Journal of Social and Human Sciences

INTERNATIONAL BALKAN UNIVERSITY

INTERNATIONAL BALKAN UNIVERSITY
JOURNAL OF SOCIAL AND HUMAN SCIENCES

SPECIAL ISSUE 2018 - VOL. 1
ISSN: 1857 - 9051

INTERNATIONAL JOURNAL OF SOCIAL AND HUMAN SCIENCES

PUBLISHER:
International Balkan University
EDITOR:
Prof. Dr. Mehmet Dursun Erdem
DESIGN & DTP:
Vladimir Gjorgjieski
PRINTED BY:
CIRCULATION:
200 pieces
PLACE OF PUBLICATION: Skopje

ISSN 1857 - 9051

IBU International Journal of Social and Human Sciences is an international, interdisciplinary peer-reviewed journal that aims at keeping the Macedonian and International society up to date to contemporary social and humanistic related themes. The journal provides a space to integrate contemporary research with ongoing news, training, politics, theory and practice. It covers the fields of scientific and academic knowledge, through presenting high quality, original and recent studies focused on theoretical and methodological tools in order to gain new insights by integrating different perspectives, social and cultural contexts, psychological aspects, economical and managerial aspects, artistic, communication and new media advances, alternative theories and techniques from all. Through its publications the journal seeks to present a holistic meaningful experience for readers. It aims to foster an ongoing scientific platform to explore and exchange professional views on all important topics covered by each edition, while looking at current issues and dilemmas within the Macedonian culture, Balkan culture and internationally. IBU International Journal of Humanities and Social Sciences welcomes authors from all fields and disciplines to impart their knowledge with our readers.

The research papers that could be accepted are: articles, communications, intervention studies, study cases, book reviews, commentaries, short reports, etc.

The research papers can be submitted on-line on the following address editor.jshs@ibu.edu.mk

IBU International Journal of Humanities and Social Sciences is published quarterly in English, with possibility to have some articles published in Macedonian and Turkish.

COPYRIGHT AND PERMISSION

Those who wish to request permission to copy for resale, creation of new works, general distribution or promotional purposes, must please write to International Balkan University info@ibu.edu.mk. Authors are responsible for all statements made in their work and for acquiring necessary permission from copyright holders.

IBU International Journal of Social and Human Sciences is an International Interdisciplinary Journal in the Field of Humanities and Social Sciences, (ISSN 1857 - 9051) published quarterly in four Volumes per year by the International Balkan University. info@ibu.edu.mk; address Tashko Karadza 11A, 1000 Skopje, R. Macedonia

IBU JOURNAL OF SOCIAL AND HUMAN SCIENCES PUBLISHING RULES

Those who wish to contribute to the journal should pay attention to the following publication rules:

1. Papers have to be in English.

2. Papers submitted to the journal should not be previously published in English or in any other language.

3. The first page of the manuscript should contain the following information: -the title of the article -the name (s) and institutional affiliation (s) of the author (s), -the address, telephone and the fax numbers as well as the e-mail address of the corresponding author (s), and

4. An abstract up to 200 words with key words included.

5. Paper Length preferably up to 3000 words.

6. For the purpose of the review, please include active statistics/excel sheets, graphs or bars while for the final print all tables/charts, formulae and graphs should be put as images.

7. Notes should appear at the bottom of the page. They should be numbered consecutively and indicated in the text by superior numbers.

8. APA or Harvard referencing style should be used. References should be listed alphabetically at the end of the paper.

9. Disclaimer: the Publisher and Editors cannot be held responsible for errors or any consequences arising from the use of information contained in this journal; the views and opinions expressed do not necessarily reflect those of the Publisher and Editors.

10. Plagiarism: all papers should be free of plagiarism according to academic standards.

11. Papers will be anonymously reviewed by two peer-reviewers and all comments and remarks will be sent anonymously as well.

Invited Editor

Asst. Prof. Dr. Natalija Shikova

This issue consists of different analysis in the field of law, politics and international relations. The analysis is based on authors' perception and separate modes of reasoning. Similarly, the following articles written by several researchers represent the variety of views and diverse perceptions connected with the topic presented at the International Conference for Social Sciences and Humanities in 2017.

Aleksi Ylönen, Associated Researcher at the Center for international studies (CEI) and Associate Professor at the United States International University – Africa, in his article "Reflections on Foreign Policy and Regime Survival: Sudan's and Eritrea's Relations with the Leading Gulf States in the Context of the Armed Conflict in Yemen", analyzes Sudan's and Eritrea's external relations and the shift from their alliance with Iran to embracing relations with the Gulf States involved in the Saudi-led coalition intervening in the Yemeni civil war.

Biljana Chavkoska, Associated Professor at International Balkan University and Slavica Trajkovska, LLM in their paper "*The Impact of Migratory Flows of Third Country Workers on EU Enlargement Policy"* are analyzing one of the four freedoms of the EU Internal market – the free movement of workers. This article is making a comparison of the rights enjoyed by the workers from EU member states and rights enjoyed by the third country workers, in particular from Turkey and the Republic of Macedonia.

Nikola Dacev, Assistant Professor at the International Balkan University, in the paper *"Restriction of Civil and Political Rights, in the Fight Against Terrorism"* is highlighting the new guidelines within the strategy for combating radicalization and recruitment to terrorism adopted by the Council of EU; the USA Patriot Act; the new legal provisions of EU member states in the fight against terrorism in order to determine to what extent these new legal provisions limit the civil and political rights.

Bejtulla Demiri, Associated Professor at the International Balkan University Skopje, in the paper *"Immigrants and Social Responsibility of Host States",* analyzes the rights of immigrants and obligations of the host states in respecting those internationally recognized rights. Responsibility toward immigrants is also applied to the non-governmental organizations.

Nurten Ince, Assistant Professor at the Marmara University in the paper entitled *"Disabled Rights in German Tenancy Law (§ 554 of the German civil code)"* focuses on the treatment of people with disabilities, analyzing provision 554a of the German Civil Code (BGB) meant for modernization of the Obligation law as standard that is not existing in many legal systems.

Natalija Shikova, Assistant Professor at the International Balkan University in the paper entitled *"Multi-ethnic Coalition Governments as Precondition for Maintenance of the Political Stability and the Case of the Republic of Macedonia"* is analysing the multi-ethnic coalition governments as factors that should provide political stability in the society.

