure and by competent authorities is aimed at keeping or changing the existing situation of the area in a procedure in which the needs of citizens should be expressed which is the concept of the Law, for the purposes of which the public poll is conducted. Any other acting and changing of the plan beyond what is provided for in the draft plan and is not the result of the public survey essentially makes senseless and defaces the purpose of the public poll .... “. Upon establishing the facts, according to which it is evident that “... the challenged plan in the part being disputed with the initiative is not identical with the proposed plan that was presented on the occasion of the last conducted public presentation and public poll, in a way that the presented Proposed Plan in the part being challenged with the initiative has undergone a substantial change in terms of the individual class of land use, including with respect to the access road “, the Court concluded that when a plan is publicly displayed to the citizens for an insight and has certain content and a final plan is presented with other content, it questions the rule of law as a fundamental value of the constitutional order of the Republic of Macedonia, that is, legal certainty of citizens.

Given the trends of continuous decline in the standard and increase in the cost of living and the expressed interest of the citizens in issues related to the supply and use of various types of energy, the Constitutional Court has often

<sup>29</sup> While the jurisdiction of the Court is to appraise the merits whether the adopter has complied with all stages of the proceedings, it does not go into issues of vocational-technical character, does not appraise the very content of the plans, does not appreciate the conclusions of the justification or lack of justification of sustained or dismissed observations and proposals on questionnaires by citizens, and does not involve itself in assessing the plan in terms of a bylaw (since they represent acts of the same rank) or in determining ownership and other individual rights of the citizens. Supporting documents, such as the adoption of programs on preparation of urban plans or decisions on determining the need to enact urban planning documentation for harmonisation of the purpose of the construction land, are not under the jurisdiction of the Court to be considered on their merits. Examples: In case U.br.3/2013 the Court initiated proceedings for assessing the constitutionality and legality of the Decision on adopting and changing the DUP number 07-1019/13 made by Kumanovo Municipality, as the adopter of the decision had not submitted the draft plan and proposed plan and because there was a dispute on the facts regarding the observance of the stages of the procedure provided for in the Law, whereby there was a violation of the constitutional principle of the rule of law. Also, the Constitutional Court repealed the Decision on adopting an urban plan outside an inhabited place GP1 in block 4.3, 2011-2021, No.07-5169/3 Municipality of Ohrid, because among other shortcomings in the legal procedure, through the procedure for the adoption of a new spatial plan what was actually done was amending an already planned space with a valid plan and the change was not made in a procedure for amending an existing plan.

considered initiatives aimed at assessing the constitutionality and legality of the Network Rules for Distribution of Heating Energy, the Tariff System for the Sale of Energy, the Tariff System for Electricity Transmission, Tariff System for Electricity Distribution, the Tariff System for the Sale of Electricity to Tariff Consumers and the like, which are commonly made by of a regulatory body, in this case the Energy Regulatory Commission of the Republic of Macedonia. The initiatives placed under the constitutional and legal test the requirements and process of connecting and disconnecting users of heating energy, the dilemma whether it is possible through the bylaw that is adopted by the minister, that is, the regulatory bodies to prescribe the jurisdiction of other authorities or to establish rights and obligations for the citizens and other legal entities, and other legal issues<sup>30</sup>.

Indicative in this respect is the case U.br.125/2012, where the goal of the initiative were the Rules for the supply of heating energy. Analyzing the specifics of the collective housing buildings and the passive taking of heating energy during its passage through the vertical pipes, the Court indicated that: “the user of heating energy in the collective housing facility is not in a subordinated relationship with other users, but it is an interrelated activity in the use of heating energy, and in terms of costs as well.” The conclusion is that in collective housing buildings even the consumers disconnected from the thermal system objectively use certain heating energy due to the inability to remove it, which creates the merits of their obligation to pay for it proportionally to the energy consumed and not to use it at the expense of the consumers who are not disconnected. With this view the Court decided not to initiate a procedure for assessment of the constitutionality of the challenged provision (Article 53 paragraph 2)<sup>31</sup>.

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<sup>30</sup> The rules for heating energy supply were discussed in U.br.125/2012,U.br.197/2012,U.br.83/2013, 98/2013 and U.br.80/2013. In some there were procedural obstacles to decide, since the act was no longer valid and in use (U.br.95/2013).

<sup>31</sup> Cases which in practice have certain physical and technical specifics have been referred individually to regulate the objectivity of their condition, if needed in court. However, for this reason in the same case the Court quashed Article 13 and Article 53 paragraph 1 in the part which requires that individual disconnection of consumers at their request can be made only after prior consent of the total number of consumers in that collective housing facility. Based on this intervention of the Court, new, but so far unsuccessful initiatives followed, aiming at some of the computational elements for determining the price of electricity supplied to tariff consumers. Such as reactive power, active power or engaged heating power. The dissenting opinion in this case states that given that the Law does not set forth an obligation to pay compensation for heating energy by persons living in collective housing buildings, who have ceased to be beneficiaries of heating energy due to the disconnection of the heating space unconstitutionally the duty for them to pay part of the compensation for heating energy is determined by a bylaw passed by Regulatory Commission. Due to this situation, this issue should be subject to assessment by the regular courts, and not to be determined by a bylaw, as it was done.

In the case of U.149/2013 the Constitutional Court initiated proceedings for assessing the constitutionality and legality of Article 12 paragraph 1 item 10 of the Rules for implementing the Law on Excise Duty<sup>32</sup> as a result of the known position and case law in a number of laws and bylaws governing the matter of a different nature. Notably, the Court stated that it was unconstitutional “to enclose with the application for excise license a certificate issued by a competent court stating that there are no criminal proceedings against the applicant... because it violates the principle of presumption of innocence laid down in Article 13 paragraph 1 of the Constitution and Article 2 of the Criminal Procedure Code.” This for reasons that the person who by law would like to obtain an excise license if he wants to produce, store, receive or send goods subject to excise duty (and no criminal proceedings are conducted against him), practically in case of a procedure of absence of conditions for excise debt, the contested provision considers him guilty of committing a criminal offense before being found guilty by a final court decision as a result of which this provision in its essence in this part is actually penal provision, that is, it contains elements of a legal consequence from conviction on the person which does not arise from the conviction, but occurs by force of law (*ex lege*) and thus expands the legal effect of a conviction, for which there is no constitutional basis.

As for bylaws that are adopted by the local self-government units (LSGU), an interesting example is the case U.br.152/2013, where the Court initiated proceedings for assessing the constitutionality and legality for a reason that Jegunovce Municipality in its adopted criteria for determining the market value of real estate in Jegunovce Municipality<sup>33</sup> determined drastically different number of points (which formed the basis for determining the market value) depending on the title of ownership of the real estate, specifically depending on whether the owner is a natural or legal person (5 versus 40 points). This regulation is in direct contradiction and outside the legal framework established in the Law on Property Taxes and the Methodology for Determining the Market Value of the Real Estate.

Similar cases in which the Court had interventional (repealing or annulling) role and where it was held that the adopter of the bylaw acted contrary to the principle of constitutionality and legality are: anticipating additional criteria, other than the legally set main criterion for acquiring tenancy rights<sup>34</sup>; independent pricing of the health services that are borne by the Health Insurance Fund, outside the

<sup>32</sup> “Official Gazette of the Republic of Macedonia”, no .40/2001, 72/2001, 89/2001, 50/2002, 86/2002, 19/2003, 54/2003, 6/2004, 6/2005, 44/2006, 137/2006, 25/2008, 125/2008, 53/2009, 94/2009, 122/2009, 46/2010, 85/2010, 156/2010, 29/2012 and 106/2012.

<sup>33</sup> Number 07-300/16 of 28.02.2013, the “Official Journal of the Municipality of Jegunovce” number 47/2013 of 01.03.2013

<sup>34</sup> Provided in the Rules to address the housing needs of workers, adopted by the Council of the Institute of Agriculture, Skopje, U.br.238/1992

standards and norms, that is, frameworks of the Health Care Law<sup>35</sup>; regulation of the categorisation of professionals outside the legal framework, stipulating more conditions than the legal ones for acquiring the title of certified accountant and establishing numerous restrictions on performers of this activity which are beyond the legal framework<sup>36</sup>; determining the maximum number of points that the chosen doctor may obtain regardless of the number of patients to whom he provides health care which limits the right of the insured to free choice of a doctor and additional determination of public duty<sup>37</sup>; adding new criteria, beyond the legal ones for the establishment of the organisational units in public health institutions that may not be leased<sup>38</sup>; authorisation by the legislator to the Judicial Council to prescribe other criteria for assessing the competence and ethics of a judge other than those set forth in the Law on the Courts with a bylaw<sup>39</sup>; prescribing the categorisation of users of utility services through which it is gone beyond the legal requirements and criteria for setting the price of utility services and an unequal treatment between legal persons<sup>40</sup>; through *de facto* alteration of the conditions for direct payments for agricultural activities the government conducted a retroactive effect of laws and regulations and called into question the principle of the rule of law<sup>41</sup>; etc.

Similarly, in the case U.br.4/2007 the Constitutional Court quashed the criteria for compensation for non-pecuniary damage due to demise, corporal injury and health damage from the use of motor vehicles, adopted in October 2006 by the Commission for Automobile Liability Insurance within the Government the Republic of Macedonia. Since the criteria on which it will depend how much compensation

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<sup>35</sup> The price list for health services of the “Borka Taleski” medical centre from Prilep was challenged, U.br.135/1993.

<sup>36</sup> Provided for in the Rules on conditions and criteria for acquiring professional titles in accounting, adopted by the Assembly of the Union of Accountants, Financial Experts and Auditors of the Republic of Macedonia 1994/95, and the Rules on conditions and criteria for acquiring a professional title in the field of accounting - certified accountant, adopted by the Conference of the Chamber of Accounting and Financial Professionals in 1995, U.br.247/1995.

<sup>37</sup> Provided in the Rules for the payment of health services in primary health care adopted by the Board of Directors of the Health Insurance Fund, “Official Gazette of RM” No.48/2001, U.br.170/2001.

<sup>38</sup> Provided for in the Rulebook on the criteria for determining the organisational units in PHI that cannot be leased, “Official Gazette of RM” no. 32/2006 and 4/2007, adopted by the Minister of Health, U.br.16/2007.

<sup>39</sup> Rules on the procedure and criteria for monitoring and evaluating the work of judges, “Official Gazette of RM” no.31/2008, U.br.237/2009.

<sup>40</sup> Decision on approval of the fee for collection and transportation of municipal waste in the City of Skopje, the Official Journal of the City of Skopje, No.12/2010, U.br.12/2011.

<sup>41</sup> Decree amending the Decree on specific criteria for direct payments, the beneficiaries of the funds, the maximum amounts and the method of direct payments for 2011, adopted by the Government, “Official Gazette of RM”, No.52/2011, U.118/2011.

will be awarded in judicial proceedings are already set out in Article 189 of the Law on Obligations, which also lists the factors that influence the determination of the amount of damages, the Court holds that there is no constitutional justification for the government's normative move. In a state of clearly defined criteria that determine the amount of the awarded non-pecuniary damages and in a situation of constitutionally defined autonomous and independent courts, the courts may not be imposed to determine the compensation together with the Law and based on the framework and criteria established in the Criteria for non-pecuniary damages due to demise, corporal injury and health damage from the use of motor vehicles. The situation may certainly be used as an example of the interference of the executive power in the judicial power, which should be independent and autonomous. This is especially because the final provisions of this bylaw provided that the Criteria be communicated to all basic and appellate courts and the Supreme Court of the Republic of Macedonia within a specified period, for the purposes of deciding in determining this type of compensation of all cases that are pending.

## CONCLUDING THOUGHT

This aforementioned Constitutional Court practice highlights the importance of constitutional-legal review of bylaws. Being the practical implementer of legal principles and rules they simultaneously carry the peril of human rights and freedoms breach if these regulatory rules get out or distort the intended legal frame. This is why legal professionals and the wider public need to stay alert and follow how their applicability has been performed.

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**KNOWLEDGE MANAGEMENT FOR BETTER  
SOCIAL ENTREPRENEURSHIP - EMPIRICAL  
PERSPECTIVES AND LESSONS LEARNED FROM  
REPUBLIC OF MACEDONIA**

**Abstract**

The interest for social entrepreneurship has increased manifold, especially, among young generations. However, to achieve gradual improvement related with some social problem or its total elimination in a sustainable and profitable manner is far from being easy. Social entrepreneurship needs intensive knowledge sharing, often with counterparts from far countries and other cultures. Knowledge sharing in social entrepreneurship includes

learning from others about how they are using resources and how they are collaborating and improving the satisfaction of their final beneficiaries. The aim of this paper is to explore the practice of knowledge management in social enterprises active in Republic of Macedonia. Primary research consist a survey questionnaire and a series of interviews with organizations and businesses considered as social enterprises based on their mission and activities. Based on the results of the survey, we propose several recommendations that if implemented would support their knowledge management practice and improved their missions.

