

# THE HUMAN RIGHTS SITUATION IN THE REPUBLIC OF MACEDONIAN AS A PRECONDITION FOR EU MEMBERSHIP

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## Abstract

The problem of research is very current for many reason. The freedom of human rights has always represented and in the future will represent an interest not only for the science and the theory but much more for the politics and the practices. The realization on the human rights today is treated from an aspect of international accepted standards above all from the United Nations organization (UN), The European council and OSCE and with special review to the European Union standards decanted into the Copenhagen criteria. The research about human rights for Republic of Macedonia is significant from many aspects: The process of Republic of Macedonia joining the European Union after the submission of a membership application. After the accepting the obligations of the Pact for stability, ratification of the agreement on Stabilization and association of the European Union and the European partnership with emerged from the Summit in Thessaloniki in 2003 and the additional criteria established from the European Union (bench-marks), precisely the realization of this rights directly related with an existence of democratic institutions in the system and rule of the law takes central position. The purpose of this paper is to perceive the crucial characteristics of the human rights and their protection in Republic of, Macedonia which as a member of the UN, European council, OSCE and especially as a state-candidate for member of the European Union is obligated to implement, protect and improve this rights through analyzing the mechanism for protection of the human rights in Republic of Macedonia, by putting a special accent on the implementation of the political criteria from Copenhagen and the Ohrid Framework agreement, as one of the criteria not only for European Union membership but also for negotiation date.

**Keywords:** *human right, Ohrid Framework Agreement, Copenhagen criteria, monitoring, European council and OSCE.*

## **Introduction**

Indivisibility and interconnection of human rights, which testifies this paper are very important for understanding of human rights as a way of life.

Wherefore every society human rights and freedoms to standardize constitutional, statutory or other documents so that they can use them as a real realization of ideas, because it is a small number of states that do not respect human rights and freedoms equally and evenly, but also hinder or prevent the political means or another social segment.

This is not just a problem of a particular state or a particular person, but is a problem of the whole of humanity because without real realizing of the rights and freedoms we cannot have a healthy and developed society.

European system for the protection of human rights is best elaborated regional system. It has developed as a reaction to massive violations of human rights during the Second World War. human rights, rule of law and democracy are cornerstones of the European legal order.

The European human rights system has three layers they are: Council of Europe, the system of the Organization for Security and Cooperation in Europe and the system of the European Union.

The system of the European Union for the Protection of Human Rights, though the European Economic Community established in 1957, is not dealt with political issues such as human rights, the political integration of Europe into the EU, a process which began in 1980, allowed human rights and democracy become a key concept in the common European legal besides.

Since 1980 the European Union has also developed policies on human rights in relation to third countries, which are reflected in the so-called Copenhagen criteria adopted in 1993 for the recognition of new states of southeastern Europe. the countries of Southeast Europe despite the Copenhagen criteria should have signed a pact for stability and Agreement for the Stabilization and Association

## **Relations between Macedonia and EU**

The integration of the Republic of Macedonia in the Union began with its independence in 1991, when being part of EU, consensual it was declared like an strategic aim of Republic of Macedonia therefore continuously are taken political steps for the increasing relations between Republic of Macedonia and EU.

The continuity begins in October 1992, when Macedonia named in Brussels it is own representative, and three years later, in 22 December 1995 has established diplomatic relations with EU, which a period after the Union has opened the negotiations with R.M in order to have an agreement with a wide scope of cooperation in the field of trade, financial operations and transport. In March 10, 1996 RM became a full partner in the PHARE program, three months later in the same year in Brussels, were signed Cooperation Agreement between the RM and the European Communities and Transport Agreement. On 21 and 22 March 1998, in Skopje, was held the first meeting of the Cooperation Council.

The Council was formed to monitor the implementation of the Cooperation Agreement, achievements and developments in structural reforms, as well as suggestions and guidance on specific issues.<sup>4</sup>

Using the stability pact for the countries of Southeast Europe, 1999 (which is not a document of the European Union), Macedonia continues the process of European integration through the stabilization and Association Agreement, through the signing of the Stabilization and Association Process in 2001, which represents a significant step closer to the EU.

For the countries of Southeast Europe and Macedonia despite the Stability Pact and Association Agreement Stabilization, there must be completed the criteria of Copenhagen adopted the Treaty of Maastricht.

The Treaty of Maastricht (1992) (Article. 49) said that any European State which respects the principles of the EU can apply to join. This provision includes two main geographic- conditions and principles. In terms of geographical criteria, it should be noted that neither the EU or the candidate stat have the power to change the geographical reality.