TABLE OF CONTENTS

Aleksi Ylönen - Reflections On Foreign Policy And Regime Survival: Sudan's And Eritrea's Relations With The Leading Gulf States In The Context Of The Armed Conflict In Yemen 9

Biljana Chavkoska, Slavica Trajkovska The Impact Of Migratory Flows Of Third Country Workers On Eu Enlargement Policy..... 17

Nikola Dacev - Restriction Of Civil And Political Rights In The Fight Against Terrorism 25

Bejtulla Demiri - Immigrants And Social Responsibility Of Host States..... 33

Nurten Ince - Disability Rights In German Tenancy Law 41

Natalija Shikova - Multi-Ethnic Coalition Governments As Precondition For Maintenance Of Political Stability, The Example Of The Republic Of Macedonia..... 50

REFLECTIONS ON FOREIGN POLICY AND REGIME SURVIVAL: SUDAN'S AND ERITREA'S RELATIONS WITH THE LEADING GULF STATES IN THE CONTEXT OF THE ARMED CONFLICT IN YEMEN

Dr. Aleksi Ylönen
Assoc. Researcher
Center for International Studies (CEI)
Instituto Universitàrio de Lisboa (ISCTE-IUL)
&
Assoc. Prof.
United States International University – Africa
aleksi.ylonen@gmail.com

Abstract: The expectation and materialization of the lifting of multilateral sanctions on Iran, subsequent efforts to curb Iran, and the armed conflict in Yemen have had important implications for relations between the Arab States. However, they have also had wider repercussions, particularly in the Horn of Africa. In the context of these two international events, the growing interest of the powerful Gulf States in the Horn of Africa has contributed to the shake-up of foreign relations and political alliances in the sub-region. This article deals with Sudan's and Eritrea's foreign relations towards the leading Gulf Cooperation Council (GCC) states. It highlights the shift from their alliance with Iran to embracing relations with Saudi Arabia and the United Arab Emirates (UAE), the leading states in the coalition intervening in the conflict in Yemen. The article shows that when faced with internal difficulties and external pressure, the Sudanese and Eritrean governments re-evaluated and shifted their foreign policy orientation significantly in an effort to ensure the continuation of obtaining material resources from the exterior that have been important for regime survival. It argues that the extent to which Sudan and Eritrea have pursued foreign policy orientation towards the leading GCC states reflects the level of domestic difficulties and external pressure faced by each state.

Keywords: Sudan; Eritrea; foreign relations; regime survival; war in Yemen

Introduction

On January 17, 2016, following the green light given by the International Atomic Energy Agency, the Iranian foreign minister, Mohammad Javad Sharif and the European Union foreign policy chief, Federica Mogherini, jointly announced the lifting of United Nations (UN) sanctions on Iran. To follow up, the United States (US) Secretary of State, John Kerry, made a separate statement to the same extent (Al Jazeera, 2016).

The expectation and materialization of this event had important implications for foreign relations in the Gulf region and beyond. It highlighted Saudi Arabia's fear

that Iran's improved relations with the West would lead to its strengthening and undermine Saudi Arabia's role in the region. In preparation for the lifting of sanctions and expected strengthening of Iran, Saudi Arabia sought to expand its influence through consolidating old and forging new alliances in its neighborhood. Its closest partner in the region and the one that its current government has sought to emulate, is the United Arab Emirates (UAE). In particular, the crown prince Mohammed bin Salman, *de facto* ruler of Saudi Arabia, has aimed to implement similar policies as his senior, Abu Dhabi's crown prince Mohammed bin Zayed Al Nahyan, who occupies a similar position in the UAE and appears to serve as inspiration to his younger Saudi counterpart (Stratfor, 2018).
The Shiite Houthi rebels' successes in the protracted conflict in neighboring Yemen further exacerbated the Saudi fears. The war that has raged since March 2015, featuring Saudi preoccupation about the extension of Iran's influence south of its border, followed a number of shorter conflicts between the government forces and those of the Houthi militias. It intensified after the Houthi occupied the state capital Sana'a and most of western Yemen. The alleged Houthi support by Iran contributed to the decision by a Saudi-led coalition to stage a military intervention. Reflecting on their respective domestic situations, the events in Yemen, and the UAE falling out with Djibouti shortly after, Sudan and Eritrea re-focused their respective foreign policies from close relations with Iran to embracing the leading Gulf Cooperation Council (GCC) states, especially Saudi Arabia and the UAE.
This article discusses Sudanese and Eritrean foreign policy orientation in the context of the lifting of sanctions against Iran and the Saudi-led coalitions' intervention in the armed conflict in Yemen. In particular, it reflects on some of the commonalities and differences related to Sudan's and Eritrea's external relations with the leading Gulf States in the changing regional political landscape. Based on an analysis employing aspects of state survival and rational actor approaches, the article seeks to show how Sudanese and Eritrean governments have reacted to the current situation by focusing their foreign alliances largely to ensure the continuation of obtaining important resources from the exterior to maintain their domestic position. It argues that the extent to which each government has focused its foreign policy on seeking resources from the leading GCC states reflects the level of its domestic difficulties the intensity of external pressure in the regional political context.

External Relations and State Survival in Africa

A number of prominent authors have pointed out the fragility of African states and the need for governments to look towards the exterior to obtain resources for survival (Clapham, 1996; van de Walle, 2001). In most cases, the colonial order and rapid decolonization gave birth to states which on surface resembled their Western counterparts, but many such states remained utterly weak and largely dependent on their external relations for survival. Upon independence, the already present practices of "extraversion" (Bayart, 2000) became increasingly important particularly in conditions of waning legitimacy and state decay. Maintaining power required strategies for gaining control over resources, among which using the legal recognition of the state for obtaining such resources from the exterior was important (Jackson, 1993). In these circumstances, the governing factions of the

political elites sought to use the state's external relations for obtaining resources, which facilitated maintaining political power, while state institutions provided a formal façade for informal wealth generating and redistributive channels (Migdal, 1998; van de Walle, 2005).
States, largely composed of individuals and governments in power, can be considered institutional forms of rational actors. In foreign policy analysis, as applied in International Relations, considering the state as a rational actor involves assuming it as the primary unit of analysis, its relations with other states providing the context for it. In the purposes of the reflections made in this article, we approach the concept of the state through its leadership which is in charge of the executive decisions regarding foreign policy. This is particularly useful for both Sudan and Eritrea in which the respective state presidents, Omar Bashir and Isaias Afewerki, exercise wide powers, especially in foreign relations. Yet, these leaders are also intensively involved in executive decisions in domestic policy and can be considered to be heavily interested in the survival and continuation of their respective governments.

Sudan's and Eritrea's External Relations

Along with a number of other African states, Sudan and Eritrea share a common history of prioritizing foreign relations for state survival. Relations with states across the Red Sea have for a long time formed a fundamental element in the strategies of their political elites. At least from the tedious and controversial process of decolonization onwards, for instance, the contemporary Sudanese political elite has considered external relations an important way of strengthening its domestic position. Similarly, the current Eritrean political elite emerging during the liberation struggle has considered external relations as an important means to strengthen itself. Particularly from the 1970's onwards, the relations with the Gulf States have featured prominently in Sudan's foreign policy and the political elites' strategies, whereas the connections of Eritrean rebels with the Arabian Peninsula were important throughout the long liberation war.
At the end of the Cold War, Sudan stood in the midst of a protracted civil conflict while Eritrean opposition was engaged in overthrowing the Ethiopian regime in the hope of gaining independence from Ethiopia. In 1989 Sudan experienced an Islamist military coup and regime change, which had received inspiration from the conservative Gulf States. Nearly four years later Eritrean independence was finalized. These events led to fundamental transformations in regional political relations in each state, coinciding with the post-Cold War context of deepening neoliberal order which simultaneously saw a wave of democratization sweeping through Africa (Bratton & van de Walle, 1997; Young, 2012). The old authoritarian regimes lost their Cold War support and the related resources and powerful Western donors and international organizations increasingly subjected leaderships in Africa to the cutting down of the public sector and conditions such as good governance. This significantly weakened a number of states in Africa and significantly contributed to the demise of some of them, such as Ethiopia and Somalia.