**Keywords:** knowledge social entrepreneurship, knowledge, explicit and tacit knowledge, knowledge management

## INTRODUCTION

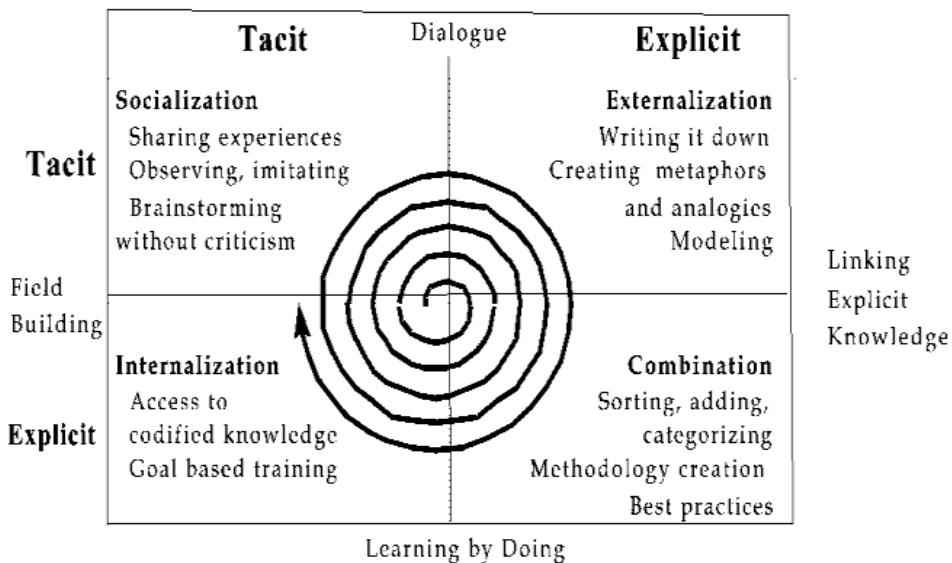
Social enterprise is a new and fast growing form of organization, which aims at achieving both commercial result and desired social impact. The importance of social entrepreneurship has increased manifold due to the interest that young generations show for pursuing various business ideas that, when realized, mean gradual improvement or elimination of some social problem in a sustainable, if not, a profitable manner. However, this is far from being an easy task. Social entrepreneurship needs intensive knowledge sharing, often with counterparts from far countries and cultures. When such knowledge sharing is missing, the social entrepreneurs often spend significant efforts and money in solving problems already solved by some other organization. Thus, the knowledge sharing turns into a major prerequisite for their success and includes learning from others about their ways of using resources, collaborating and improving the satisfaction of their beneficiaries. While the literature is reach with surveys on knowledge management in the corporate sector, research related to the practice used by the social enterprises and development agencies is rather limited. The aim of this paper is to explore the practice of knowledge management in the social enterprises and larger international donor programs operating in Republic of Macedonia. Based on the results of our survey, we propose advice to the active and the potential social entrepreneurs how to further promote their knowledge management practices.

## LITERATURE REVIEW

The increased popularity of the knowledge management coincides with the development of the resource-based paradigm of the strategic management that showed on the accumulated organizational assets and the knowledge as the primary sources of the sustainable competitive advantage (Empson, 2001). It is also linked with the gradual shift of the economies of the developed world from manufacturing towards services (Drucker, 1993). However, the knowledge is not a typical asset. While we can acquire, store or transfer equipment, data and information, we cannot do similar with the knowledge. Malhotra (1994) stressed that merely possessing knowledge is not sufficient; application, he argues, is everything. He asserts that the knowledge is the ultimate competitive advantage only if understood from an action-oriented perspective. Within the organizations, knowledge is attitude that makes people want to think, interpret and act. Such knowledge stimulates curiosity and innovation in form of intrapreneurship (Beijerse, 2000). Only the knowledge that is turned into actionable value proposition can assure competitive advantage

(Diedrich and Targama, 2000). While the explicit knowledge or the tip of the iceberg of the entire body of knowledge is easily recognizable, the tacit knowledge is highly personal and hard to formalize. Subjective insights, intuition and hunches fall into this category of knowledge, deeply rooted in an expert’s actions and experience as well as in her ideals, values, or emotions she embraces (Polanyi, 1966). For Nonaka at al. (2000) the knowledge is far from being mechanical “processing” of objective information. Rather, it depends on tapping into the tacit and often subjective insights, intuitions and ideals of the people in the organization. Thus, the main task of the manager is to create circumstances that encourage people to share their ideas and develop new insights together that will lead to the creation of new knowledge (Sanchez, 2005). By sharing it, the explicit knowledge is imbedded gradually into the tacit knowledge of an organization. Through a phenomenon that Nonaka and Takeuchi call the “knowledge spiral”, the knowledge creation and knowledge sharing become part of the culture of the organization.

**Figure 1:** *Spiral of knowledge according to Nonaka and Takeuchi*



Source: Nonaka and Takeuchi (1995)

Blackler’s (1995) discerned: (1) expert dependent organization that relies on embodied knowledge, (2) symbolic-analyst dependent organization that relies on embrained knowledge, (3) knowledge-routinized organization that relies on embedded knowledge and (4) communication-intensive organization that relies on

encultured knowledge. More recently, Nonaka and Takeuchi (2011) noticed that the dependence only on the explicit knowledge prevents the organizations today effectively to cope with the change. Social phenomena are all context dependent, and analysing them is meaningless unless you consider people's goals, values, and interests along with the power relationships among them, stress Nonaka and Takeuchi. What is important for the internalization of knowledge, both tacit and explicit, is the absorptive capacity of the people and the organizations. Cohen and Levinthal (1994) define absorptive capacity as "ability to identify, assimilate and exploit knowledge from the environment". The purpose of the managers today is to promote the survival capability of their organizations obtaining, saving, and sharing the valuable knowledge of the individuals, groups or teams that exist inside or outside of their organizations (Lin, 2003). A study performed by Jiang and Joseph (2006) indicated that a proper knowledge valued culture is related significantly and positively to the knowledge management performance.

According to Yao et al. (2007) the mechanisms and methods that standardize the collected information, save, apply and share that information constitutes the knowledge management system of the organization. The essential drivers of promoting knowledge management are organizational culture, organizational framework, personnel, information technology, knowledge strategy, and innovation (Wu et al, 2011). Yu et al. (2004) pointed out that an appropriate organizational culture and learning attitude, intention to share knowledge and the flexibility of organizational framework would influence knowledge management performance positively. APQC (2018) developed 20 best practices for creating enterprise content and make it easily accessible when and where needed. A survey of 500 organizations in Europe proved performance differences between the organizations with and without proper knowledge management systems and that, the organizations with higher maturity level shift their focus from internal to external knowledge acquisition and sharing (KPMG, 2003).

The emergence of the social enterprise is explained by the need to respond to the social problems and developmental needs of the poor, disadvantaged, and unemployed especially in the developing countries (Prabhu, 1999). In the US, the social enterprise refers to market-oriented economic activities serving a social goal (Dees, 1998, 2001). This form of entrepreneurship often referred to as the "third sector" includes all organizations in which some patrimony has priority over the returns on the investment (Laville and Nyssens, 2001). The two most common such organizations in the US are the low-profit limited company and the benefit corporation (Stanford Social Innovation Review, 2014). Social entrepreneurs are persons who create innovative entrepreneurial organizations primary mission is social change and development of their client

group (Prabhu, 1999). The general benefit and the social positive externality are the primary objectives of these organizations. However, they often cannot capture the value they have created in an economic form to pay for the resources they use and often rely on subsidies and donations (Maryam, 2012). Consequently, the performance of a social enterprise is evaluated by its ability to create and sustain social impact (Dawans and Alter, 2009). When organizations identify a program, model, methodology, or some other action that proves effective in poverty and exclusion alleviation, the next phase is to replicate and scale such on a broader basis. From an entrepreneurial point of view, scaling social benefit ventures means “equipping social benefit entrepreneurs with tools and techniques to effectively accomplish their goals related to serving more of their target beneficiaries” (Koch et al., 2004). The need for scaling derives from the fact that local actions have physical limitations in reaching people in need. The social impact of a given initiative depends primarily on two variables: (1) how much social value an action generates for each person reached, and (2) how many people reached the initiative (Davis, 2013). Brest and Born (2013) noted that an investment or non-monetary activity to have social impact, it must provide “additionality”, some positive spill over effects for other. For example, Grameen Bank and BRAC, both in Bangladesh, developed microcredit systems aimed at village development and making the education affordable for the underprivileged (Dawans and Alter, 2009). The development of social entrepreneurship in Republic of Macedonia is gradually gaining popularity through promotion and support from public, donor and private sources. It is an example of direct spill over of knowledge from the European Union and specifically the United Kingdom. Recently, (2014) the Ministry of Labour and Social Policy announced the development of a Law on Social Entrepreneurship in order to set the legal basis to establish and support social enterprises to employ vulnerable groups of citizens and to take the advantage of the resources available from the European Union, between 2014 to 2020.

## SURVEY RESULTS

The survey identified 34 non-governmental organizations and business associations that declare social entrepreneurship as a part of their mission statement or on their web pages. Twenty of them responded on our request. Here are the results. On the question about the perception about what are the key resources of their organizations, 13 of the managers indicated on the intellectual assets that their organization developed over the time, six indicated on the people they have. In other words, almost all (19) of the managers agreed that the knowledge



is the strongest factor for their success and only one of the managers pinpointed on the financial funds as the key for success of his organization. However, only 11 of the interviewed managers reported that they have proper computer based document management system as a basis for advanced knowledge management. Responses on the question about sources of knowledge that the organization use indicate on practice of relying on more external sources and channels of knowledge acquisition. Consulting services had been used by 85% of businesses and self-education and cooperation with international organizations has been practice by 80% of organizations. In total, sixty-five per cent of the respondents (or 17 out of 20) reported that they use simultaneously five or more sources of knowledge acquisition and sharing.

Twelve of the surveyed organizations were members of one or more professional organizations, associations or networks. Membership in such professional organizations both domestic and international is considered by the respondents as practical channel for knowledge acquisition and exchange. Collaboration scores high on the factors of success of the social businesses and organizations in Republic of Macedonia. Specifically, 16 managers of the surveyed companies indicate the collaboration with international organizations as their main factor of success. Twelve of them also find that the collaboration with other national level organizations and companies is equally important, while for 11 of them the collaboration with the non-governmental organizations is important factor of their success. Seventy five per cent of the surveyed social business organizations have invested in up to five innovations and 25% per cent applied 5-10 innovations, in the period 2011-2013. Fourteen of the surveyed social businesses or organizations reported long-term relationship with their clients or beneficiaries.

## CONCLUSIONS

In the world driven by fast technology and social change, the social enterprises need constantly to invest in innovation of their services extended to the community in order to drive the desired positive change. This also means that the social entrepreneurs need to come up with diverse, interesting and practical ideas for their mission and for desired level of utilization of the accumulated knowledge. However, knowledge always comes in different forms. Starting from the so-called codified, or explicit and technical knowledge up to much subtle expertise gained thought accumulated experience. Nevertheless, both forms of knowledge are important factors of success for the social enterprises, a new and growing form of business that aims at achieving both commercial results and social impact. Globally,

the importance of social business has increased many folds especially among the members of the young generations of entrepreneurs. Many young entrepreneurs today are coming up with unique business ideas for gradual improvement or elimination of some particular issues or social problem. However, the access of these now cohorts of entrepreneurs to the already accumulated social knowledge is most important for sustained social impact in any given urea of the society. Consequently, many social enterprises share their knowledge in order to grow their missions and the entire social business sector. The knowledge sharing includes learning from each other, utilizing resources effectively, fostering innovation, collaborating, and improving client satisfaction.

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**THE USE OF COMMUNICATION METHODS  
AND TOOLS IN THE DISPUTE BETWEEN  
MACEDONIA AND GREECE**

**Abstract**

Since the day when the Republic of Macedonia declared its independence and left the community of the Federative Republic of the Yugoslavia, it was confront with the issue imposed by its neighbouring country – the Republic of Greece – about preserving its name, identity, language, culture and tradition. This constricted the country in terms of democratic development, in joining international organizations and especially in becoming a member of the security system of NATO and integration in the European Union. From the very beginning, the Republic of Greece has shown a long-term unvarying strategy when it comes to the Macedonian issue in general as seen in the request to use a single name for all purposes (*erga omnes*). On the other hand, the Republic of Macedonia has shown to be frailer, more vulnerable and undoubtedly far less skilful in finding a way to use the tools for communication with the public for their own benefit. Simply knowing the methods, tools and systems of communication is not enough and until recently there was no desire to learn how to properly use them, especially when it came to successful communication with the international community. Opposite to the Macedonian passive policy, the Republic of Greece and its proactive role, particularly in using the methods of communication with the public, lobbyists and lobby groups, skilfully using spin techniques, particularly with the international community and using communication tools such as press conferences, press releases, statements, briefings, press tours - thus being a step ahead in this extremely sensitive and especially important question of survival and the future of our state.

**Keywords:** communication, tools, public relations, international community, media

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## INTRODUCTION

The dispute between the Republic of Macedonia and the Republic of Greece, which has been going on for over two decades, involves the name issue as a constantly recurrent obstacle to establishing relations between the two countries. There have been, however, oscillation periods – when relations were particularly unfavourable, take for instance the introduction of the embargo (1994) by Greece, or the period during NATO's Summit (2008) in Bucharest, when Macedonia was to become a member of this security system. But, as accession did not take place – this was a period when a kind of isolation and distancing from the international relevant factor commenced. After Bucharest, the political elite of the time initiated a process, which in some national and international public circles became known as a process of antiquation, which led to increased antagonizing of the relations between Greece and Macedonia. In any case, this dispute is deeply rooted in the past, it is multi-layered and the context is wider both regionally and historically. The aim with this paper is to focus on recent history, with an emphasis on the period from 1990 to 2000, first and foremost because I, as a journalist, analyst and chronicler of that period, have been able to personally keep track of all relevant political events, including the developments between Macedonia and Greece. Following the breakup of Yugoslavia and the declaration of independence on September 8<sup>th</sup>, 1991, Greece immediately started disputing the name, due to the existence of a northern province in Greece with that same name. On December 2<sup>nd</sup>, 1991, President Kiro Gligorov sent a letter to all heads of states and to all governments, requesting that the independence of Macedonia is recognized (press release from the Cabinet of the President 1991). The Government of Greece was the only one to officially deny the request and according to the information provided by the International Group for Minority Rights, the statement of declination was defined and published in October of that year. When the Republic of Bulgaria (1991) recognized Macedonia as an independent and sovereign country, Greece immediately declared its disapproval by reiterating the 'absolute stand that Greece will never recognize the country while it maintains the historically Greek name Macedonia,' (Mironski 1991). In the meanwhile, the country was recognized by Turkey, Croatia and Slovenia, however in the international arena Macedonia was losing with the aggressive and omnipresent Greek diplomacy, which won a crucial battle at the Summit in Lisbon on June 26-27 1992 for non-use of the word Macedonia. That was the time of the harshest politics of the European Community (note from the author: now Union) since declaring independence to present day. The country was placed in an extremely difficult position, not being allowed to use the word Macedonia and not allowed to apply for membership in the UN until it received the required European

support. At the Summit, a so called Lisbon Declaration was adopted (the Chair was the Portuguese Minister of Exterior Joao de Deus Pinheiro) and the Declaration sided with the Greek insistence, leaving Macedonia an option to choose a name for internal and a name for external use. The Government had an emergency session on June 28<sup>th</sup> 1992 at which it decided to deny the part of the Declaration of the European Council, stating as follows: ‘by expressing an undivided opinion of the public, they point out that only the people of the Republic of Macedonia have the right to decide about their own name’ (Government of the Republic of Macedonia press release 1992). An emergency session was held at Parliament, where a Declaration was adopted to refute the condition stipulated in the Lisbon Declaration, which conditioned the recognizing of the country with a name change (Gligorov 2001 : 29). Not only did Greece undertake strong diplomatic activities against Macedonia, they also performed direct pressure with increased military presence along the Macedonian border, and with Greek aircraft flying over Macedonia, invading its air territory (Ministry of Defense 1992). By putting in a lot of effort, different methodologies and approaches, means and tools of communication, both at home and internationally, Greece succeeded in winning many battles in this irrational dispute, despite the irrefutable fact that up to 1988 the name Macedonia was never used in Greece. The tension in the relations between the two countries did ease in 1995, with the help of an Interim Agreement which contained provisions for Macedonia not to be obstructed in the process of international integrations under the temporary reference (FYROM) - name the country become member into the UN on April 8<sup>th</sup> 1993 ( Mironski 1995).