The necessity for compliance with this principle is confirmed much earlier in the process of expanding-in the very first begining, with the adoption of the first thought for the post application of a particular state, so that this criterion was never subject to elaborate.<sup>5</sup>

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<sup>4</sup> [www.sep.gov.mk](http://www.sep.gov.mk).

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The principles for accession to the European Union formally described as criteria for membership in the EU mostly related to the Copenhagen criteria, such as political and economic criteria for first place at the Copenhagen Summit of the European Council.

The basis of political criteria consists the obligation of States to provide candidates: stability of institutions guaranteeing democracy,<sup>6</sup> rule of law,<sup>7</sup> human rights and respect for and protection of minorities. After the entry into force of the Treaty of Amsterdam (May 1999), these requirements were fitted as constitutional principles in the EU Treaty, and were pointed in the Charter of Fundamental Rights of the European Union, proclaimed by the European Council in summit of Nice in December 2000.

The basic political criteria above all, in the section on human rights necessary for the protection of human rights are the following:

- Consolidation of democracy
- Confirmation of the rule of law
- Highlighting the human dignity
- Respect for human rights

This concept had in mind the most prominent feature of Europe as a continent:

- The diversity of people who are determined to keep their traditions and culture, but also their common experience of creating states on the territorial principle.

In this regard were made two efforts coming to clue:

- The model of society based on universality and equality of rights of all members (the enjoyment of these rights represents a liability of the state)
- Attempt to establish their own identity through belonging to a community with a specific culture, religion, ethnic origins and lifestyle.

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<sup>5</sup> Article 49 of the Treaty of Maastricht is talking about the principles of the EU to be met for a country to be able to apply for membership. Do not mention the possibility of expansion in terms of non-European countries. The case of the application of Morocco and talks about closer integration of Israel showed that European countries is impossible to acquire a full EU membership.

<sup>6</sup> Democracy basically means opportunity for all citizens in a country to be able to participate on equal basis in the political decision-making at all levels (municipal enabled to most high nationally). It also includes free and secret elections, the first to establish political parties without any interference Cavite by the state fair and equal access to free media, free union organizations: executive power limited by law and free access to independent judges.

<sup>7</sup> Rule of law in essence of this principle is that the power can be exercised in accordance with written laws, which were adopted by the established procedure. This principle aims to prevent the possibility of arbitrary decision-making in individual cases. In order to meet this set of requirements, several Central European countries that recently joined the EU, had drastically improve their court proceedings, making it more transparent and introducing affordable appeal.

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In formulating the political criteria Heads of State and Government had in mind section of the preamble to the Convention on Human Rights, Council of Europe are:

- The basis of justice and peace in the world ... best maintained through effective political democracy, on the one hand, and through mutual understanding and respect for human rights ....

Obligations undertaken by States Parties in accordance with Council of Europe, which apply in relation to the basic political criteria and Copenhagen:

- Respect for fundamental principles of international law, which means that the country has undertaken international obligations is bound to carry out, if necessary, and to make changes in its domestic legislation in order to meet commitments;<sup>8</sup>
- Parties are required to be taken to harmonize national legislation with the Convention;<sup>9</sup> as well as
- Convention is applicable to all authorities of the contracting parties, including the legislature.

Undeniable is the fact that respect for human rights as a precondition for EU membership has forced some countries that recently joined the EU to make significant reforms in their legislation, public administration and the judiciary. Many of the changes are directly related to the treatment of ethnic and religious minorities.

According to the spirit of the Copenhagen criteria involves the members of national minorities have the opportunity to maintain their culture, which includes their language (as long as it does not conflict with other human rights, democratic procedures and the rule of law), without discrimination.<sup>10</sup>

The direct introduction of this criterion (protection of minorities) represents the situation in Southeast Europe, and is taken as a basis Framework Convention of the Council of Europe. In the field of protection of minority rights, the Convention represents an important document. Due to the high sensitivity of this matter, the Convention does not contain a clear definition of minorities. As a result, many of the signatories to the explanations given official signature, against which minorities in their country that applies (which minorities included).<sup>11</sup>

Many other states have simply declared that among them there are not such minorities. But still come to a consensus so that the Convention applies to every ethnic, linguistic or religion group that defines itself as a distinct group, which formed the historical population and represents a

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<sup>8</sup> Exchange of Greek and Turkish populations 1925, PCIJ, Ser. No 10, Para. 20,21.

<sup>9</sup> Article 64. of Convention.

<sup>10</sup> Convention for the Protection of National Minorities, COE, (1995).

<sup>11</sup> List of declarations made with respects to treaty No.157.