After the collapse of the Soviet bloc and the end of the possibility to try to use the East and the West against each other for extracting resources, and in the context of the increasing exigencies and decline of funding from the West, the survival of the African state became more dependent on its ability to extravert resources from other regionally and internationally powerful states. This became particularly important for the narrowly based regimes such as Sudan and Eritrea, which depend on the ability to successfully assert their authority and legitimacy, especially because they have both sought to survive in the conditions of relative international isolation.

Sudan

Sudan maintained close relations with Iran from the time of the seizing of power by the Islamist government in Khartoum in 1989 until 2014. Irani support was instrumental for the Sudanese regime during the years of heavy international isolation in the mid-1990s, which featured the imposition of sanctions by the United States in 1997 and the intense external pressure until the formal end of the war in Southern Sudan in 2005. The initial events leading to Sudan's eventual shift of foreign policy orientation from the alliance with Iran towards the Gulf States took place in 2013. Alarmed by the easing of Irani sanctions, Saudi Arabia had initiated a campaign to reduce Iran's influence in its immediate neighborhood. As part of this strategy, it targeted Sudan which had maintained warm long-term relations with Iran. Aware that the Sudanese economy had suffered significantly and had failed to recover from the independence of South Sudan in 2011, Saudi Arabia applied economic pressure. It targeted the banking sector and remittances from the large Sudanese diaspora in Saudi Arabia, which are essential for financing both the Sudanese regime and economy. To counter its economic difficulties, caused in part by the loss of the majority of its oil reserves to South Sudan, Sudan tried to impose austerity measures. However, it soon abandoned the attempt due to wide protests that reminded some of the general uprising leading to the 1964 revolution that had toppled the military regime of Ibrahim Abboud.

In September 2014 Sudan finally succumbed to the Saudi pressure. It began severing ties with Iran and enhancing ties with the GCC states. Sudan closed Irani cultural centers with a pretext of curbing the extension of unwanted Shiite philosophy among the youth and expelled Irani diplomats (Abdel Aziz, 2014; Sudan Tribune [ST], 2016a). In March 2015 Sudan seized the opportunity to formally join the Saudi-led military coalition (Sengupta, 2015). Subsequently, it received generous financial injections and other economic support, including a USD5 billion military aid package from Saudi Arabia (ST, 2016b), and sought to benefit further from estranging Iran and affirming its ties with the Gulf States. Since 2015 Sudan has contributed air support, logistical assistance, and ground troops for the military coalition in exchange for economic and financial support. During the January 2016 escalation between Saudi Arabia and Iran, initiated by Riyadh executing a famous opposition Shiite cleric, Sudan stood firmly with the coalition of Gulf States and was among the first to cut ties with Iran (Kerr & Aglionby, 2016).

The extent to which the Sudanese leadership depends on its Gulf allies' resources indicates the crucial importance they play in its strategic calculations. Recent criticism of Saudi Arabia and the UAE in Sudan focuses on their lack of living up to

their material commitments towards Sudan, which is largely seen as a significant factor deepening Khartoum's current economic difficulties. Although the Sudanese government remains highly dependent on the two allies, it has sought to diversify its external sources of resources that are important for regime survival by reaching to other partners, including Qatar, Turkey, and the European Union (EU).

Eritrea

In recent decades, Eritrean leadership has generally maintained warm relations with Iran. However, especially in the course of the 2000s, when faced with increasing international isolation, Eritrea sought vigorously external partners and its relationship with Iran grew closer. In May 2008 President Afewerki visited Iran (Allafrica, 2008), which enhanced diplomatic relations that were accompanied by economic and trade cooperation, his subsequent public endorsement of the Iranian nuclear program (Afrol News, 2009), and stronger military relations.

However, during increasing prospects of the lifting of UN sanctions on Iran in 2014, Afewerki visited Egypt. Subsequently in April2015, approximately month after the beginning of the Saudi-led coalition's air campaign in Yemen, he visited Saudi Arabia. Afewerki reportedly decided to support "military and security cooperation to fight terrorism and piracy in the Red Sea" and join the effort to isolate Yemen, allegedly agreeing to send in troops to join the coalition ground forces but at the same time continuing to maintain relations with Iran (Seddiq, 2015). Eritrea has since entered into the Saudi-led military alliance, allowing the UAE operate in Assab and providing logistical assistance that allows the coalition to use the port in return for financial assistance and fuel (United Nations Monitoring Group on Somalia and Eritrea [UNMGSE], 2015, p. 3; UNMGSE, 2016, p. 4), while allegations have emerged on it having sent troops to Yemen.

At the same time, Eritrea has not manifested to have particularly bad relations with Iran and maintains good relations with Israel (Seddig, 2015). Meanwhile, the intense cooperation with the leading GCC states is likelyto entail a lingering hope among the Eritrean leadership of improving relations with the US and the eventual lifting of sanctions. This is especially the case following its groundbreaking rapprochement with the new Ethiopian government in July 2018, brokered mainly by its ally the UAE, which has rapidly converted Eritrea from a pariah into a potential strategic partner for the US.

Since the July peace agreement, which was formalized in Jeddah in September, Eritrea's position in regional politics has changed radically. It is now able to cash in on its strategic location at the Red Sea coast which is not only useful for military operations in Yemen, but also for controlling the shipping lanes passing through Bab el Mandeb straight. Eritrea has since reactivated its relations with another strategic partner, Russia, while seeking to improve ties with internationally powerful actors, such as the EU and Japan, and nearby states such as Somalia (Solomon, 2018).

Eritrea's new opportunities to further diversify foreign relations are largely a result of its rapprochement with Ethiopia. The new partnerships, and reviving old alliances, are likely to mark the end of international isolation of Asmara and result in new resources from the exterior which will strengthen the government. At the moment, Eritrea's situation, therefore, appears brighter than that of Sudan which

remains more limited in terms of external partnerships and with a heavy reliance on a few key alliances.