The relations between Macedonia and Greece are in the focus of the domestic, regional and international public with periods of stagnation, especially in the period following the Summit in Bucharest, as well as in the period when project ‘Skopje 2014’ took place which included statues and symbols from the reign of Alexander the Great. This made Greece to declare Macedonia’s actions as nationalist and irredentist, touching on matters from their territory, which caused the country’s worldwide reputation to deteriorate. Even back then, the Macedonian counterpart was not able to explain their actions (regardless whether they were justified or not), nor were they able to present them from a global cultural aspect or justify them to the public. Once again it was proven that the political elite is incapable of communicating with the public in a timely, adequate and transparent way, let alone communicate with the international public – where they lost the already fragile position they once held. This issue further contributed to the country’s exceptionally difficult state of insecurity, uncertainty and dependence. From the very onset of this battle to protect the plans, strategies and goals they had set, Greece showed extraordinary skills and success in using all kinds of

communication tools, remarkable skills in implementing international diplomatic activities, turning defeats in victories for themselves by using all kinds of tools, methods, lobby groups and spin techniques that are typical for public relations. On the other hand, the Republic of Macedonia showed that it has a fickle strategy, with no clearly defined red lines, it showed insecurity or a great propensity to irritate, and it became evident that it is much less apt in finding ways to use tools for communication with the public in a way that is beneficial to her. Actually, the exact opposite happened even in a situation when law and justice were on her side, as was the case with the Hague verdict dated December 5<sup>th</sup> 2011, hence the Republic of Macedonia, at least so far, is well on its way to becoming the losing party. This is a result of not having a consistent national strategy from the beginning of the dissolution of former Yugoslavia and the lack of unity, to which all political entities and governments pleaded – however they were never able or willing to provide when it came to national matters of vital importance for the survival of the country and its people. What is even more important is that the basic rule of national strategies – addressing all stakeholders in the ‘same tone’ on some important issues for internal and external public – is not applied.

#### FOREIGN MEDIA REPORTING ABOUT THE GREEK EMBARGO TOWARDS MACEDONIA

On February 16<sup>th</sup>, Greek Prime Minister Andreas Papandreu announced the decision of the Greek government to block transport to and through the port in Thessaloniki, only making an exception for emergency humanitarian aid. The Government, at the same time, decided to close down the General Consulate of Greece in Skopje ([www.macedonian/heritage.com](http://www.macedonian/heritage.com)), which meant the beginning of a new chapter in the relations also burdened by an economic crisis. The Macedonian Government called an urgent meeting, and Macedonian media warned that the actions taken by Greece can lead to regional destabilization. Greek Prime Minister Papandreu stated that he was “‘forced’ to take such measures” because Macedonia “continues with its provocations and increased irredentism.” (Mironski 1994). Macedonia responded to this harsh reaction of the Greek government by an announcement declaring that the decision from Athens is contrary to the documents of the Conference on Security and Co-operation of Europe (author’s note: CSCE, later on OSCE) and of international law. (Press release of the Government of the Republic of Macedonia 1994)

International media often reported statements, facts or simply made a mention of the dispute, however they practically did not produce any analytical texts that



would go into the essence of the problem or would clarify why it is so difficult and unacceptable for Macedonia to change its name, which is one item in a list of demands for not using the adjective Macedonian. Nonetheless, some reactions of non-Greek press to the dispute between Greece and Macedonia were not as cautious as the reactions of international diplomats and they contained open criticism directed at the Greek stand. This was especially present during the Greek embargo, when sympathies for Macedonia were probably highest. Many commentators 'took a negative stand' towards the Greek embargo, like the London *Times* who wrote a long and detailed introductory article (February 21<sup>st</sup>, 1994), claiming that the Greek act is 'a violation of the Rome Agreement, the Maastricht Agreement, the UN Charter, Resolutions of the General Assembly of UN, the Convention on the Law of the Sea 1982 and of basic moral norms that dictate civilized international relations'. *The Times* underlined that at the Council of Europe Summit, held in Edinburgh in December 1992, Greece undertook to ensure that there are 'regular and adequately implemented oil procurements' delivered to Macedonia. The embargo is an obvious violation of this obligation. The paper emphasized that Macedonia did not commit illegal actions in any way, and the Greek obsession with the name problem and the issue of the flag cannot be considered as legitimate, according to any legal, moral or political provision. (Shkaric et al., 2008 : 201). The same source quoted Britain's *The Spectator*, which has a small circulation, however it is extremely influential, which pointed out that the actions of the Greek government to 'continue with their revenge' against little Macedonia - are an 'interesting mix of farce, tragedy, theatre of cruelty and theatre of absurdity'. The paper that is traditionally considered as close to Britain's right-wing parties, the so-called Tories, *The Daily Telegraph*, reported on February 19<sup>th</sup>, 1994 that the Greek presidency of the European Community is turning into a 'inappropriate and dangerous farce'. *The Chicago Tribune* asked 'Would Mexico threaten a trade embargo against USA in order to force New Mexico to change its name? Would the British complain to the high circles forming global opinion because a part of their shoreline towards the Atlantic has chosen to be named New England?' They concluded that there is very little logic in Greece's arguments and that on top of it all is the claim that unrestricted recognition of Macedonia will lead to instability in the Balkans cannot be taken seriously, while Greece continues to ignore UN's sanctions against Serbia. The paper showed suspicion in the demands of Greece and Serbia for Macedonia's independence not to be recognized by the rest of the world – Why does the rest of the world listen to them? German press was also unanimous in their estimate that Greek politics towards Macedonia 'has nothing in common with responsible politics', that it disrupts the 'unity of the EU', that it spreads paranoia on the Balkans and that Greece is 'playing with fire'.

Having in mind the above, i.e. what was written by the world's leading media outlets when the country was faced with a complete border block from its southern neighbour, analysis is needed to find the reasons why Macedonia lost the battle from an international perspective.

## USING COMMUNICATION METHODS AND TOOLS IN CRISES SITUATION

In order to be able to build an affirmative perception of the country worldwide, to create a positive image and to send a message that will be believable and convincing enough so the country may gain support, communication techniques and tools must be adequately and successfully implemented.

### **Case study – the NATO Summit in Bucharest**

One typical example is the period leading up to and following the NATO Summit in Bucharest. At that time, all relevant political parties and their leaders in Macedonia met at a joint meeting of leaders, held in the Club for Members of Parliament. The outcome was that they agreed on principle that the proposal Republic of Macedonia (Skopje) should be accepted, which was a decision announced by the Minister of Foreign Affairs at the time – Antonio Miloshoski (Mironski 2008). However, the accusations they made among each other regarding the state of the country, especially the name dispute and the lack of a solution for it, continued, and they were made in front of the public eye, which resulted in differing statements made by the government and the opposition.

Thus, the ruling party VMRO-DPMNE organized secret diplomacy activities and lobbied for the country to find a compromise with Greece before the Summit in Bucharest and insisted on a referendum in case a solution is made possible, while President Branko Crvenkovski, who was a member of the opposition of the time, i.e. a member of the Social Democratic Alliance of Macedonia (SDSM), criticized the Government, saying that they are not seeking a solution, not making any compromises and that they are making reckless decisions that irritate Greece, such as the decision to rename the airport in Skopje from 'Petrovec' to 'Alexander the Great'. The accusations between them continued through the media and unfortunately, as was the case many times in the past, they were very detrimental for the state. From the perspective of the theory of PR and crisis management, a few scenarios would have been possible in that time, which would have to have been previously planned and adequately managed.

### **What would be a Response to the Challenge (example):**

The task, i.e. the *goal* of the Prime Minister and the President, i.e. the authorities, is to inform the public that NATO's decision is unfair, that Macedonia did everything in its power to get to a different decision and to restore the trust from the public. The statements, i.e. the messages that will be sent should be identical in terms of content, i.e. the same values should be upheld and the public should be won over with a joint effort.

### **Target audience**

The target audience that the Prime Minister, government officials, the Minister for Foreign Affairs and the President of the country should have addressed, in this case, is huge – it is both the domestic and international public. The domestic audience also includes the significant number of representatives of the ethnic Albanian community, who are not as sensitive to the name issue as it is a priority for them to become part of the European Union and NATO. The international community is not comprised just by the general public it also includes relevant authorities and heads of states and governments.

### **Message**

The message would be that Macedonia and all of its governments and political elites have done everything in their power, since declaring independence up to today, to resolve the name dispute with its neighbouring country Greece. However, it is obvious that the problem lies with the counterpart – Greece, who does not wish to resolve the issue, i.e. wishes to resolve it in a dictating fashion - my way – no way. So, there will be no compromised, instead there will be a negation of the adjective Macedonian, which might involves the identity and the language and opens a new potential security and political conflict in the Balkans. Unfortunately, the state was leading passive, instead of a proactive politics. Hence, instead of proposing names and presenting opinions as to what would be acceptable for it, it reacted to Greece's active politics. In that way, it looked like Greece was the one that wants to solve the problem, and Macedonia was the non-constructive counterpart.

### **Tools**

Several key tools should have been selected, so that the message is conveyed in a clear, precise and unequivocal way and that should have been done in Bucharest,

with the Prime Minister and the President making joint and identical statements. A press conference would have been required for the foreign press, so they are familiarized with the problems and entrapments that Macedonia has been facing for years. The Prime Minister and the President gave statements, while a press conference was held only by the Macedonian Minister of Foreign Affairs. The Prime Minister and the President should give their statements and may be joined or separate, the important thing is to reach out to the public with an absolutely identical standpoint, a stance that is not in the least different, which was not the case. At the same time, there was a need to be more present in the international public and to choose a relevant international media and make an interview, as is the case as of recent (2018), in terms of communicating with the international public.

### **Analysis of the replies – What was the new challenge?**

Even when the ‘crisis’ is harrowing and has vast long-term consequences, as was the case with Bucharest all involved parties should address the public in a direct manner, with sincerity and they need to show regret and a firm attitude that – regardless of how bad things are – they still are not that bad, i.e. they will be able to deal successfully with the ramifications. That is why it is important to identify and foresee situations that may lead to crisis and corresponding plans and detailed preparations should be made, and when the time comes – depending on the situation – the most adequate tool of communication with the public should be used. The Macedonian delegation and the journalists who were in Bucharest were in shock and evidently very disappointed after the announcement of the news that Macedonia, despite the announcements, will not be made part of the Alliance. The delegation came back home two days early. Should things have gone that way? It is estimated that, in some situations – regardless of how difficult they are, the right thing to do is to stay and speak your mind – in this case stand against the injustice that was made to the country. Nevertheless, if no preparations have been made in advance, it is uncertain if the delegation would have had a chance to do so.

### **What was done correctly?**

The tactics of immediate and transparent reactions, as was the positive behaviour of the President and of the Prime Minister of the state, who did not hide their disappointment and who showed empathy towards the public and who made statements, and most importantly, who behaved friendly to one another and ‘took the same side’, which is not a very typical and likely situation in Macedonian affairs.

### **What could have been done differently?**

Macedonia could have decided to say farewell to NATO, to withdraw its soldiers from the peace missions throughout the world. This could have been announced at the joint press conference (held by the Prime Minister and President of the State) in Bucharest. Such moments of extremely important decisions with potentially incomprehensible negative consequences for the country, sometimes call for radical moves, like for instance an announcement that the negotiations are terminated, a statement saying Macedonia does not wish to be a member of NATO under circumstances of threats and precedents in the history of that organization. Such a move at that time would imply huge media coverage, interest in the country from all relevant international institutions and entities; however it can only be made in a well thought out and prepared scenario and with all political factors standing behind that decision. The moment for such a decision was at that time – after the Summit in Bucharest.

### **CONCLUSION**

Macedonia strives to become a full Member of the European Union and of NATO, however – despite 27 years of independence and transitioning, it still faces numerous political, economic and social difficulties. The country missed the opportunity to create a strategy back in 1991 to represent and promote itself globally as best possible way. The government that is currently in position, mandated by SDSM and its coalition partners is taking accelerated steps towards removing the blockage of the processes of integration in NATO and EU, especially in the first months of 2018, which is a period of increased activities revolving around diplomacy and politics with the aim to resolve the dispute concerning the name of the country. Nonetheless, the conclusion remains that the system for communicating with the public and the opportunities provided by the tools, techniques and methods are insufficiently and inadequately used and utilized. The method of communicating and the system of building public relations are a part of present-day, which is dynamic and aggressive, full of challenges, requiring constant public presence and meticulous building of an appropriate image. For this end, it is not enough to simply know the communication tools, one must also understand the role and the impact of the media and develop a solid strategy for successful establishment, implementing and functioning of public relations. Hence, the promotion and proper implementation of public relations is vital for adequate representation of all entities of the Republic of Macedonia and for creating a positive and recognizable image at home and worldwide. The entities are faced with a series of problems in promotion and presenting to the public, due to

a lack of understanding or inadequate use of the potentials offered by various tools, this is supported with insufficient knowledge of the media in the country as well as poor communication with them. The first serious engagement concerning lobbying was made by establishing a Lobbying Centre (June, 2010) that operates as part of Macedonian Scientific Association (MSA) from Bitola, after the Law on Lobbying was enacted in the country, in 2009. It can be concluded that lobbying in the context of the dispute between Macedonia and Greece has had very little coverage – both as an important tool that should have been implemented more often and more skilfully by Macedonia, and as a method that our neighbour Greece has used to a maximum ([www.mia.mk](http://www.mia.mk) 2010.) For successful international presentation, one must analyse and adequately implement the process of communicating with the public. In this context, the media must first be defined their appearance and development as well as the changes they are currently undergoing must be understood, along with their similarities and differences so one can determine the proper time and manner in which to use specific media outlets. The analysis has shown that as one of the smaller countries in the region it has been in real need of proper promotion, however was unable to utilize communication mechanisms for its successful presentation before Europe and the rest of the world.