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significant historical or cultural minority in a well defined area, and maintain stable and friendly relations in the country in which they live.<sup>12</sup>

The basic criteria (political, economic and institutional) that the Western Balkan (Macedonia, Serbia, Montenegro, Croatia, Bosnia and Albania) have to fulfill to join the EU apply to other European countries. But Western countries must also meet specific criteria in the process of stabilization and association.<sup>13</sup>

These criteria includes despite everything a full cooperation with the International Tribunal for the Former Yugoslavia,<sup>14</sup> respect for human and minority rights, creating real opportunities in terms of refugees and internally displaced persons to return and visible commitments to regional cooperation.

European Commission supports states in their efforts to achieve progress in meeting the set requirements, whatever was demonstrated in the Thessaloniki Summit and the Summit between the EU and the Western Balkan held in June 2003.

The most significant deal for the Republic Macedonia from the full field which depends its full membership is the Stabilization and Association Agreement signed on 9 April 2001. On 1 April 2004 (after ratification by the Republic Greece), the Agreement entered into force, and the first meeting of the Council and the Stabilization and Association Agreement was held in swabs. Furthermore, the European Partnership adopted by the EU on 14 June 2004 as a consequence of the Thessaloniki Agenda is in the process of implementation.

Successful implementation of priorities of the European Partnership would mean that states have the institutional and legal framework and administrative capacity of a modern democratic society function in a market economy, which would directly affect the progress towards EU membership.

European Partnership for the Republic of Macedonia is based to the provisions contained in Council resolution no. 533/2004. It contains short and medium-term priorities that Macedonia should meet afterward EU integration, identified in the annual report of 2004. The main

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<sup>12</sup> Particular attention is due to minority in the context of EU enlargement in terms of countries of Central and Eastern Europe. Type The PHARE programe-budget lines granting assistance to the contries of Central and Eastern Europe, B-7-030; the accesses programme budged line aimed at strengthening the civil society in candidate countries of Central and Eastern Europe, B 7-500; The European initiative for democracy and human rights, Chapter B 7-70; and Commission Communication on the EU' s Role in Promoting Human Rights and democratization in Third Countries, May 2001.

<sup>13</sup> Set out in the Conclusion of the General Affairs Council in April 1997 and in accordance with the Commission Communication of May 1999 on the establishment of the Stabilization and Association process (COM (99) 235).

<sup>14</sup> Cooperation with the UN represents a legal obligation under Resolution 827 of 25th May 1999 the Security Council of the UN. But an obligation arising out of the General Framework Agreement for Peace (Dayton / Paris Peace Agreement).

priorities for Macedonia in the realization of its capacity to meet the Copenhagen criteria, the conditions established by the Stabilization and Association Agreement, the terms defined basis by the Council in its conclusions of 29 th April 1997 and 21 to 22 June 1999 contents the final declaration of the Zagreb Summit of 24th November 2000 and the Thessaloniki Agenda, the European Partnership identifies the most important priority issues that Macedonia has to realize in the process of accession to the Union, based on an analysis of the annual report of 2004 that concluded that whenever legislation is concerned, the incorporation of the *acquis* it is sufficiently done, and that is necessary to prepare for full implementation. Among other things, to ensure the functioning of the state institutions of the territory; implementation of the Framework Agreement, promoting the functioning of the public administration;<sup>15</sup> strengthening of the judicial system by preparing complete reforms;<sup>16</sup> promotion and respect of human rights by the authorities established by law;<sup>17</sup> advancing the fight against corruption;<sup>18</sup> promoting freedom of expression, the promotion of regional cooperation in accordance with the requirements of the Stabilization and Association Agreement and the commitments of the Summit in Thessaloniki;<sup>19</sup> adoption of a legal framework for cooperation with the tribunal for the Former Yugoslavia, and implementations of international agreements concluded by the Former Yugoslavia.<sup>20</sup>

All claims directly or indirectly related to human rights as defined in international instruments and agreements such as the EU and the Copenhagen criteria.

Since 1997, the European Commission gives annual reports for the Central and Eastern European applicants for EU membership on issues related to the fulfillment of the Copenhagen criteria. For this purpose, the Commission has developed a methodology in the context of Agenda 2000.

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<sup>15</sup> Full implementation of the law on civil service (Lanji on civilian Services) Implementation of strategic plan development, promotion of transparency and administrative brings the law on public access to information; reforms in administrative procedures and laws for the development of administrative disputes, full of implementation ombudsman law of 2003 and complement the reform office ombudsman etc.

<sup>16</sup> Review the current system of selection, appointment and promotion of judges and prosecutors with Sal to ensure political independence, irremovability of judges and career advancement; preparation of necessary constitutional and legislative changes that will ensure the independence of the body authorized for selection and promotion career; simplifying judicial procedure, improving the performance of judicial features, introducing alternative mechanisms for dispute resolution, including arbitration and mediation in criminal cases, strengthening institutional capacity for training judges and prosecutors, etc.