Conclusion

Today, survival continues to be a central concern for narrowly based leaderships in a number of African states in which at least partly authoritarian political culture remains. As several authors have pointed out, external relations, backed by the state's legal status as a recognized member of the international community, continue to play an important role in the strategies for obtaining resources from the exterior. In conditions of political and economic strain, external relations may become essential for drawing resources for maintaining the governing elite faction in power. As this brief article has sought to demonstrate, strategies of survival continue to dictate the external relations of at least some governments that remain under considerable distress. Both Sudan and Eritrea have faced long periods of international isolation and economic difficulties. While Sudan suffered greatly from South Sudan's independence and continues to face US sanctions, Eritrea has been dealing with UN sanctions regime since 2009.

In the context of the lifting of UN sanctions on Iran and the Saudi-led coalition's intervention in the war in Yemen both re-evaluated their foreign policy orientation. They improved relations with the GCC countries in order to gain further resources for regime survival. While Sudan was hard pressed by Saudi Arabia to sever its ties with Iran and to a large extent gave in to Saudi pressure, Eritrea appears to have made a less constrained choice to approach Saudi Arabia and the UAE for gaining diplomatic and economic support. Whereas Khartoum's move should be seen in the context of its economic dependence on the Gulf States, Asmara arguably faced somewhat less such pressure to sever its ties with Iran. Instead, the Eritrean government has sought to pursue wide-ranging external relations which have gained new impetus from the recent reconciliation with Ethiopia.

Yet, although both Sudan and Eritrea currently appear to consider their Iran relations less beneficial than their ties with Saudi Arabia and UAE, this condition is not constant. Their interests continue to be subject to the latter demonstrating a sustained economic commitment that surpasses any benefits Iran and its perceived allies might offer. At the same time, however, the foreign relations position of the two governments has some differences. While Sudan appears to depend heavily on relations with its Gulf allies and is largely subject to their political and economic power, Eritrea, benefiting from the recent peace agreement with Ethiopia, appears to have been more successful in pursuing wider-ranging foreign relations to maximize benefits from relations with states beyond distinct alliances and orientations. This may partly explain the difference in the public admission regarding involvement in the war in Yemen and affect the coalition leaders' apparently different treatment of the two states.

Finally, in a recent development, the GCC partners' isolation of Qatar has also received distinct responses from Sudan and Eritrea. Sudan has sought a reconciliatory approach and salvaged its relationship with Qatar and in extension Turkey. But this has potentially undermined its relations with Saudi Arabia and the UAE and may partly explain the lack of material support to Khartoum from these

states. In contrast, Asmara has cut ties with Doha despite Qatar's previously vital role in financing the Eritrean government, providing other economic support, and mediating and peacekeeping in its border dispute with Djibouti. In its effort to pursue wide-ranging foreign relations, Asmara is likely to have deemed more beneficial to clearly disassociate itself from Qatar, which has enabled it to focus more on its alliances with the UAE and Saudi Arabia and improve relations with other powerful states.

References

1. *Abdel Aziz, K. (2014, September 2). Sudan Expels Iranian Diplomats and Closes Cultural Centres. The Guardian. Retrieved August 22, 2017, from https://www.theguardian.com/world/2014/sep/02/sudan-expels-iranian-diplomats-closes-cultural-centres*
2. *Afrol News. (2009, June 6). Eritrea Supports Iran's Nuclear Program. Retrieved, August 23, 2017, from http://www.afrol.com/articles/25668*
3. *Al Jazeera. (2016, January 17). Dawn of a New Era as Iran Sanctions Lifted. Retrieved, August 23, 2017, from http://www.aljazeera.com/news/africa/2016/01/iaea-iran-complied-nuclear-deal-160116205507774.html*
4. *AllAfrica. (2008, May 19). Eritrea: President Isaias Arrives in Tehran on Official Working Visit to Iran. Shabait.com. Retrieved, August 23, 2017, from http://allafrica.com/stories/200805191594.html*
5. *Bayart, J-F. (2000). Africa in the World: A History of Extraversion. African Affairs, 99(395), 217–267.*
6. *Bratton, M. &van de Walle, N. (1997). Democratic Experiments in Africa: Regime Transitions in Comparative Perspective. Cambridge: Cambridge University Press.*
7. *Clapham, C. (1996). Africa and the International System: The Politics of State Survival. Cambridge: Cambridge University Press.*
8. *Jackson, R. H. (1993). Quasi-States: Sovereignty, International Relations and the Third World.Cambridge: Cambridge University Press.*
9. *Kerr, S. & Aglionby, J. (2016, January 5). Regional Allies Back Saudis after Shia Cleric's Execution. The Irish Times. Retrieved, August 22, 2017, from https://www.irishtimes.com/news/world/middle-east/regional-allies-back-saudis-after-shia-cleric-s-execution-1.2484866*
10. *Migdal, J. S. (1998). Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World. Princeton: Princeton University Press.*
11. *Seddiq, Y. (2015, June 15). Iranian Support to Houthis via Eritrea: Reality or Myth? Ahram Online. Retrieved, August 22, 2017, from http://english.ahram.org.eg/NewsContentP/2/132655/World/Iranian-support-to-Houthis-via-Eritrea-Reality-or-.aspx*
12. *Sengupta, S. (2015, March 26). Sudan Joins Coalition against Yemen Rebels. The New York Times. Retrieved August 22, 2017, from http://www.nytimes.com/2015/03/27/world/africa/sudan-joins-coalition-against-yemen-rebels.html?_r=0*
13. *Solomon, S. (2018, September 2). Russia-Eritrea Relations Grow with Planned Logistics Center. Voice of America. Retrieved November 10, from*

https://www.voanews.com/a/russia-eritrea-relations-grow-with-planned-logistics-center/4554680.html

14. *ST. (2016a, May 14). Sudan Slams Iran for Politicizing Hajj Rituals. Sudan Tribune. Retrieved August 22, 2017, from http://www.sudantribune.com/spip.php?article58960*
15. *ST. (2016b, February 2).Saudi Arabia Gives Sudan $5 Billion in Military Aid. Sudan Tribune. Retrieved August 22, 2017, from http://www.sudantribune.com/spip.php?article58095*
16. *Stratfor. (2018, February 2). The UAE Guides Saudi Arabia, for Now. Retrieved October 10, 2018, fromhttps://worldview.stratfor.com/article/uae-guides-saudi-arabia-now*
17. *United Nations Monitoring Group on Somalia and Eritrea. (2015). Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 2182 (2014): Eritrea (Publication No. S/2015/802).*
18. *United Nations Monitoring Group on Somalia and Eritrea. (2016). Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 2244 (2015): Eritrea (Publication No. S/2016/920).*
19. *van de Walle, N. (2001). African Economies and the Politics of Permanent Crisis, 1979-1999. Cambridge: Cambridge University Press.*
20. *van de Walle, N. (2005). Democratic Reform in Africa. Boulder (CO): Lynne Rienner Publishers.*
21. *Young, C. (2012). The Postcolonial State in Africa: Fifty Years of Independence, 1960–2010. Madison, WI: University of Wisconsin Press.*

THE IMPACT OF MIGRATORY FLOWS OF THIRD COUNTRY WORKERS ON EU ENLARGEMENT POLICY

Biljana Chavkoska, PhD,
Slavica Trajkovska, LLM
bcavkoska@yahoo.com,
slavica.trajkovska@iege.edu.mk

Abstract: The free movement of workers is one of the four freedoms of the EU Internal Market. Migrant workers who move from one state into another enjoy certain rights stipulated by the EU Law (acquis communautaire). The aim of this article is to make a comparison between the rights enjoyed by the workers from EU member states and third country workers, in particular from Turkey and the Republic of Macedonia. This paper examines the possible effect of the enlargement of the European Union on Western Balkan countries and Turkey with respect to the freedom of movement of workers in the context of the impact of previous EC enlargements on migratory movements.