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## **MEDIA EFFECTS AND PUBLIC IMPACT**

### **Abstract**

No one is able to elude the media, ignore them, or, indeed, protect themselves from their impact. Should we accept McLuhan's assertion that, aside from mass media, we are all also influenced by games, numbers, clocks, films, etc; then it becomes apparent why the effects of the media, or the so called media reality, form the fulcrum of researchers' interest in communication studies. Effect of mass media and communications on the society and the degree of that influence, have been the subjects of great debate among communication scholars with decades.

The article elaborates different theorists who focus their debate on the modality through which it would be possible to empirically gauge the impact and effects of mass media on public opinion and on the beliefs and behaviour of media consumers. Its focus on the effects of the media on the citizens that cause a weakness in society and illnesses within the democratic process, such as political apathy, alienation, cynicism, destruction, confusion, illusions, and even fear. Using the secondary analysis, the article particularises some claim that the media and, first and foremost, television, privatize people and alienate them from each other and in this way, with the help of the media, a society is created in which people are frightened, disoriented, alienated, and isolated.

**Keywords:** media effects, public opinion, political communication, media reality

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## INTRODUCTION

*Do not hope that television will present you the truth. Television is a damned amusement park. We will tell you that the good guys always win. We will tell you that nobody ever gets cancer. We will tell you any nonsense you want to hear.*

Paraphrased lines by Howard Beale, a character in 1976 American motion picture *Network*, written by Paddy Chayefski

The questions on the effects that media have on people cannot be answered by generalized theoretical concepts. Questions being posed most frequently are the ones seeking to discover the influence of media on society and their impact on future developments, or, in other terms, whether the media are changing something, affecting, or reaffirming certain phenomena in society, but also how sizeable their effect is.

This article analyzes developments and parallels among theories of media effects. With secondary analysis, it discusses different media effect theories trying to identify commonalities for better approach on the question about the influence of the media and different media content and news on the society and on the people. Media cannot be investigated separately from the overall system of social understanding, which further entails that the entire cognitive process, the way in which stimuli and reactions to information received function, as well as the manner in which the conclusion-adopting process unravels must all be taken into account.

According to Denis McQuail, over the last fifty years, which is the period when the interest in the impact of media effects on the public and society has first appeared, media effects may be separated into three stages (Graber, 2007). In the **first stage**, placed at the beginning of the last century and stretching into the next thirty years, the media effects were associated with changes in people's habits, their opinions and beliefs, altering, as well, political developments. These claims, according to McQuail, were not based on scientific research, but rather on empirical observations of the behaviour of audiences towards the onset of radio, television, and cinema in that period. Assumptions about the effects that the media are able to produce can also be seen in political and military marketing material during World War I, campaigns carried out in totalitarian states, and the advent of military and post-war propaganda.

Researchers place the **second stage** between the 1940s and 1960s, with the flourishing of communications research in the United States, where empirical methods were used to investigate certain questions about the effects and effectiveness of mass communications. Research considered to be most important

in this field are those conducted by Lazarsfeld in 1944 (Lazarsfeld et al., 1944) and Berelson in 1954 (Berelson et al., 1954) to analyze US presidential elections of 1940 and 1948, and the set of research papers on the use of film in training and the indoctrination of US soldiers and public administration employees conducted by Hovland in 1950 (Hovland et al., 1950). However, only a limited number of studies quoted from this period provide a deeper depiction of media effects. The research was mostly focused on the behaviour of the individual and the alteration of his or her views or actions as a result of the media (TV, radio, press), and most of it could not determine the impact that media have, i.e. the results of the research were either negative or, the media effects established were found to be insignificant.

**The third stage**, which is still ongoing, offers a new way of viewing and researching, above all, television, and the media effects it produces. These issues started becoming topical once again in the 1960s, with research conducted by Lang and Lang in 1958 (Lang and Lang, 1958), Key in 1961 (Key, 1961) and Blumler in 1964 (Blumler 1964). According to them, if previously conducted research could not determine what the effects of media are, it was because the questions and methodology were wrongly set, seeing as they should, in their view, be more precise. Their second criticism is based on the fact that most studies done in the previous stage were solely based on determining the short-term effects that media have on people, i.e. individuals. Hence, in this so-called third stage, attention is increasingly turning to the collective phenomenon and media effects. According to Bernard Cohen, the media are not successful in telling people what to think, but what to think about (Cohen, 1963). However, the impact and measurement of mass media effects have been criticized for not being able to quantify the thoughts, feelings or reactions of voters (McGuire, 1986). The research has also been criticized for failing to provide a way to explain the process as a whole, i.e. it was focused, above all, on the connection between media information and people's behaviour and beliefs, while almost no focus at all was placed on cognitive processes occurring in these relations (Hawkins & Pingree, 1990; Reeves, Chaffee, & Tims, 1982; Wyer, 1980).

### MEDIA REALITY AS PUBLIC INFLUENCING CONCEPT

Social understanding, or the perception of reality, can be explained as a cognitive process that occurs in certain situations that take place in a society (Reeves, Chaffee, & Tims, 1982). Research over social or cognitive processes is attempting to open the black box that operates between stimulus/information on one hand and reaction/conclusion on the other (Wyer, 1980), i.e. the processes that occur between these two ends (Wyer & Srull, 1989). Social processes and understanding are part of

many research fields - marketing, politics, intercultural psychology, organizational development, etc. There are a number of research models developed on how people collect, process, and use the information they receive on their environment, but researchers seem to agree that the most complete of all is the one provided by Weyer and Srull (Wyer & Srull, 1989). L.J. Shrum (Bryant and Oliver, ed; 2009), highlights two important and interrelated principles underlining research over social perception and understanding. The first principle refers to the information that people use when making a certain conclusion. According to this principle, at the moment when people make a certain conclusion about a question they do not use, i.e. do not recall from their memory all the information and knowledge they have on that issue. On the contrary, they use only a small number of information that is within reach in the process of adopting conclusions, or only as many as would be enough to draw a certain conclusion. Hence, according to researchers, determining the adequacy of the information required in this cognitive process depends on their motivation and the capacity for processing that information (Wyer & Srull, 1989). The second principle refers to the role of accessibility of information when constructing a particular conclusion. In its most elementary form, this principle highlights the fact that the quickest information that comes to mind is most easily processed in the decision-making process and it is precisely that information that will be used to draw a conclusion (Carlston & Smith, 1996; Higgins, 1996; Wyer, 1980).

There are several factors that can influence the process of recalling or referencing information in a cognitive process. According to Shrum (1995), the most frequently encountered such factors are the frequency in the process of activating constructed information (memory), the recentness and vividness of this process, as well as the relations between all aspects and causes that are active in the construction process. Constructs that are often triggered come to the surface more easily (Higgins & King, 1981). They even become chronologically and continuously accessible, even spontaneously activated in different situations. The same applies when considering the exact points in time when they was last activated, i.e. if a construct has been activated recently, it is much easier for it to be reactivated (Higgins, Rholes nad Jones, 1977). However, frequent activation of constructs takes on a dominant role in this process. When investigating media effects, this, for example, can be determined through the premise that frequently watching television alters the opinions and beliefs of viewers. Furthermore, picturesque constructs are much easier to activate than memory, and this is also applicable when investigating media effects. It is reasonable to think that television recordings are much more vivid than real experiences of people, such as conflicts, wars, family situations, etc. Picturesqueness can also be seen in certain journalist texts processing case studies or easy-to-remember statistical data (Zillmann, 2002).

Increasing accessibility to a particular construction enhances its impact on the creation process. This concept proved to be consistent when it comes to networking, i.e. the memory activation model popular in cognitive psychology as a way to explain the interconnection and networking of knowledge (Collins & Loftus, 1975). According to this model, the constructs are stored in memory in the form of nodes that are interconnected. When a particular node (stored structure) is activated, then the nodes connected to it are activated to the exact extent that they have been connected. This concept of connected nodes has its own application in the research of media effects. This particularly applies when certain behaviour patterns are constructed, especially on television or in films, such as the portrayal of anger, violence, or class differences. This becomes a certain script of behaviour - how to react when a particular individual is found in a particular situation (Shank & Abelson, 1977). Weyer (Wyer, 2004) calls this a situational model, which is actually a construct of how to react in a particular situation. Taking into account the accessibility of the construct, the activation of a given construct (anger, aggression) can trigger a script of behavior that is networked, i.e. interwoven with a given construct or node (for example crime, violence). The explanations that information received from the media can play a certain role in making a particular thought construct accessible are not sufficient to explain and confirm their effects. It is further necessary to show how accessibility and continuity produce these effects and support it with theory and scientific literature. Aside from accessibility, in constructing a certain conclusion, scientific literature determines the type of conclusions based on which these constructs and influences function, while the media form an inseparable part of these theories and research, too. The types of conclusions that most people construct are conclusions made on other individuals, conclusions that relate to certain behaviours and beliefs and conclusions on certain groups. These conclusion-making constructs have been tested by research into the effects of journalistic reporting on individual perceptions on certain issues, the effects of television on social perceptions and understanding reality, and the effects that the media induce on people when it comes to portraying violence (L.J. Shrum, 2002).

#### FOUR MAJOR MEDIA THEORIES WITHIN COMMUNICATION THEORY

From the multitude of communication theories, theorists distinguish four that they consider to be media theories related to the influence of the media and their effects on the public. This group includes the analysis of cultivation, which focuses on the role of television in everyday life and the shifting of worldviews in people;

the theory of the use of pleasure, which claims that, in watching/listening/reading media products, man has the opportunity to choose; the theory of the spiral of silence, which refers to the influence of the media in making people speak on a particular matter or not; and the theory of media ecology, which claims that the media in this era of communications (primarily social media and the internet) have a greater impact than the content of the message itself (Vest and Lin, 2011).

## THEORY OF CULTIVATION ANALYSIS

The theory of cultivation analysis claims that television and all other media play a very important role in the way people perceive their environment (Vest, 2011: 429). Since most of our experience is not first hand, but is the result of the information we receive from other, indirect sources, it is logical to conclude that intermediate sources shape the worldview of a man. If television is continuously broadcasting violence, an individual who watches a lot of television will think that there is much more violence in the world or in its surroundings than there actually is. Further, the attitude of that individual differs from those who do not watch television continuously and are not under the influence of an intermediate source - in this case television. The cultivation analysis is a television-based theory that presupposes the relationship and connection between the media and culture. It is based on three assumptions: (1) television is a different medium than all others; (2) it shapes the way people think and their interrelation with their surroundings; (3) nevertheless, the impact of television is limited. In order to confirm their belief that television has a continuous and consequential effect and impact on viewers, theorists have developed a four-step process. They argue that, if the analysis of cultivation is to be explored, the first step is a detailed analysis of the content of television programs, or, in other terms, a message analysis system. The second one deals with the preparation of questions about people's understanding of their everyday life, i.e. formulating questions about the social reality of viewers. The third step is analyzing the audience. In it, the same questions from the previous step are placed to viewers, i.e. a survey of the audience is carried out. According to Gerbner, the last, fourth step, is drawing a comparison between the social reality of those who watch television often and those who rarely do. He argues that there is a "cultivation differential" between these two groups and it can be established via a percentage-based difference. According to Gerbner, the differences that occur in cultures are decreasing in the frequent viewers of television (Gerbner, 1998: 183).

Cultivation analysis is highly criticized, especially in terms of its logical consistency, utilization, and standing the test of time, yet, when it comes to theories

of mass communication, it is the third most widely used. Its influence is particularly important in establishing television to be an important factor which not only shapes people's thinking, but society, too.

### THEORY OF USE AND SATISFACTION

The theory of use and satisfaction is a continuation of Maslow's theory of needs and motivations (Maslow, 1970), according to which people are active when trying to satisfy their hierarchy of needs and, after achieving the goals placed on one level of that hierarchy, they can move towards the next.

The theory of use and satisfaction focuses on the question of what people do with the media. The basis for this theory accepts the fact that the selection and consumption of certain media depend on people and their activity in the process of meeting certain needs. The theory highlights the limiting power of the media and emphasizes the perspective of the limited effects because the audience has the right to choose a certain medium and the right to control. People know and understand the media as a way to meet their needs and are fully aware of this. The theory is subject to criticism, especially the concept of an active audience, which has been re-examined several times by its critics. Consequently, some observe that people actually watch television passively and for this they need little concentration (Kubey & Csikszentmihalyi, 1990). Others believe that this theory does not pay enough attention to all the unconscious decisions that every person makes. According to Denis McQuail (1984), this theory lacks theoretical consistency and relies excessively on the functionality of media while ignoring the fact that the media can be unethical, reckless, and irresponsible. Today, the value of the theory of use and pleasure is in its power to provide a framework to explore audiences and their individual members.

### SPIRAL OF SILENCE THEORY

The spiral of silence theory points out that the media have the power to influence public opinion. Mass media work with the opinion of the majority and try to silence minority views and beliefs, especially when it comes to social issues. Individuals who are a minority with their attitudes and beliefs are afraid of isolation, so they often accept the opinions of the majority and reaffirm its views. In this acceptance process, the appearance of the so-called quiet majority using activism as a means to an end can also be observed, since the majority is encouraged by the influence it possesses. Although, over time, the majority will overestimate its own power, its

views will be taken over by the media informing them of their activities (Noelle Neumann, 1983). This theory establishes a connection between public opinion and the media. That's what Elisabet Noelle Neumann studied since the 1940s, while, in the early seventies, she devised the spiral of silence theory.