<sup>17</sup> Ensuring full compliance with the European Convention on Human Rights. The Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well as other relevant international conventions, respect for rules for jail before trial; promote policy awareness among judges and prosecutors on their obligations to respect human rights and ensure their implementation in accordance with international requirements.

<sup>18</sup> Implement the strategy to combat corruption, increase institutional capacity for research and processing of corruption adoption of appropriate legislation for the functioning of political parties.

<sup>19</sup> Providing implementations of the agreements of free trade, continuing the process of signing agreements with neighboring countries, including cross-border cooperation in the fight against organized crime, judicial cooperation, trafficking, improving border and ensuring effective implementation.

<sup>20</sup> Council decision on the principles, priorities and conditions contained in the European Partnership with Republic of Macedonia, Commission of the European Communities, COM (2004), pp.2-8.

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According to this methodology, the annual report to assess the progress the country has made in terms of legislation, measures are adopted or implementation towards meeting the Copenhagen criteria. This approach ensures equal treatment for all the candidate countries and provides objectivity in providing assessment of the situation in each country.<sup>21</sup>

In terms of human rights, the Commission analyzes the way in which the candidate respects and implementation most important provisions of human rights conventions, particularly with respect to the above Implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In terms of respect for minority rights and their protection, the Commission pays particular attention to the Implementation of the various principles embedded in the Framework Convention for the Protection of Minorities of the Council of Europe. The measures undertaken by the state in the fight against corruption are also subject to review and evaluation and in the area of human rights. With respect to all States candidates reports identify areas where further efforts are necessary or reforms should be carried out to get to meet these criteria.

The objectives of EU cooperation with RM represent an integral part of the Stabilization and Association Agreement, which represents EU policy which reflects the political and strategic importance of the Balkan countries towards EU integration. This process represents a framework in which new contractual relationship (contract SA) and assistance program (CARDS) need to help each country to progress to the full membership of the EU.<sup>22</sup>

The 22nd March 2004 Republic of Macedonia applied for EU membership. The European Commission was asked after that on 17th May 2004 by the Council of Ministers to prepare an opinion on the application. Among the sources of information used by the Commission in the preparation of opinions in the answers. What actually constitutes questionnaire? The questionnaire is a working tool that should allow facilitating dialogue with Commission officials carried out in order to assess whether the country is ready to assume the rights and obligations of EU membership.

Responses are expected to be as concrete as possible in order the Commission to ensure proper understanding of the situation and the level of implementation reform. The questionnaire covers

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<sup>21</sup> Progress in the identification of each criterion shall be assessed in accordance with detailed standards for authentication, allowing assessment to be made in respect of the same aspects of each country providing transparency in dealing. The adopted reports based on cross-checking a number of sources, starting with the information given by the candidate as well as many other sources including the European Parliament reports, evaluations made by the member states, as well as sources of international organizations and nongovernmental organizations. In order to evaluate the extent of the achieved political criteria, the Commission not only provides a description of various institutions (parliament, executive and judiciary), but examines how various rights and freedoms are being implemented in practice.

<sup>22</sup>For example, the European Community helps in the process of judicial reform, starting with the PHARE program 200, continuing CARDS 2,001th CARDS Assistance Program European Commission (2002-2006), p.5.

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political criteria for membership in EU (especially functioning of the democracy, the rule of law, human rights and protection of minorities), economic criteria, as well as all areas of EU legislation, based on the 35 chapters. The answer to these questions will provide material that will help the Commission to analyze the issue whether the state is willing to undertake the obligations related to membership.<sup>23</sup>

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<sup>23</sup> In compiling the response commission as source use and opinions of the delegation of the European Commission, international organizations active in the country, statistics and economic information from sources such as OESD and the International Monetary Fund. The deadline for submission of opinion by the Commission to the Council of Ministers depends on the quality of information provided by the state and the need for further clarification or consultation.

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## **Conclusion**

Despite the fact that EU is primarily economic union, human rights for it are of growing importance as the relations between member states, and on issues related to its relations with non-member countries, in particular candidate countries EU.

Respect for human rights long time was not associated with membership, mainly because implies that members of this organization respect human rights. All while they were both signatories to the European Convention on Human Rights and the the European Court of Justice was responsible for human rights, while building up the practice to protect them.

Considering all this exposure forward, I would like to underline that ultimately undeniable fact remains that the time for accession by any State in the EU depends on the progress made in the process of preparing for membership, especially as most important remains the fulfill of political criteria together directly related to international commitments and contractual obligations of the EU Treaty, Amsterdam, Nice and Lisbon under the Copenhagen criteria and conditions contained in the Stabilization and Association.

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