Keywords: enlargement policy, migration flows, transitional measures

Free movement of workers in EU- what does it mean?

The central legal questions concerning free movement of workers include the direct effect of article 39 (ex. article 48 from the Treaty establishing the European Community), the meaning of the term migrant worker, certain rights of family members of the migrant worker's family, such as reserved places in the public sector for national workers. The Treaty of Amsterdam in article 13 stipulates general antidiscrimination clause providing new bases for fighting against discrimination. The European Union adopted an important secondary regulation regarding freedom of movement of workers. The most important secondary legal act until recently was the Regulation EEC No. 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community.[1] Recently the Council Directive 2004/38/EC of the European Parliament and the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States was adopted.[2]The greatest achievements were the Blue Card Directive[3] and the Directive providing minimum standards on sanctions and measures against employers of illegally staying third-country nationals.[4]The European Court of Justice played an important role in interpreting the meaning of article 39 on the free movement of workers. The Court constantly points to the

1 OJ L 257, 19/10/1968 P 0002-0012
2 OJ L 158, 30/04/2004
3 Council Directive 209/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment, OJ L 155/17
4 OJ L168/24

meaning of the free movement of workers and realization of the principle on non-discrimination based on nationality. Article 12 of the TEU explicitly forbids any form of discrimination based on nationality when putting into practice the Treaty articles. The definition of the term worker was of a major interest to the European Community. In the Hoekstra[5] case the European Court of Justice interpreted that the definition of the term worker is not a question of the national law of the Member State, but it is in the interest of all Member States to interpret this term uniformly, which is crucial for establishing the Internal Market.
The most important goal of the Internal Market cannot be achieved if the term migrant worker is defined by the national law of each Member State. This claim covers two significant aspects. Firstly, the Court gives the term migrant worker communitarian meaning which means that the Court gives directions for its application in all Member States. Secondly, the Court interprets this term extensively because the realization of the free movement is one of the four freedoms and a condition sine qua non for the realization of the Internal Market.

Rights of migrant workers

Article 39 of the EC Treaty entails important rights for migrant workers when moving from one to another Member State:

- the right to look for a job in another Member State;
- the right to work in another Member State;
- the right to reside there for that purpose;
- the right to remain there;
- the right to equal treatment in respect of access to employment, working conditions and all other advantages which could help to facilitate the worker's integration in the host Member State.

Migratory flows of third country workers

A Turkey-case study

The status of non-EU workers was also an important issue for the European Union. The issue was primarily regulated through bilateral agreements between the European Community on one hand and the country of origin of the worker on the other. According to Association Agreements, non-EU citizens have a privileged status as workers or self-employed in the Member State of the European Union. Turkey has a long history of economic ties with the European Union, established in the 1960s with two significant events. Turkey signed the Labor Agreement with the European Union and later re-strengthened the relationship with the signing of the Association Agreement in 1963. Turkey became a part of the Customs Union in 1996. A major milestone in the building of ties between Turkey and European Union came along in 1999 at the Helsinki Summit where Turkey was given a candidacy status for

[5]*See Hoekstra v. Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten, Case 75-63, ECJ 10 December 1963*

becoming a Member State of the European Union. Regarding the labor market the most important act is the Decision 1/80 of the Association Council based on the article 12 of the Association Agreement. The European Court of Justice ruled that the Decision 1/80 had a direct effect on the national law of the Member States of the Union. This Decision provides that Turkish workers duly registered in the labor market of the Member State have an equal treatment in respect of access to employment.

Germany has the highest population of Turkish immigrants in Europe with three million residents having at least one Turkish parent, according to a January 2015 BBC News report. Turks came to Germany through guest-worker programs in the 1960s and '70s before a second period of immigration began, driven by the reunification of families which greatly heightened the number of Turks in the country. The "third and current phase is characterized by German-born members among Turkish families" as well as "the importing of spouses by young Turks from rural areas in Turkey because Turkish women from local German communities are considered to be too Western".[6]

The rise of Islamic State in Iraq and Syria put Turkey at the center of a conflict that has global consequences. Some European officials, including French foreign affairs minister Laurent Fabius and their US counterparts believe allowing Turkey to become a member of the EU would create a strong ally in the fight against terrorism in the region. But critics such as Conservative MP David Davis argue the open movement laws could create a passageway both in and out of Syria for jihadists and new recruits.[7]

The rights of Turkish workers

The European Court of Justice ruled that article 6 of Decision 1/80 allows progressive implementation of Turkish workers on the labor market in the Member State. Article 6 of Decision 1/80 provides important rights for workers who have not been duly registered in the labor market in the Member State:

Turkish workers who are duly registered in the labor market enjoy several rights:

After one year of legal employment they will be entitled to renew the work permit for the same employer if the position is available

After three years of legal employment, they can respond to another employment offer of their choice, if the offer has been made under regular conditions and published in the employment services in the Member State

The right to free access to any paid work of his choice, after the expiry of 4 years of legal employment.[8]

It is not clear if the worker enjoys the right of family reunification with the family members in the Member State of residence. The Court ruled that this is one of the

[6] *Katzenson, Elie (2016) "The Patterns and Impacts of Turkish Immigration to the European Union," Claremont-UC Undergraduate Research Conference on the European Union: Vol. 2015, Article 6. DOI: 10.5642/urceu.201501.06 Available at: http://scholarship.claremont.edu/urceu/vol2015/iss1/6*

[7] *http://www.theweek.co.uk/24083/turkey-and-the-eu-the-pros-and-cons-of-membership*

[8] *Article 6 of Council Decision 1/80*

basic rights of third country workers based on the decisions of the Association Council and Family Reunification Directive.[9]
Family members of Turkish workers who are duly registered in the labor market have the right to:
respond to any offer after legal residence of minimum 3 years in the Member States; to enjoy free access to any genuine employment if they are legally employed for at least 5 years.
The following rights can be enjoyed by family members if they accompany a Turkish worker who has legal residence in a Member State in accordance with article 7 of Decision 1/80. Family members of Turkish workers may be qualified as workers regardless to the family relations if they have access to the labor market.