In her book *The Silence of Silence: Public Opinion - Our Social Skin* (Noelle Neumann, 1984, 1993), she divides public opinion into two categories: publicity and opinion. The public suggests that it is open to everyone and here the legal, social, and social-psychological concerns of people are intertwined whereby they know whether they are being exposed or protected from the public's view (Vest and Lin; 2011: 468). Opinion, on the other hand, is an expression of attitude, and it differs in intensity and firmness. Hence, according to Noel Neumann, public opinion is the attitudes or actions that a person must express publicly so as not to isolate itself. She warns that, under the influence of the media, many people adjust their opinions so as not to be isolated or alone in their attitude. Noel Neumann goes so far as to claim that the media even provide phrases and words which people later adopt as their own and confidently talk about a particular topic. However, the public is not offered a wide picture of a certain event, but is rather presented with a limited view of reality. In Noel Neumann's view, this restriction narrows the perception of people. The media are everywhere (they are omnipresent), they repeat themselves (have cumulative ability) and are believed to agree, i.e. that they share similar attitudes and beliefs. The last feature stems from the tendency of journalists confirming their personal opinions and attitudes by presenting them to appear to emanate from the public.

The theory is criticized by both theoreticians and researchers, who feel that it lacks any consistent logic in the terminology and concepts it formulates. According to Simon and Klein, this theory fails to include ego as a factor in the research of the spiral of silence (Salmon & Kline, 1985). The theory also fails to incorporate selectivity processes, hence Glin and her colleagues believe that it does not provide enough support to the idea that individuals will speak publicly only when their views are met with a wide support (Glynn et al., 1997). In their view, Noel Neumann does not empirically test her assumption that fear of isolation makes people speak publicly, while they also dispute the view that reference groups and communities do not affect people's attitudes.

## THEORY OF MEDIA ECOLOGY

In *Understanding the Media*, Marshall McLuhan (McLuhan, 1964, 2002) writes about the impact that technology has on people. Although some of the elements



he writes about today cannot be categorized as technology (clocks, telephones, roads, but also television, radio, and films), McLuhan deals with the impact of these forms of communication on society. This popular and world-famous scientist has studied the relationship between technology and the members of a particular culture. He suggests that there is a symbolic connection between technology and people - we create it, and it creates us in return. He feels that electronic media are revolutionizing society and communication processes. He dubs technology an intermediate and emphasizes that this role that technology plays makes society and its development interdependent between each other. This actually defines the theory of media ecology. It is based on the claim that society can not avoid the impact of technology and that it is a central element in all stages of life.

Although there is not a small number of theorists who believe that McLuhan's theory passivizes the audience and even alienates it, he, however, believes that audiences can indeed be active as they are obliged to adapt to advancing technology and everyday changes (McLuhan & Fiore, 1968: 11). No one can escape the media, neither can they ignore them or avoid their influence. McLuhan states that the organization of our lives and perceptions of life are influenced by the media, arguing that this influence of the media is continuous and that people are manipulated by the media, and, first and foremost, television. According to Bugeja (Bugeja, 2005), McLuhan views television as an instrument that erodes family values. His famous phrase defining the world as a global village actually refers to the third assumption of the theory of media ecology, and that is that the media make it possible to connect the world. The power and influence of the medium are much greater than the content of the message being sent. Paul Levison (Paul Levison, 2001) believes McLuhan to be thinking that content attracts our attention, but the medium is the one that unconsciously affects our condition. The medium shapes the message, while our unconsciousness of the medium makes the message that much more meaningful.

McLuhan's media ecology theory is also interesting for both theorists and the general public alike. This globally-known theoretician divides opinions to this very day, primarily due to the logical consistency of his theory, but also the inability to verify it. However, it is widely used, its author is quoted on a worldwide level. The epitaph on his tombstone reads: "The truth will set you free". However, no one can confidently claim that McLuhan thought he had finally discovered the truth.

## CONCLUSION

The media do not just impact political life and the development of society, but also the ways in which these influences reflect on political agendas and the

decisions of the citizens. The effect of fast living, too quickly produced and disseminated information creates distrust among citizens because of the lack of sufficient information for them to be able to draw their own judgments. The distrust of the media in general is additional factor that some people have no desire to understand what is happening in the world or in their immediate surroundings. All this passivizes the citizens and creates an apathetic society that is difficult to activate or stand behind a certain topic of interest for society as a whole. A citizenry asleep in circumstances of modern technology, media, and 24/7 information, does not contribute to the development of democracy, but quite on the contrary - it has an opposite and devastating effect (Blumler, G. Jay and Gurevitch, Michael, 1995).

Some researchers claim that the media play a negative role and destroy the political process, that is, that they contaminate it with media effects that are not the result of the content of the media product in and of themselves, but are rather a product of the overall process and the set of influences in which the media function (Newton, 1999). Due to the need for a larger marketing share, more ads and more audiences, the media attack democracy in a society and even have a malignant effect by reducing so-called social immunity through the “video malaise” they provoke (Robinson, 1976). Thus, even the tiniest of signals, notions of scandal, corruption, or a small conflict, tends to be increased and exaggerated by the media, or even created by them, all with the sole intention of being the first to present a story or grab an exclusive. Both theory and theoreticians define this as “attack journalism”, especially in periods of election campaigns, during which it is vital to attack the opponent in journalist products, rather than present one’s own position or a demonstrative case backed by facts and arguments (Hall- Jamieson, 1992 : 184-5). The combination of this kind of attack journalism, bad news, and negative policy contributes to creating a circle of cynicism, distrust and suspicion of modern politics and politicians. The speed in which events change, coupled with the fact that there is no longer an analytical approach due to yesterday’s news overlapping with today’s scandals and the news of the day, creates additional pressure throughout the media, but also among the citizens. A very small number of events are backed up by elaborate and comprehensively processed information, as there is no time for it.

The media malaise effect applies to all types of democratic pathology that may be provoked or partially caused by the media, such as political apathy, alienation, cynicism, destruction, confusion, illusions, and even fear. Recent research on the effects of the media in the creation of social reality suggests that certain effects, especially those that can be described as negative (increased materialism, less confidence, misconception about the environment and everyday life) may be reduced. Hence, there is a urgent need for developing media information literacy knowledge for all segments of the audience which in turn needs to be educated in

order to become aware of the influences of the constructs to which it is exposed while watching television or reading a newspaper. However, media reality programs should not only teach the public, i.e. the audience how to “read the media”, but rather how to “read the conclusions” that the media construct. The only way in which they would be able to do that is to educate the public in such a manner that it becomes aware of the impacts of the constructs to which it is exposed while watching, for example, television, as well as that they enable it to distinguish the different strategies that are based on the processes of creating constructs of social reality that the media wish to impose.

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## **RALLYING FOR CHANGE: RESTORING GOVERNMENT ACCOUNTABILITY THROUGH PROTESTS**

### **Abstract**

This paper examines the communication practices during protests and social initiatives (in 2014 and 2015) in order to understand how activists are promoting their movement and its goals, how successful are they in mobilizing the public to join their cause and what tools do they use for this purpose. Furthermore, it examines how government officials responded to calls for accountability and how they engaged in talks with those movements. The previous government seemed to be in a standstill in terms of communicating with the public and the various social initiatives in society. Government officials communicated mainly through the media that had the reputation to be “pro-government”, and shunned critical media outlets that include different viewpoints in their reporting. Additionally, the media environment in the country was severely polarized, and dominated by media outlets that are known to favor the government’s policies, and mostly criticizing the opposition’s ones. This left activists with a limited arena for expressing their opinions and dissatisfaction of public policy that is affecting their live. They therefore were conducting their communication with the public and their target groups through social media and through some of the online news portals that enabled them to voice their attitudes, opinions and requests. The paper investigates the

communication practices of the activists with government officials and institutions during the student protests in 2014, the case of an imprisonment of a journalist in 2013, and the protests against the reshaping of the exterior of the Skopje City Centre Mall (GTC) that began in 2013. The paper aims to provide an improved understanding of communication dynamics during protests and will enable recommendations for improvements of communication practices of activists with government officials, media and citizens during times of unrest and social protests.

**Keywords:** protests, communication practices, media, citizens

## INTRODUCTION AND METHODS

Research on communication concerning protests in Macedonia is scarce. In general, secondary sources about the media sector in the country for the most part point to the negative structural conditions that limit the media's democratic role. Various reports accentuate the political parallelism and the increasing economic pressure on the media. The public service role and pluralism of mass media is constantly being questioned with reports about biased reporting, lack of investigative and niche reporting, lack of alternative views and criticism of the government, and so on. The government's grip on the media is also a common aspect of the media system in the country.

The aim of this paper is to contribute to insights into both the role of mass media concerning the protests and the views of major stakeholders about the communication processes and their implications for the notion of public accountability in the country while re-examining the patterns previously indicated by researchers, such as favoritism of mainstream media towards political elites.

The major research questions are:

- How are protests framed by the mass media, i.e., what is presented as a major social problem in the course of the protests, who is framing the problem, and who is affected?
- How is the accountability (primarily government accountability) framed in the content of mass media (how often is accountability referred to in media content, who is considered responsible for which problems and which solutions)?
- What is the perception of different stakeholders of the protests, the communication processes in the course of the protests, as well as the notion of public accountability in light of the protests?

Through secondary research (books, research, country reports etc.), frame analysis of media content (TV and online), and in-depth interviews with major stakeholders (protestors, media professionals/journalists and public officials) the paper aims to demonstrate the power of online media on transforming social and protest movements into influential groups that can influence policy and the public in the country.

## A SEASON OF PROTESTS

The past several years were a tumultuous period in the socio-political realm in Macedonia, marked by protests and forming of protest groups that went largely

ignored by the government, the state institutions and public officials. **The student protests** that started in 2014 were the largest ones of their kind in Macedonia's history of independence. The movement that was formed by the students ("Student Plenum") protested against the government introduced mandatory externally supervised tests, i.e. "state exams" for bachelor and master's students, declaring that the amendments to the Law on Higher Education are unconstitutional, and in violation of university autonomy. The protest group "I Love GTC" forced a referendum on the announced **plan of the Government to reshape the exterior** of one of the largest and most visited shopping malls in the country, the City Shopping Centre (GTC). The referendum, held on April 26, 2015, failed due to the low turnover rate of voters in the Municipality of Center, where GTC is located (approx. 40% percent). Official numbers however, show that more than 95% of the citizens that came out to vote supported the initiative for keeping the authenticity of the GTC facade.

The protests in October 2013 against the **imprisonment of the journalist of "Nova Makedonija" Tomislav Kezarovski** were staged days after Kezarovski was sentenced to four and a half years of prison. On January 20, 2015, Kezarovski was released on "health grounds"<sup>42</sup>. The same day, the Initiative Board for the Release of Kezarovski staged the largest protests for his release, attended by approx. 3000 people. On January 22, Kezarovski was acquitted on parole for the rest of his sentence, which was three months and eight days.

#### HIDDEN IN PLAIN SIGHT: ACCOUNTABILITY AND TRANSPARENCY OF THE GOVERNMENT

To say that the Macedonian Government had poor communication practices with the public would be an understatement. They not only ignored and didn't engage in talks with protest groups and movements that criticize their policies, they did so even when there was no unrest and protests against their work. To start with, the application of the Freedom of Information (FOI) law was barely functional. The public administration regularly waits for the legal deadline for responding to FOI requests to be almost expired, and when they give answers to requests, they only give general information that have little to do with the actual request. Moreover, they often invoke legislation in regards to classification of documents when responding to FOI requests that prevents journalists to properly do their job, since they are often redirected to other channels to seek the needed information.

<sup>42</sup> Even though Kezarovski didn't complain of any serious health issues during that period.



Numerous international organizations also recognized this trend. According to IREX's 2015 MSI<sup>43</sup>, the Government gives information only to the media they perceive as fit to publish the information, and disregard the requests for information by the critical media. This was also confirmed in the 2015 Freedom House's Press Freedom report<sup>44</sup> in which it is stated that the law on open access to public information is "unevenly and selectively enforced, with officials delaying responses and shunning independent or critical media outlets."

The lack of transparency and accountability of the Government was evident throughout the protests described above, but was outright obvious in the case of the student protests. Their communication practices during these protests boiled down to two strategies.<sup>45</sup> **First**, ignoring the calls of the Student plenum ("Plenum") and refusing to enter any discussion or debate with them about the policies that are being protested. **Second**, accusing the Plenum of being party-orchestrated by SDSM and funded by Soros. They also framed the Plenum as a naive and easily swayed movement, unsure about its goals and objectives.

The goal of such accusations and framings was to discredit the Plenum, delegitimize their efforts, and discourage the public to support their cause. However, they have used them whenever a group of citizens or other initiatives criticize their policies.

But, while they were shunning such organizations and movements, they were promoting themselves as accountable and transparent through the "pro-government media". The majority of our interview respondents agree that the ruling government continues to try and build up its image as an accountable and transparent one. In reality however, what they were doing is that they're tackling issues using political rhetoric, and delegitimizing any criticisms aimed at their policies.

The other two cases we analyzed also faced a non-responsive government during their efforts to initiate contact with the authorities, especially the "I Love GTC" movement. According to Nikola Pisarev, spokesperson of the movement "*They haven't given concrete answers to concrete questions. Neither to us, neither to the media.*"<sup>46</sup> According to Maja Vaseva, journalist from Plusinfo.mk, this led to incomplete data and confusions in the media and the public, regarding the process of implementation of the envisaged educational reforms. "*The public was misinformed, citizens received incorrect information, and when the situation got*

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<sup>43</sup> Available at <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eur-asia-2015-macedonia.pdf>

<sup>44</sup> Available at <https://freedomhouse.org/report/freedom-press/2015/macedonia>

<sup>45</sup> It's important to note that these strategies largely applied to the case of the student protests. The other two cases did not face identical problems, although the lack of communication was also present.

<sup>46</sup> Interview with Nikola Pisarev, spokesperson of the "I love GTC" initiative, conducted on 03.04.2015.

*out of control, they closed themselves, and gave incomplete data. In the end, the institutions prevented us to properly do our jobs as journalists”<sup>47</sup>*

The only exception to this was the case with Kezarovski, where the ruling party did not accuse the Initiative Board for the Release of Kezarovski of being party-orchestrated or funded by Soros since they were comprised of experienced media and PR professionals who had ties with the media. Still, their cause and activities, was not given much media attention in the “pro-governmental” media.

## DIVIDED WE STAND: THE STATE OF MACEDONIAN MEDIA

Much has been said about the division of media in Macedonia in terms of political affiliations or support given to political parties. The majority of Macedonian media were regarded as pro-government and a small numbers of them as (mostly) critical to the government and the ruling party. The pro-government media (e.g. Sitel TV, Kanal 5 TV) were among the most watched in the country, and had a far greater audience reach than those that were known at times to be critical toward the government.

The relationship between media and politics in part can be explained by the political influence on editorial policies of Macedonian media through the means of government advertising and other financial incentives (direct and selective subventions and tolerance of tax evasion etc.). The state was one of the largest media advertisers in the Republic of Macedonia and was the single biggest advertiser in private media outlets in 2013. Numbers published in 2014 demonstrate that, in 2012, 2013 and the first six months of 2014 the Government spent approx. 18 million Euros on media campaigning.<sup>48</sup>

The “**pro-government**” media (Sitel TV, Kanal 5 TV) mostly framed the student protests as party-politically orchestrated by SDSM and funded by Soros. Their journalist reports defended the state exam proposal, and similarly to the statements of government officials, lacked the argumentation for introducing such measure, merely transmitting the information and claiming that the exams will improve the quality of higher education. Moreover, in their reports about the protests, they pointed out individuals that are in any way related to the opposition to support their claim that there are party-political interests involved in the Plenum.

The media that **didn’t show bias or favouritism towards any political party** (Telma TV, 24 Vesti, Alsat M TV), on the other hand, generally covered the

<sup>47</sup> Interview with Maja Vaseva, journalist of the online news portal Plusinfo.mk, conducted on 02.04.2015.

<sup>48</sup> However, there was no explanation or justification provided along with the published information about the Government spending during that period.

protests more accurately. They gave the protestors and activists the media space where they could articulate their ideas, demands and messages to the public and the government, and covered the activities of all protest groups. They also did not shy away from criticizing the government for rashly introducing such measures without prior consulting the relevant stakeholders.

## LAST SANCTUARY OF CRITICAL JOURNALISM

Online media proved an excellent outlet for the protestors and activists to voice their opinions and demands in the public, and an invaluable resource for activists in the otherwise restricted media sphere in the country. However, online media still suffer from the same troubling division as the traditional media one, despite being regarded as one of the places where critical journalism is most practiced. This could be due to the online media sphere being the least regulated in the country.<sup>49</sup>

There were several critical online news portals that often criticized the actions of the government (e.g. NovaTV.mk, Plusinfo.mk) during the protests, but there are also several popular ones that were biased towards the then ruling party VMRO-DPMNE (Kurir.mk, Republika<sup>50</sup>). Many “pro-government” online portals quoted each other in their reporting about organizations or persons that are critical towards the ruling party, and often lead smear campaigns against them.

Kurir.mk, one of the known mouthpieces of the ruling party even circled attendees at the student protest, who were in any way associated with SDSM or SOROS (e.g. family relatives of SDSM members), and published those images as proof of their claims that the protests are party-orchestrated. This tactic was later also used by Sitel TV and Kanal 5 TV.

## EVOLUTION OF THE COMMUNICATION PRACTICES OF ACTIVISTS

Media independence and freedom of expression have been severely undermined in Macedonia in the past decade. The media system is being gradually taken over by party-political networks of influence, with devastating consequences for the integrity of the media and journalism. Media clientelism is firmly entrenched as a means of

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<sup>49</sup> There were efforts to introduce regulation of online media within the legislative media reforms in 2013. However, after severe criticism from domestic and international organizations, the legislators decided not to regulate online media for the time being.

<sup>50</sup> The founder of the company Prva Republika DOOEL is Iresine Ltd, registered in the “tax heaven” island of Belize, a popular off shore destination, situated on the Pacific near the North American continent. See more <http://www.mediapedia.mk/medium/republika>

generating financial gain for media owners and executives. These developments have created a culture of complete dependence of the media on the state, making media owners and journalists susceptible to the political will of high-level officials, destroying their financial and editorial independence, and compromising the ethical and professional principles of journalism in the country. On the other side are a few media that are independent from the government and find refuge in alternative sources of funding. Our research confirms that in the case of the student protests, coverage differed drastically from one group of media to the other.

On the other hand, when they are open towards citizens' initiatives, online media can be an excellent opportunity for communication with specific target groups. They can become a space for publicizing issues that would otherwise go unnoticed. These online media have been giving various initiatives (e.g. the student plenum, the Board of Initiative, as well as 'I love GTC') an opportunity to voice their concerns and demands in public. The ownership of media matters, as demonstrated in these cases also: the online media that proved to be open for civic initiatives are mostly owned by professional journalists.

The protest groups in the analysed cases had good communication practices with the public and the media throughout the protests. The Plenum however, grew more comfortable with the media as time passed, having seen the impact they could have with being present on traditional media, in addition to online and social media. However, when the protest groups tried to enter into discussions and communicate with the government concerning the reforms they protested against, the government and the public officials decided largely to ignore all of the movements' requests and calls for accountability.

At the beginning stages of the forming of the Plenum, they did not see the potential that media offered for them to convey their messages and ideas to the public. This led them to even on one occasion ban media access to one of their meetings. Biljana Sekulovska from NovaTV.mk noted that in time, the students acknowledged their potential *"They lacked courage, and resoluteness at the start. But as time passed, they became aware of their power, influence, they tried to establish contact, connect with the media, and they even tried to contact us, NovaTV on their own."*<sup>51</sup> The respondents from the Plenum admitted that this was a learning experience for them *"As time went, it became apparent to us that we have to have some communication with the media and be more open."*<sup>52</sup>

The movement that stood for the release of Kezarovski was comprised of renowned journalists and media professionals from the country. Their close ties

<sup>51</sup> Interview with Biljana Sekulovska, News Editor in the online news portal NovaTV.mk, conducted on 06.04.2015

<sup>52</sup> Interview with Darko Malinovski, representative of the Student Plenum, conducted on 03.03.2015.

with the media prevented the distortion of their cause in the public. This was confirmed by some of the journalist respondents “*It was easier with the Kezarovski movement since we’re talking about journalists who were part of the movement that organized the protests and the communication with them was correct and normal.*”<sup>53</sup> Furthermore, professional solidarity prevailed in this case, and the media, whether they are perceived as pro-government or not, restrained from framing the movement as party-orchestrated, as it was the case in the student protests. The movement that protested against the reshaping of the GTC exterior consisted of people with professional experience in PR and journalism, and it was well versed in communicating with the public and media. It therefore did not face framings by the media and the public officials.

Social media proved to be crucial for the success of the communication practices of the protest groups. They conducted their communication with the public and their target groups mainly through Facebook, as a result of the polarized media sphere in the country, and their low presence in mainstream government controlled media. The activists in all three cases used Facebook to inform citizens about their cause, ideas, and also to mobilize them by publishing calls for attending protests, the prime example being the Student plenum that succeeded to mobilize large masses of people to attend their protest events through their Facebook page which has more than 20.000 supporters.<sup>54</sup>

The students particularly used social media to counter the framings of the pro-government media and some of the public officials who constantly accused the students that they are party-orchestrated. The tactics used by the students involved using humour and satire to gather support and sympathies from citizens. As was mentioned above, the students, their supporters and family members attending the protests were being marked with red circles by some media (Kurir.mk).

As a result, during the December 10, 2014 protest, the students chose to wear red circles made of paper around their heads signalling that they are fed up with the efforts of media and government to discredit them. This stunt was replicated by many of their social media supporters, who marked themselves with red circles on their Facebook and Twitter profile pictures, and placed the tagline “I think, therefore I’m marked” as the accompanying slogan. This was meant to signal that anyone who tries to express an independent opinion is labelled as a member of SOROS or SDSM. Kurir.mk eventually stopped marking students and members of the opposition, and as a consequence, the TV media also ceased labelling them with red circles.

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<sup>53</sup> Interview with Muhamed Zekiri, Editor in Chief of Alsat M TV, conducted on 11.04.2015

<sup>54</sup> Some of the journalists even used the Facebook page of the Student plenum as a primary news source, or as a “lead” for a story.

## RECOMMENDATIONS FOR ACTIVISTS

Initiatives such as the Plenum cannot survive, or transcend into larger movements without constantly developing above all their communication skills and lobbying strategies in order to attract more citizens to their cause. The following strategies and tactics will help them in this process.

- When the protests involve some level of organisation (from the beginning or during the protests) there should be **a minimum of internal organisation of communication practices**. This would mean making contact information easily accessible, providing articulated information about activities to the media, designating different spokespersons to the public to prevent the movements to become associated with one person. Moreover, the movements should strive to establish regular communication practices with supporters and protest participants, and motivate their involvement in the future, and develop contacts with all of the media in the country (TV or otherwise) to prevent being scrutinized that they favor particular media outlets.
- The analysis proved that **social media can be a critical factor of influence and informing** the general public, especially in a media sphere that is for the larger part under a strict government control or influence. Our research also indicated that the advantage of social networks was in that they allowed for a diverse content to be shared rapidly, including the reactions to the anti-protests spins that had been common during the protests. The Plenum was very effective in communicating its messages to the public, with the use of visual means (badges, posters, videos, etc.), and in particular with their reaction to the use of “red circles” that were meant to discredit the protests by demonstrating the ties of protestors with the opposition party and SOROS. These experiences make a strong case for **usage of creative strategies** that can effectively de-mask and counter the anti-protest spins, including appropriation and turning the exact tool of discrediting of protests into an actual tool for self-promotion and mobilization. However, more research is needed to detect the specific patterns of successes and failures in online communication during social uprisings.
- Another component of defeating spin-tactics and public manipulation by the media is to **educate the citizens to critically receive news on a daily basis**. This is essential for teaching citizens on how to understand the way the media messages are influenced, and to read and receive properly the messages that are imparted by the media. Citizens need to be made aware of the strong political ties associated with the media, and understand their true motives

and practices of informing, in order to bypass media frames influenced by political interests. Activists should strive to make these ties known to the public, whether by constantly communicating them through social media, or through some of the online media that also pursue public transparency and accountability.

- **Mass protests** seem to be effective in catching the attention of the public, and that of the government. Therefore, activists should do all they can to stage such gatherings, and make maximum effort to attract a large number of participating protesters, by engaging on social media, and implementing the internal coordination and communication methods mentioned above.
- **Lastly, activists should constantly pressure the government in order to effectuate a real policy change, and ask for transparency from the public officials.** The cumulative effect of the several protest movements in the past several years achieved this effect with strenuous efforts to exert pressure by protests, visual communication with the public, and mobilizing the public through social media.

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**FREEDOM OF SPEECH VERSUS CENSORSHIP:  
EMPIRICAL LANDSCAPE**

**Abstract**

It can be said that when “freedom of speech and thought” acquires “the right to citizenship,” then the history of democratic societies begins. Since the second half of the 20th century, freedom of speech and thought has not only become one of the compulsory categories in national legal systems, but it also has taken a central place in international law. The primacy of freedom of speech is inviolable, while censorship - the largest extent of non-freedom - is unconditionally excluded. This right has multiple and multidimensional nature; hence today, in order to be practiced, this right “covers” a whole series of laws, which enable or guarantee the right to free speech and thought. As freedom of speech and thought is not unrestricted freedom the most important is that the limitations are based on laws and are necessary in democratic society. The level of democracy in any society is not depending only from the formal institutional infrastructure, but also how the freedom of speech is assessed from informal institutions, like the public. The paper analyses research data for different elements of freedom of speech. Such approach provide much broader understanding of the potency of democratic practices of the institutions and citizens of the Republic of Macedonia.

**Keywords:** freedom of speech, censorship, public opinion, media,

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## INTRODUCTION

The central thesis of the paper is that the freedom of expression is the result of certain principles, which praxis presupposes appropriate institutional infrastructure, but also it depends how those principles are accepted from the informal institutions, like the public.

The first part of the paper identified the multidimensional nature of the freedom of the speech vs. censorship, emphasising the role of the media system. In the second part, is given the comparative presentation of data from several research of public opinion in the Republic of Macedonia, with the aim the previous identified different notions of freedom of speech to be empirically concretised and in that way to map the attitudes in regard to those essential categories for democratic capacity of (any) political culture and political system in the Republic of Macedonia.

In this way the paper wants to broaden and also to navigate the public discourse regarding the freedom of speech and parallel to this to point to the need of further research of this issue.

## SHARPENING THE FOCUS

Freedom of speech is one of the fundamental benefits of civilization in global terms. It is about freedom, which today is one of the fundamental human rights.

Historically, struggle for this right can be identified even in ancient Greece and Rome, but in a more contemporary context, commitments to freedom of speech become part of the usual political life only in the 17th century, along with the philosophy of enlightenment, and the struggle against the despotic authority. According to many authors, Milton's speech delivered at the English Parliament against this mandatory prior censorship of the press is taken as a landmark in this context. (Milton, 1644) It can be said that when "freedom of speech and thought" acquires "the right to citizenship", then the history of democratic societies begins. Already in the 18th century, freedom of speech became part of the basic state and legal documents and is mentioned in the Swedish royal Decree on freedom of the press (1766), in the 1776 Declaration of the Rights of the State of Virginia, as well as in the First Amendment to the US Constitution (1791), but also in the European constitutions of parliamentary democracies, such as the Dutch Constitution (1815) and the Belgian Constitution (1831). Freedom of speech is also an integral element of constitutions of more recent dates, and since the middle of last century, this right has been internationally recognized or protected also by the Universal Declaration of Human Rights of the United Nations (Art. 19), as well as by the European Convention on Human Rights (Art. 10).

Obviously, especially since the second half of the 20th century, freedom of speech and thought has not only become one of the compulsory categories in national legal systems, but it also has taken a central place in international law. Hence, it is not unreasonable to conclude that freedom of speech is one of the major civilization pillars, which has an irreplaceable role in development, and likewise in the protection of a range of human rights, and, generally, in democracy.

This right is also embedded in the Constitution of the Republic of Macedonia whose Article 16 reads:

„The freedom of personal conviction, conscience, thought and public expression of thought is guaranteed.