Republic of Macedonia – a case study

Republic of Macedonia was the first of the Western Balkan countries to sign the Association agreement with the European Union in 2001. The current legal framework for the freedom of movement of workers between the Republic of Macedonia and the European Union is regulated through the provisions of the Stabilization and Association Agreement. The freedom of movement of workers is regulated by Chapter V of the Agreement: Movement of workers, establishment, provision of services, capital. The first part of Chapter V is entitled: Movement of workers (Articles 44-46) which stipulates that nationals of the Republic of Macedonia legally employed on the territory of a Member State shall be exempt from any discrimination on a national basis regarding the working conditions, benefits or dismissal. The Republic of Macedonia, on the basis of the principle of reciprocity, will also treat the nationals of the particular Member State when employed on the territory of the Republic of Macedonia equally, regardless of the nationality of the worker. Unfortunately, the Employment Agency, the State Statistical office and the Emigration Agency of the Republic of Macedonia do not have any official data on the number of workers working abroad. The Emigration Agency can only provide data on the number of Macedonians living abroad. Since most of them leave the country for work purposes or family reunification, it can be indirectly concluded that the biggest number of Macedonian workers are living in Germany, Italy and Switzerland.[10]According to the final report of the European Commission on the progress of the Republic of Macedonia towards EU membership, there has been poor progress regarding freedom of movement of workers. Approximation of the Macedonian legislation to the legislation of the European Union is at the very beginning. No progress has been made in the access of European Union citizens in terms of public employment and the exercise of public authority. Preparations have been made in this domain to improve access to public employment. The Law on Foreigners is currently being amended. The country has continued to implement its

9OJ L 251 03/10/2003, P 0012-0018
10 After the visa liberalization for the citizens of the Republic of Macedonia, the national employment agencies assumed that 25000 citizens, aged between 23 and 40, would leave the country in the second half of January. Most of these people are aged 25-40 and are low qualified workers. The analyst Sam Vaknin believes that in the first 10 years after the visa liberalization between 85000 and 100 000 well educated young workers will permanently leave the Republic of Macedonia and work in a foreign country.

Resolution on Migration Policy and it has maintained efforts to improve its asylum system and migration management.[11]

Transitional arrangements and EU enlargement

The conditions for entering the Member States for work purposes, studies or long-term residence is regulated by the internal law of the Member State. Western Balkan citizens in compliance with the internal law of the Member States have to be issued work permits if they enter the country for work purposes. Most importantly, nationals should obtain all necessary permits before entering the Member States. The Member States have different policies for legal migration. Therefore, procedures for work permits differ significantly from country to country. The third country nationals may be employed in the Member States only if there is no domestic worker for the job position in question. It is important to note that candidate countries which have been granted visa liberalization for their citizens will enjoy the freedom of movement for workers several years after they have entered the European Union. Transitional arrangements were also signed with current Member States that joined the Union in 2004 and 2007. Restrictions on the free movement of workers may apply to workers from EU member countries for a transitional period of **up to 7 years** after they join the EU. Individual governments of countries which are already part of the EU can decide themselves whether they want to apply restrictions to workers from these countries, and what kind of restrictions they would be. During the EU enlargement on 1 May 2004, 12 out of 15 old Member States used transitional arrangements for freedom of movement of workers for new Member States. Part of the new Member States took reciprocal measures for the European citizens from the old Member States in order to protect national labor market. Transitional arrangements signed between old and new Member States are part of the Accession treaty with the Czech Republic, Poland, Latvia, Slovakia, Estonia, Lithuania, Slovenia and Hungary.[12] These arrangements are complex but similar to the arrangements concluded when Spain and Portugal joined the Union. According to statistical data only 102 000 citizens from Greece left the country after EU membership during the transitional period for free movement of workers until 1987. In average 7700 Portuguese citizens migrate to other Member States during the year while Spanish migration was lower during the transitional period.[13]New Member States that entered the Union in 2004 cannot enforce more restrictive measures than the ones already introduced with Accession treaty signed on 16 May 2003 (standstill clause). The difference is that the workers from new Member States after EU accession have the right to have their already acquired qualifications recognized, as well

[11] *https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-the-former-yugoslav-republic-of-macedonia-report.pdf*

[12] *Treaty concerning the accession of the Republic of Bulgaria and Romania to the EU, Act of Accession, Annex VI, Chapter 1 for Bulgaria and Romania, signed in Luxembourg on 25 April 2005. Treaty of Accession of the Czech Republic, Estonia, Cyprus, Malta, Poland, Slovenia and Slovakia, Act of Accession, Part Four, Temporary Provisions, Title 1: Transitional Measures, signed in Athens on 16 April 2003*

[13] *EU Enlargement-Bulgaria and Romania, migration implications for the UK, an ippr FactFile, April 2006, Institute for Public Policy Research,www.ippr.org, April 2006, p. 8*

coordination of social insurance schemes. The workers from new Member States must obtain a work permit issued by the National Employment Agency. Workers from new Member States have the advantage over third country workers when applying for a job. The negotiation process with new Member States regarding Chapter for free movement of workers with new Member States lasted for a year with Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia, and two years with the other countries. Nevertheless, after entering the Union transitional arrangements for freedom of movement of workers were set for up to seven years. Consequently, the fear of big migratory flows from the new countries was unreal and controlled by each Member State individually according to the needs of the respective internal labor market. Regular inflows of both skilled and unskilled labor are critical to addressing shortages in the UK labor market where EU citizens have played a key role over recent decades in fulfilling these needs, and contributing equally to the UK workforce, as well as for cultural diversity of the British society. While EU citizens often take up skilled positions, they have been particularly important in the unskilled labor market.[14]Spain feared that by opening regional funds for these states the complete program for undeveloped regions would not be fully realized. Thus Spain, Greece and Portugal agreed on transitional arrangements expecting that membership of new Member States would not decrease the financial support from the Union.

During the transitional period Germany and Austria retained the system of work permit issuance, while Spain, Portugal and Greece introduced a system of quotas for workers from new Member States. Great Britain, Ireland and Sweden were the only countries to completely open the national labor law. The increased mobility of the labor market in EU 27 resulted in a 0.11% increase in the GDP in the short-term and 0.2% on a long-term basis for the period between 2004 and 2007. Double benefits from future migration in the EU are expected by 2020. The realization of the freedom of movement of workers means gaining more benefits rather than prolonging the transitional arrangements of freedom of movement of workers for new Member States.[15]

Taking into consideration statistical data from previous EU enlargement and migratory flows from potential new EU Member States, Western Balkan countries are not posing a threat to their stability. This is due to the transitional arrangements for freedom of movement of workers regulated between the Member States and the new candidate countries. Therefore, Member States could prolong the movement of new member states workers for a period of about seven years from the day of enlargement.