The freedom of speech, public address, public information, and the establishment of institutions for public information is guaranteed.

Free access to information and the freedom of reception and transmission of information are guaranteed.

The right of reply via the mass media is guaranteed.

The right to a correction in the mass media is guaranteed.

The right to protect a source of information in the mass media is guaranteed.

Censorship is prohibited.”

As the quoted Article shows, the primacy of freedom of speech is inviolable, while censorship - the largest extent of non-freedom - is unconditionally excluded. The removal of censorship from the legal system has been present since the 19th century, which is evident in the Belgian Constitution (1831); its Article 25 paragraph 1 reads: “The press is free; censorship may never be introduced; no security may be demanded from authors, publishers or printers.” Similarly, in the Constitution of the Federal Republic of Germany, Article 5 paragraph 1 reads as follows: “Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures, and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship.”

Similarly, the quoted Article of the Macedonian Constitution clearly refers to the polyvalence of the right to free speech, to its multiple and multidimensional nature; hence today, in order to be practiced, this right “covers” a whole series of laws, which enable or guarantee the right to free speech and thought. For example, a series of national legislations, and even international documents, provide for the protection of the work of journalists: protection of the confidentiality of sources

or the right of a journalist not to appear as a witness in court proceedings. In this sense, especially in recent decades, the right to free access to public information, documents, and data has become very relevant.<sup>55</sup> Today, some European countries have a special legal framework relating to judicial proceedings, legislative procedures, or administrative documents to have effective guaranteeing access to and use of official documents.

The rather long history of this right points to the existence of tension, as well as clashes, between guarantees in favor of freedom and their real application, on the one hand, and the practice of interference by public authorities, and even by powerful private interests, into these rights and freedoms, on the other hand. (Price 2015)

Therefore, laws regulating the media system, its infrastructure: the public service and commercial segment, the regulation that determines the concentration in the sphere of the media, also fall under the regulation that should be seen as part of the freedom of speech and thought. (Baker 1989) Economic power and advertising in the media industry can pose a serious threat to freedom of speech and must therefore be taken into consideration when it comes to the protection and implementation of this very right. (Baker 1992; Baker 2006)

Although primary, freedom of speech and thought is not unrestricted freedom. In general, it is restricted by the freedoms and rights of others, and on grounds of national security and/or public order. In some countries, like France and the United Kingdom, freedom is restricted in order to protect the authority and independence of the judiciary. At the same time, there is also a very long list of countries that restrict freedom of speech and thought in order to ensure protection of the privacy and reputation of the individual. Hence, freedom is restricted if it is “used” for insult and defamation, for incitement to racial, religious, gender, ethnic or national intolerance, violence and hatred; and in cases when such freedom psychologically or physically endangers young people (underage) and children, or their development. Freedom is also restricted if it threatens the dignity and private life of the citizen, the right to a fair trial, and the right to presumed innocence.

What is essential for such restrictions is best defined in the second paragraph of Art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which stipulates that freedom of expression is always related to responsibility, which includes formal restrictions, conditions, and even penalties, which are prescribed by law and are necessary in a democratic society.

<sup>55</sup> In fact, even the already mentioned Decree, i.e. the Swedish Law on Freedom of the Press – in as much as it is a law on the freedom of the press in the sense of Milton’s *Areopagitica*: there should be no ban or censorship before the newspaper is printed - also promotes (and is the first European law on) free access to public, state information and documents.

Hence, it is clear that any case of such restricted freedom cannot be identified with censorship.

Therefore, freedom of expression is the result of a series of principles, and their implementation and their practice presupposes a certain institutional infrastructure. This institutional infrastructure (which has a political, economic, and even technical aspect) determines the flow of information in every society. On the one hand, through certain mechanisms, the production and dissemination of information is carried out, and on the other hand, such information is received, processed by the citizens, by individual groups, in general by the public. (Price 2015)

However, evaluating freedom of speech versus censorship, and in general the democratic nature of every society, depends not only on formal institutional infrastructure, but also on the evaluation of these notions in informal institutions, that is, by the public. Indeed, very often, public opinion, citizens, their notion of freedom of expression is the roadmap that the institutions strive to follow.

Accepting the above thesis as unavoidable in determining the complex nature of freedom of speech, in the second part of the text, I will analyze certain data from the public opinion polls in the Republic of Macedonia, which represent the evaluation of some of the elements of freedom of speech versus censorship.

## EMPIRICAL LANDSCAPE <sup>56</sup>

### **Freedom or censorship**

The first contextualization of freedom of speech and thought was done abstractly by emphasizing its inviolability, no matter what social practice and limitation of this right are. This approach was formulated in the viewpoint: “Freedom of speech and thought is the most important one,” and the data show that this viewpoint is acceptable to the absolute majority of respondents - nine out of ten respondents agree with the stated statement. (see: Table 1)

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<sup>56</sup> Comparatively, data from four public opinion surveys involving citizens of the Republic of Macedonia were used, all made according to the “door-to-door” principle on a representative sample of the adult population. The first research dates from 1999, while use was made of data published in: “The political culture of the citizens in the Republic of Macedonia”, published by: ISPPI, 2001 Skopje; the second research was conducted in 2010, while use was made of the data published in: “Political culture and identities”, published by: FOSM and ISPPI, 2012, Skopje; the third survey was conducted in 2011, while use was made of the data published in: “Democratic awareness among the citizens of the Republic of Macedonia”, published by: Kultura, 2012, Skopje; the fourth survey: “Political culture, identities and civil society” was conducted in 2017 by the Institute for Sociological Analysis, while the research project was funded by FOSM, and in this case data from an unpublished research report was used.

**Table 1:** *F freedom of speech and thought is the most important one*

	2017 - %	2010 - %	1999 - %
YES	91	94	95
NO	9	6	5

As the data show, the public for almost 20 years, highly values this right and shows undisputed agreement with the primary importance of this freedom. At the same time, the increase in the proportion of respondents who disagree with the inviolability of such freedom, although small and although not questioning the prevalence of those who agree with the primacy of freedom of speech, should not be ignored. It is imperative to determine the reasons for this negative trend, i.e., in the future to monitor its dynamics as well.

As we pointed out in the first part of the text, as opposed to freedom of speech, the “black side of the medal” as a total negation of freedom is censorship. Having in mind the constitutional prohibition of censorship, but also its undeniable negativity, present in the informality of everyday life, the formulation by which censorship is concretized tries to find a “justification” for it. Namely, the viewpoint which the respondents should approve or disapprove reads: “Censorship in science, culture and the media is useful because people are not capable of distinguishing good from bad.” (see: Table 2)

**Table 2:** *Censorship in science, culture and the media is useful because people are not capable of distinguishing good from bad*

	2017 - %	2011 - %	2010 - %	1999 - %
YES	26	36	39	42
NO	74	64	61	58

The presented data point to two important conclusions as such. One is encouraging and stems from the continuing decrease in the number of respondents who accept such “useful” censorship, and it should be noted that the decline has been greatest in the last few years. On the other hand, the other conclusion can be said to be concerning. Namely, despite the decrease in the number of those who agree with the “noble” censorship, although the ratio between those who agree and those who disagree with such censorship is 1: 3, the fact remains that every fourth respondent would allow such an “enlightened” or “enlightenment” censorship because behind censorship there is an appropriate “authority”, that is, such censorship is based on “high” interests.

At the same time, an additional source of concern is the fact that the number of those who accept such censorship is almost three times higher (26%) than the number (9%) of those who think that freedom of speech is not the most important one. This clearly points to the reduction of firmness in viewpoints when the primacy of freedom is to be assessed, that is, the danger that a “well-packed” censorship can receive serious support.<sup>57</sup>

### Freedom of speech as criticism of laws

The next concretization of freedom of speech is formulated through the viewpoint “Criticizing laws should be prohibited.” (see: Table 3)

**Table 3:** *Criticizing laws should be prohibited*

	2017 - %	1999 - %
YES	9	15
NO	91	85

According to the data, there is a clear positive tendency (which can still be said to be minimal given the large period between the two surveys) of decrease in the number of those who agree to a ban on criticizing the laws. The dynamics of this dimension of freedom of speech point to the conclusion that public opinion expects a democratic political process, while this public opinion also expects that, through a critical public debate, the public interest be defined and protected (which is, of course, the primary function of laws).

### FREEDOM OF SPEECH AS A MEDIA PRACTICE AND A REQUIREMENT FOR PROFESSIONALISM

In the first part of the text, when speaking about the polyvalent content of freedom of speech and media, I emphasized the media system as a necessary element within this freedom. The essential, but also complex connection between the right to free speech as a principle and the daily practice of the media, that is, the journalists, is

<sup>57</sup> It is necessary to emphasize that this is not an abstract, potential, or perceived danger, but a real danger. Namely, in 2015, at the very beginning of the publication of the “political bombs” by the then opposition, the Public Prosecutor of the Republic of Macedonia, Mr. Zvrlevski, sent a letter to the media outlets asking them not to publish the wiretapped phone conversations. Fortunately, such “expert” and “professional” call for censorship was not accepted by all media outlets.

precisely that, on the one hand, this freedom is a prerequisite for their work, and on the other hand, the media and journalists daily, in context of their professional tasks, redefine freedom of speech and/or censorship.

In this context, the first viewpoint is: “Journalists should be prosecuted or punished when criticizing the government or politicians.” (see: Table 4)

**Table 4:** *Journalists should be prosecuted or punished when criticizing the government or politicians*

	2017 - %	2010 - %	1999 - %
YES	7	12	10
NO	93	88	90

The comparison of research data shows minimal dynamics, while in recent years the dynamics are still positive: there is increase in the number of those who are aware of the necessity of professional freedom of journalists, aware of a kind of “professional untouchability” as a prerequisite, that government and politicians be criticized and controlled.

At the same time, precisely because of the minimal changes in the designated period, it can be concluded that citizens continuously expect journalists and the media to report critically on the government and politicians; but at the same time citizens also demonstrate consistency in their expectations of the government and politicians: to let journalists enjoy professional freedom, to be able to do their work without pressures and threats.

The following viewpoint in the context: freedom of speech - profession of a journalist is the statement: “Journalists have the right to disclose even a state secret, if that is of interest to the citizens.” (Table 5)

**Table 5:** *Journalists have the right to disclose even state secrets if it is of interest to citizens*

	2017 - %	2010 - %	1999 - %
YES	72	74	87
NO	28	26	13

The changes show a worrying double increase for citizens who disagree with this viewpoint. The gravity of the concerns arises not only from the indicated increase in the number of those who accept censorship, but also from the stable approval



in the last seven years with this kind of censorship. Finally, the third reason for concern is the context in which increased compliance with censorship is noted. The increase in “state patriotism,” the increase in the number of those who accept the myth of “state” and “state secret” is a direct indicator of increased authoritarianism and a culture of submissiveness among the citizens of the Republic of Macedonia. “Patriotism,” where the state is untouchable above the interests of the citizens, is a direct indicator of the backsliding of the libertarian and, certainly, the democratic capacity of the political culture of the Macedonian public.

## CONCLUSION

This is undoubtedly a small part of the multifaceted freedom of speech. However, even such realistically conditioned choice, thanks to the research data, offers an in-depth picture of the (non)acceptance of the principles in the public, while at the same time it also provides a much clearer insight into the potentials of the democratic practices of politics, institutions, and citizens in the Republic of Macedonia.

At the same time, this also raises the question of the extent to which formal institutions and individual social subsystems (especially the education and media system) have managed to “embed” the complex nature of freedom of speech in the public and raise awareness of the dangers that lurk this right, as well as the need for its permanent protection.

At the same time, especially given the public consent to the censorship when it is “sold” as a high state interest, this points to the need for a continuous and comprehensive study of freedom of speech. Such “self-perception” is a prerequisite for promoting and protecting the right to free speech and is, in fact, the best way to revive the guarantee in Art. 16. From the Constitution of the Republic of Macedonia.

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## **IMPACT OF MOTHERHOOD ON WOMEN'S IDENTITY**

### **Abstract**

Researches about the social aspects of motherhood and maternal roles are being largely expanded as a study or scientific work in the past decades. The following data are part of the research that was conducted with regard to changes and influence of motherhood on the identity of women. Empirical research was done in the form of semi structured in-depth interviews with 27 mothers of children of different ages, on the territory of the city of Skopje. Motherhood stands out as a life transition period in women's life that entered major changes. These changes mainly relate to a sense of maturation, increased sensitivity, compassion, empathy and tolerance, which can be interpreted as a moral transformation of women caused by motherhood. Findings suggest that motherhood brings sudden change in the identity of the woman affecting multiple levels of her personality and life. Changes in maternal roles, suggest that a mother's role is most intense in the preschool period, when the dependence of children is greatest, but the biggest challenge of motherhood, usually occurs when children are in their adolescent period.

**Keywords:** motherhood, identity, transformation, roles, maturity, emotions.

## INTRODUCTION

In the final decades of last century until today, researches on motherhood and parental roles have become popular and numerous. They are the subject of researches conducted by sociologists, psychologists, psychotherapists, paediatricians and other researchers, mainly in the field of social sciences and humanities. Sociology of family, sociology of gender, sociological theories about motherhood, gender studies, psychoanalytic theory and social psychology are largely dealing with the issues of the impact of social context and social aspects of motherhood as an institution, but also as an experience. This text researches how motherhood impacts the woman's identity, i.e. what kind of changes happen to her after she becomes a mother. The identity is a combination of several segments, such as the characteristics, the beliefs, the personality, the physical characteristics and the association with a certain group. Certain events and experiences affect the shaping of an identity, as well as certain personal characteristics, world view points, etc. A great part of the researches on parenthood mention the so-called period of transition and life change.

## THEORETICAL BACKGROUND

The period that is considered transitory or a passage to parenthood is not fixed, but refers to the period when the new member joins the family, till the period when that adaptation ends. It usually lasts up to the first several years of the child's life. Initial researches in this field conceptualise this period as a crisis. The term "parenthood as a crisis" is used to describe the birth of the first child or its arrival in the family. The most accepted and quoted definition is Reuben Hill's one, who says that a crisis is *any sharp or decisive change for which old patterns are inadequate ... a crisis is a situation in which the usual behavior patterns are found to be unrewarding and new ones are called for immediately* (Hill 1949: 51).