---

[14] Brexit and immigration: prioritizing the rights of all workers, Zoe Gardner and Luke Cooper, available https://www.anothereurope.org/wp-content/uploads/2017/09/aeip-free-movement-final-web.pdf

[15] European Integration Consortium, Labor mobility within the EU in the context of enlargement and the functioning of the transitional arrangement, p.4, available at http://www.academia.edu/1548459/Labour_mobility_within_the_EU_in_the_context_of_enlargement_and_the_functioning_of_the_transitional_arrangements

Conclusion

Freedom of movement is one of the four freedoms of the European Union Internal Market. Full realization of the freedom of movement of workers is important for the improvement of working and living conditions and for strengthening the economies of the EU Member States. While freedom of movement of EU workers is regulated with primary, secondary and the case law of the European Court of Justice, the freedom of movement of third country workers still depends on national laws. Formulating a common immigration policy is a top priority of the European Union. Member States have emphasized the need for working force from third countries for realization of their economic goals. Economic labor migration has indeed become one of the considerations for achieving the goals set in the Lisbon strategy for the EU to become the most competitive and dynamic knowledge-based economy. Turkey and the Republic of Macedonia have signed the Association Agreement, thus regulating freedom of movement of workers into the European Union and vice versa. The decision of the Union to enlarge in the future would depend on the fulfillment of all membership criteria by the candidate countries. Freedom of movement of third country workers cannot impact the stability of the European Union since it is expected that transitional agreements would be signed with the country to eliminate the enormous number of migrant workers. The Member States are free to decide when to open the labor market during the transitional period within the time line period.

Over the past few years, the European Union has strategically distanced itself from the possibility of mentoring Turkey through the membership process. While these actions indicate that membership is not currently a viable option, future events could rapidly change the possibility of Turkish EU membership. If the situation should shift in a manner radical enough to allow for Turkey to join the European Union, immigration flows from Turkey to other EU countries would likely return to those of guest-worker program era in the 1960s. Currently, most of the Turkish workers live and work in Germany and regarding the Association agreement signed with the EU they enjoy certain rights stipulated in the paper. The Republic of Macedonia has also been facing internal political problems over the last two years, migrant crisis, the name issue with the neighboring country Greece, media rights problems, and corruption problems. This has also distanced the Republic of Macedonia from the EU and NATO Membership. Macedonian workers immigrate into the Member States of European Union due to possessing a double citizenship from the Republic of Bulgaria or through the work permit process.

Even after joining the EU it is possible that transitional arrangement would be signed with current Member States for movement of new Member States workers from the Western Balkan countries or from Turkey. Thus, migratory flows are controlled by the EU and by the Member States' internal policies for opening the labor market. The migratory flows of third country workers are controlled and could not be a treat to EU stability and Enlargement policies.

References:

1 *Council Directive 209/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment, OJ L 155/17*

2 *Hoekstra v. Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten, Case 75/63, [1964] E.C.R. 177*

3 *Katzenson, Elie (2016) "The Patterns and Impacts of Turkish Immigration to the European Union," Claremont-UC Undergraduate Research Conference on the European Union: Vol. 2015, Article 6. DOI: 10.5642/urceu.201501.06 Available at: http://scholarship.claremont.edu/urceu/vol2015/iss1/6*

4 *Treaty concerning the accession of the Republic of Bulgaria and Romania to the EU, Act of Accession, Annex VI, Chapter 1 for Bulgaria and Romania, signed in Luxembourg on 25 April 2005. Treaty of Accession of the Czech Republic, Estonia, Cyprus, Malta, Poland, Slovenia and Slovakia, Act of Accession, Part Four, Temporary Provisions, Title 1: Transitional Measures, signed in Athens on 16 April 2003*

5 *EU Enlargement-Bulgaria and Romania, migration implications for the UK, an ippr FactFile, Institute for Public Policy Research,www.ippr.org, April 2006, p. 8*

6 *https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-the-former-yugoslav-republic-of-macedonia-report.pdf*

RESTRICTION OF CIVIL AND POLITICAL RIGHTS IN THE FIGHT AGAINST TERRORISM

Asst. Prof. Nikola Dacev
International Balkan University
E-mail: dacevn@yahoo.com

Abstract: The fight against terrorism is an issue that never loses its newsworthiness. Especially today with the strong development of terrorism and its spreading through the creation of new forms of terrorism, almost every country has been put in danger. That is why new methods and means are needed in the fight against terrorism, implementation of new legislation and its harmonization among countries. The purpose of this paper is to highlight the new guidelines within the strategy for combating radicalization and recruitment for terrorism adopted by the Council of EU and how these guidelines affect civil and political rights; to analyze the effects of the adopted laws which restrict civil and political rights at the expense of higher protection against terrorism such as the USA Patriot Act; to identify the new legal provisions of EU member states in the fight against terrorism; and to determine which civil and political rights are restricted and to what extent these new legal provisions limit civil and political rights of people, whether it is justified and whether it is aimed at achieving the most important goal, greater protection of citizens from potential terrorist attacks.

Keywords: civil and political rights, terrorism, USA Patriot Act, EU counter-terrorism strategy, counter-terrorism legislation.

Introduction

Issues of human rights are omnipresent. The idea of human rights rests on the claim that each of us as a human being, regardless of our race, religion, gender, or age, is entitled to certain fundamental and inalienable rights – merely by virtue of our belonging to the human race. Whether or not such rights are legally recognized is irrelevant, as is the fact that they may or may not emanate from a higher natural law. (Wacks, 2006) Every person is entitled to these rights by birth and they are the same for all people worldwide. That is why human rights are irrevocable, which means that they are always valid and cannot be taken away. Their most important function is that of protecting citizens from state interference. Human rights as fundamental rights of each individual must be clearly defined in order to ensure adequate protection by the authorities in all societies. The acceptance of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights discloses the dedication of the United Nations to the universal conception and protection of human rights. Efforts for accentuating and protecting human rights are ongoing. That is why it is really important to determine which rights fall into the category of human rights, especially because human rights are widely spread and encompass many different areas of human coexistence.

Therefore, they can be classified into several groups: rights of a person; **political and civil rights**; social and economic rights and rights of third generations. We can distinguish two binding points of terrorism and human rights: Terrorist attacks as criminal acts that are directly aimed at violating human rights, including civil and political rights; and restriction of civil and political rights without any violation in the fight against terrorism. States have an obligation to protect all individuals within their jurisdiction and to provide them with protection as afforded by international human rights law. As "terrorism aims at the very destruction of human rights, democracy and the rule of law has a direct impact on the enjoyment of a number of human rights, in particular the rights to life, liberty and physical integrity." (OSCE, 2014)

The topic that has been elaborated on in this paper is the need and extent of restriction of political and civil rights in combating terrorism, as well as past experiences of the EU and the USA regarding adopted legal framework that restrict political and civil rights as a tool for preventing terrorist attacks and detecting terrorists that have performed terrorist attacks.