In more recent researches, instead of crisis, a more appropriate term used for the period when the first child arrives in the family, is the term *transition*. Alice Rossi in her study "Transition to parenthood" (Rossi 1968) reconsiders the term *crisis*, i.e. *normal crisis*, thinking that it is time to change it with transition to parenthood, i.e. parenthood impact: *There is an uncomfortable incongruity in speaking of any crisis as normal* (Rossi 1968: 26). Rossi speaks about the preparation for parenthood, i.e. of the lack of possibility to completely prepare for this sudden transition towards parenthood.

Generally speaking, parenthood brings numerous joys and positive aspects, but also difficulties that are experienced as negative aspects. The researches that focus on transition towards parenthood, deal precisely with the sudden changes that occur

and that can be classified into two groups: advantages, i.e. pleasures and positive aspects of parenthood and the difficulties, i.e. the challenges of parenthood. The following are among the positive: feeling of fulfilment, the joy of seeing the child grow and mature, enjoying the child's company, the love towards the child, having a purpose to live for, more contact with family and friends, new dimensions in social integration, more topics to talk about with the partner, the feeling of special connection to the child, experiencing and seeing the world with new eyes, etc. The following are most commonly mentioned as negative aspects: the exhausting requirements of the numerous roles, the financial problems, the baby's great neediness, marital conflicts, i.e. the decreased quality of marital life, as well as decrease of the intimacy and sexual contacts with the partner, isolation from the world and attachment to the home, increase of domestic obligations, not having time for anything, sleep deprivation, dissatisfaction with the physical appearance, losing the work identity, depression, fatigue (Hobbs & Cole 1976; McMahan 1995; Nomaguchi & Milkie 2003; LaRossa 1983, Churchil & Davis 2010). These advantages and difficulties also change the way of life, but also one's personality.

Part of the researches shows that mothers feel more mature after giving birth. The data from the research conducted by the sociologist Martha McMahan on mothers experiencing motherhood shows that there is a difference between the feeling of maturity in middle and working class mothers. Namely, middle class mothers think that they first needed to feel mature before they become mothers, while for working class mothers; it was precisely giving birth to the first child that gave them a sense of maturity. (McMahan 1995: 91). One more advantage of motherhood, according to the results from the mentioned research, is a deep change that leads to moral transformation of the Self. The interviewed mothers declared that in some way they experienced *moral development*, explaining it as feeling less selfish and self-centred, while feeling more responsible and caring towards the child. (McMahan 1995: 154).

#### CONDUCTED EMPIRICAL RESEARCH ON CHANGES THAT OCCUR WITH MOTHERHOOD

The need to explore the impact of the social context, the social aspects of motherhood appears as a scientific necessity to question re-examine the existing theories, ideologies and myths about motherhood, such as myths about "good mother" and "bad mother", as well as their impact on the experience of motherhood, self-confidence, performance of the role, changes in mother roles throughout the generations and ages of children and, finally, the well-being of women.

The following data are part of the research that was conducted with regard to changes and influence of motherhood on the identity of women. Empirical research was done in the form of semi-structured in-depth interviews with mothers of children of different ages, on the territory of the city of Skopje. In accordance with the applied qualitative methodological approach, in respect to the demographic characteristics, the sample used for this research was quite homogeneous. These were biological mothers, of Macedonian ethnicity, whose socio-demographic status gravitates around the middle class, married, with high-school or university education, who live in the urban part of Skopje. The sample of interviewed mothers was recruited by snowball sampling and through recommendations. 27 in-depth, semi-structured interviews with mothers were conducted. The mothers were divided into 5 groups according to the children's age. Although the perception is that the term "mother" mainly referred to a woman-mother with a small child or children, the research breaks this stereotype perception, including the mothers of children of all ages, including those that are also grandmothers, and at the same time it gives an opportunity for comparison.

The five groups of mothers were made up in accordance with the following children age groups:

- Mothers of child/children from the age of 0 to 6. This category, as it can be concluded, includes mothers of preschool children.
- The second group of mothers includes the mothers of school children from the age of 7 to 12.
- The third group of mothers were mothers of teenage children, i.e. from the age of 13 to 17.
- The fourth group of mother were mothers of children that are of age, i.e. from the age of 18 to 26.
- The last group of interviewed mothers included the mothers of offspring at an age above 27.

## FINDINGS FROM THE RESEARCH

Parenthood is considered to be one of the periods of transition in the parents' lives, especially the mothers', because almost in all societies, the main care for the children was the mothers' obligation, or an obligation of the female members. The changes from motherhood are generally interpreted as an increased feeling of responsibility, a sense of maturing, being tolerant, more emotional and strong. When speaking of periods of life transitions, the interviewed mothers mention motherhood as the most significant one.

Topics and questions discussed with mothers that are presented in this paper were to describe this experience when they become mothers and if they felt that this new role have changed them and in what way.

Questions from the interview:

Does becoming a mother changed you, your personality or characteristics in any way? Can you describe those changes? Can you make a comparison of how you were before and after you've become a mother? What aspects of your life or personal characteristics were affected when you become a mother? Have you notice any changes in your self-confidence after you've become a mother?

More than 90% of the interviewed women say that motherhood changed them as person. One third of them mentioned that the change that motherhood made to their character is huge. More than half of the mothers said that motherhood changed them to a certain extent. Only few of them did not notice any changes in their personalities after they became mothers.

Regarding the difference in children's age, it can be noticed that there are differences related to when the woman became a mother, i.e. what her child's or children's age is. It was observed that the intensity of this experience in mothers of small children (0 to 6 years old) is much more expressed, stronger than in mothers with older children. Also, a stronger sensation of personal change after becoming mothers was also observed in mothers with school children. Mothers with teenage or older children noticed that they had experienced changes to a certain extent, but less drastic than those experienced by mothers with smaller children. The reason for the differences in the intensity of the change can be due to two reasons. First, the mothers with smaller children experienced that change more recently and still have fresh memories of their personality before motherhood. While the mothers of older children are more set in their motherly identity and the emotional recalling of the experience before and after they became mothers is to a certain extent a bit weaker.

On the other hand, something that should not be neglected is the influence of the social context, political environment (Greenlee 2014:168) and the changes that occur in the process of building the parental roles through socialisation that has its differences depending on the social values and the norms dominating in certain time periods. Natalia, the eldest of the interviewed mothers, speaks of these influences. She had not noticed special changes in her personality when she became a mother and thinks that that can be attributed to the time in which she become a mother and to the social and political context which influenced the building of the roles especially gender roles in that period.

*We were not brought up the same way you were. Mind you, we were aware and mature. I don't know, I did not change much. As, four children grew up with our mother. Family closeness between the parents, the father and the mother, had nested in us. Of course, my father and my mother were different. He worked, she was a housewife. It was clear what the role of the housewife was, it was clear what the role of the breadwinner was. Now both partners are breadwinner and both roles should be similar. I simply adopted that continuity of the family feel, of bringing up children. (Natalia, a 73-year-old mother of a daughter 50- and a son 46-years-old)*

Borka, who had already as a 16-year-old medical school student single-handedly delivered many women's babies as part of the practical training, also believes that her personality had not changed much after she had become a mother it was normal not to feel huge change at that time. At that time women were more prepared for switching in to motherhood, upbringing has prepared them to accept that change without any sort of stress.

*I do not remember anything of that sort. I don't know... I was prepared for children and for a family. I was prepared, so it did not come as a stress or shock. (Borka 58 years old, a mother of two sons 33 and 37)*

Unlike them, the interviewed mothers with younger children said that they felt more significant changes in their personality.

For Eva this was a major turning-point in life. She felt she was completely changed with respect to how she experienced herself, but also regarding household work, which she thought that previously, was more equally distributed between the spouses.

*This was definitely the biggest turning point in my life and it was sudden. OK, not much time has passed, but I can't really remember the old Eva, how I was, how I experienced myself before motherhood. In the photos I noticed that before, when I was a girl, my face was happier, and after I became a mother, a veil of worry is constantly present. I mean, I lack that happiness that carefreeness brings, the joyfulness of a child (laughter). The feeling of worry is constantly with me, I lost my carefreeness. One more thing that I became aware of is that I did not become a housewife when we started to live together with my husband, but only after I became a mother. We both did not worry about home too much, it seemed as if we were more equal in the responsibilities that we had, but maybe that was because there was no one to make such a mess. After I became a mother, it is no longer that unimportant and if I want the home to be cleaner, tidier and to have lunch on the table for the sake of the children, I take it on as my responsibility...*



*Also, I think that my emotional balance was disturbed after I gave birth to my son, I can now cry at something that is quite banal. It is as if I somehow forgot how to be myself the way I was before motherhood (Eva, 35 years old, mother of 5- and 2-year-old children)*

Similar experience in regard to noticeable change in some personal characteristics was shared by Maja. For her this turning point was most visible with regard to maturity, her independence and awareness that now she could manage to do everything. She explains these newly found characteristics with regard to her relationship with her mother; as if she suddenly freed herself from the protective cuffs that she felt due to her mother's dominance:

*The main change occurred in the sense of: I can do everything myself, I am grown up now. Before I was under great influence of my mother who is a very strong woman and has an opinion about everything and rarely changes it, meaning that she is not very flexible with respect to such things, so I was under her protection. Actually, as I matured and grew up, it started to bother me and I could not deal with it. At the moment when I left home, it was not so intense because without children, without somehow... We did even not communicate that much, but from the moment the children were born, I somehow felt grown up. It is as if I have the strength and courage to say: I am all grown up now and I can do everything by myself. (Maja, 35 years old, mother of children of 5 and 3)*

The preoccupation with the physical appearance is not to be neglected in motherhood. The physical changes were mentioned by several mothers when they were asked about the changes that motherhood brings in terms that their body shape appearance declined. And this change has also affected their self esteem.

Jasmina's first association regarding the changes was precisely the physical appearance; although she goes on to explain the changes in her personality, as well as of the priorities in life.

*First of all, great physical changes (laughter). That is definitely something that is immediately visible. It bothers me a little, there are "parts" that will never be the same. There are other changes as well. You know, after I became a mother, I think I became more intuitive compared to before. I somehow intensely sense things, especially things related to the children. More sensitive in the aspect that something can very easily make me cry, soften me up and hurt me. I see other children as I see my own... Also, before, I was very organized with many activities and everything was very precise and orderly. Now, there is work, the children, activities with them, so I do not have much*

*time. It is probably a question of prioritizing. (Ana, 39 years old, mother of children of 4, 7 and 11)*

Aside for these changes, regarding maturing, abilities, independence, responsibility, the mothers also spoke of emotional changes. Aside for Eva and Jasmina, this change was also mentioned by Milena. She speaks of increased emotionality after becoming mother, as well as empathy towards some unfortunate situations involving children in everyday life or portrayed in films. It is as if she simply feels maternal not only towards her child, but towards children in general.

*Now I can not watch everything, I can't bear to look at violence; I can not stand to hear about abuse, especially not of children. I change the channel immediately. Or murder... I can't stand to watch any of that. My current phase is tender and sweet. Anything evil concerning children... I just can't. I can't... Or photos of starved children, pleas for help. I can't stomach that. (Milena, 35 years old, mother of a 6-month-old son).*

Regarding self-esteem after becoming mothers, it is noticeable that motherhood brings increased self-confidence in women.

“Highly increased self-confidence. Now I am convinced that I am capable, I am ready to raise the baby. I can guarantee the life of both me and baby, alone. So I can totally be independent, in decision-making and in support. Today if I need to ..., to upbringing it myself, to pave the way alone, I think I am capable.”

(Gordana 42, mother of children from 9.5 and 8 years)

The changes that were described by mothers were generally related to the *maturing* process, expressed by a heightened feeling of responsibility, maturity, ability and goodness in them, and on the other hand, the changes largely affected the *emotional aspect* of the mothers' personality, who, after becoming mothers, felt more emotional, compassionate, empathic and tolerant, compared to the period before becoming mothers. What they lost is mainly a feeling of carefreeness and spontaneity that they used to have. Another thing that is affecting the strength of the feeling of change was the period of time in which some of the interviewed women were becoming mothers. Those who become mothers in the past century had felt more prepared for the new role and this shift was not experienced as significant change in their identity.

## CONCLUSIONS

The personal changes in mothers such as the feeling of maturity, becoming a more responsible person, more capable person, the heightened compassion and empathy, are recognised in other researches as well that treat the changes in the mothers' personality. McMahon refers to these changes as a moral transformation and a moral reform of women, especially evident through the moral aspects of the role itself, of someone that takes care of the children and nurses them. According to her, this is not only a second socialisation or resocialisation of women when they mature by learning new ways of acting and bearing, but a *change in their hearts* (McMahon 1995: 129), a change in how they experience and perceive things.

The above findings speak of the fact that motherhood brings a sudden change in life and at the same time, in the identity of women by changing the components that it is made up of, i.e. influencing more segments in her life. However, it is noticeable that there are differences of the impact of motherhood on women's identities according to the period of time and the context in which these women lived. Mothers who were also grandmothers reported that the impact of this new role was more subtle compared with mothers of children of younger age where this impact was generally described as significant regarding their personality and as sudden change and turning point in life. Earlier, gender roles were clearly divided and there were no major deviations from it. Today, thanks to the changes that have occurred regarding gender equality and women's rights movements, there is a wider range of opportunities and choices to make for women. And what is also noticeable is the increased mode of practicing more child-centered way of upbringing children. According to sociologist Milic, "child-centeredness" as a practice, attitude and behaviour by parents, was based on the new assessment of the child as a value (Milic 2001). The child as a central figure in the family appears only at the beginning of the 20th century and according to recent research it can be concluded that this practice is becoming even stronger in this century and is mixed with multiple roles and areas of interest for women, making this process of gliding into maternal role with a stronger experience of personal change.

The changes in a mother's role that happen in relation to the age of the children, show that the maternal role is most intensive in the preschool period, when the dependency of the children is the greatest, becoming an important and dominant source of the woman's identity, but the greatest challenge of motherhood appears mainly when the children are in their adolescent period.

Certain life events or processes bring changes in people lives. Motherhood is certainly one of the life events that comes sudden and have impact on women's life. The strength of this impact on women's identity depends on the time period and cultural context when they become mothers.

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