The EU member states have adopted anti-terror laws in recent years, laws that limit civil and political rights during a state of emergency. Restriction of civil and political rights in anti-terror laws in the EU member states is displayed mainly through the extended procedures that the police and security services are able to undertake in case of a terrorist attack. This paper reflects more specifically on the Directive on the use of passenger name record (PNR) data adopted by the Council of the EU; and the USA Patriot Act signed after the terrorist attacks in New York on 11th of September. In this paper particular attention is given to cases of abuse of the legal limitation of political and civil rights in the fight against terrorism, emphasizing the importance of avoiding such cases.

Civil rights and political rights

It is necessary to establish the place of civil and political rights in the human rights system.

As it was previously mentioned, human rights have passed through 3 generations: **the first generation** was primarily negative civil and political rights as developed in the 17th and 18th centuries by English political philosophers like Hobbes, Locke, and Mill. They generally prohibited interference with the right-holder's freedom; **the second generation** consists of essentially positive economic, social, and cultural rights, such as the right to education, food, or medical care; **the third generation** of human (solidarity) rights are primarily collective rights that include the right to social and economic development and the right to participate in and benefit from the resources of the earth and space, scientific and technical information (which are especially important to the Third World), the right to healthy environment, peace, and humanitarian disaster relief. (Wacks, 2006) This classification clearly shows that civil and political rights are considered as human rights and belong to the first generation of human rights. Civil and political rights must be codified in order to provide greater protection of these rights, although many democracies around the world have no formal guarantees of civil and political rights because they are often considered as natural rights. Thomas Jefferson in 1774

in the "Summary of the Rights of British America," wrote that "free men invoke their rights as derived from the rights of nature, and not as a gift of their chief justice." In addition, the categories of civil and political rights are not the same and that is why it is useful to make a distinction between them.

Civil rights include:

- Providing physical integrity and security of people and making sure people have not been forced into labor;
- Protection against discrimination (based on gender, religion, race, sexual orientation, etc.);
- Equal access to health care, education, culture, etc.

Political rights include:

- Natural justice (procedural fairness) in law (such as the rights of the accused, including the rights to a fair trial; due process; the right to claim damages or remedy);
- Individual political freedom, including rights of individuals (freedom of thought and conscience, freedom of speech and expression, freedom of religion, freedom of the press, freedom of movement) and the right to participate in civil society and politics (freedom of association, the right of assembly, the right to petition, the right to submit an application, the right to vote etc.).

As to the question of which civil and political rights may be restricted, according to the European Convention on Human Rights, there are rights that are absolute rights and cannot be restricted under any circumstances, while others may be legally limited. Torture, discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status are prohibited no matter the circumstances. They cannot be restricted. But there are also conditional rights. Right to respect private and family life, freedom of expression, freedom of assembly and association, freedom of thought, conscience and religion, freedom of the media, may all be restricted in the interests of national security or public safety, in order to prevent disorder or crime, or to protect health or morals, or to protect the rights and freedoms of others.[16]

Restriction of civil and political rights in EU

The European Union member states are committed to jointly fighting terrorism and providing the best possible protection for its citizens. To this end, in 2005 the Council adopted the EU counter-terrorism strategy. The strategy is focused on four main pillars: prevent, protect, pursue and respond. The second priority of the EU counter-terrorism strategy is the protection of citizens and infrastructure and the reduction of vulnerability to attack. In this area, on 21 April 2016 the Council of the

[16] *See Articles 3, 8, 9, 10, 11 and 14 of the European Convention on Human Rights as amended by Protocols Nos. 11 and 14 supplemented by Protocols Nos. 1, 4, 6, 7, 12 and 13, Council of Europe.*

EU adopted a **Directive on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime**, which is a perfect example of restriction of civil and political rights in combating terrorism. Passenger name record (PNR) data is personal information provided by passengers and collected and held by air carriers. It includes information such as the name of the passenger, travel dates, itineraries, seats, baggage, contact details and means of payment. The Directive aims to regulate the transfer from the airlines to the member states of PNR data of passengers of international flights, as well as the processing of this data by the competent authorities. The Directive establishes that PNR data collected may only be processed for the prevention, detection, investigation and prosecution of terrorist offences and serious crime. (Council of the EU, 2016)

The new rules create an EU standard for the use of such data and include provisions on:

- the purposes for which PNR data can be processed in the context of law enforcement (pre-arrival assessment of passengers against pre-determined risk criteria or in order to identify specific persons; the use in specific investigations/prosecutions; input in the development of risk assessment criteria);
- the exchange of such data between the member states and between member states and third countries;
- storage (data will initially be stored for 6 months, after which they will be masked out and stored for another period of four years and a half, with a strict procedure to access the full data);
- common protocols and data formats for transferring the PNR data from the air carriers to the Passenger Information Units; and
- strong safeguards as regards protection of privacy and personal data, including the role of national supervisory authorities and the mandatory appointment of a data protection officer in each Passenger Information Unit. (Directive EU 2016/681)

In the implementation of this Directive, EU member states should be particularly cautious, primarily due to the poor experience with a previous similar directive that was in force for 8 years. It is about the Data Retention Directive (Directive 2006/24/EC) which obliged the member states to store all telecommunications data of citizens, including location data, for a minimum of 6 months and 24 months at the most. Under this Directive the police and security agencies were able to request access to details such as IP address and time of use of every email, phone call and text message sent or received. On 8 April 2014, Data Retention Directive was invalidated by the Court of Justice of the European Union for violating fundamental rights.

In this context it is important to note the implementation of a number of UN Security Council Resolutions in the EU that contained a list of persons associated with the Al-Qaeda network and the Taliban whose assets had to be frozen and the consequences they had on the human rights and liberties. Yassin Kadi and the Al Barakaat International Foundation, whose names were included in the list, challenged Regulation No. 881/2002 before the European General Court. They argued that Regulation No. 881/2002 violated **their right to a fair hearing, their right to**

property, and their right to effective judicial protection. Even though the General Court found that the Regulation was valid, the Court of Justice found the resolution to be invalid in EU law. This meant that the approach followed by the European General Court ran counter to the constitutional principle that all EU acts must respect fundamental rights and an international obligation that is in breach of those constitutional principles cannot form part of the EU legal order. ((Lenaerts, 2014) Soon after the decision was announced, the European Commission issued a summary containing the reasons for the inclusion of Kadi's name in the list and gave an opportunity to him to comment on those reasons. Kadi sent his comments to the Commission requesting disclosure of the evidence supporting the allegations in the summary but the Commission in its response stated that the judgment did not require it to disclose further information and included Kadi's name in the list by adopting Regulation No. 1190/2008 which Kadi successfully challenged before the European General Court. The Commission, the Council and the UK brought an appeal against the ruling of the European General Court. The European Court of Justice dismissed the appeals and upheld the General Court's annulment of Kadi's EU designation on the grounds that none of the reasons given in the UN's summary for linking Mr. Kadi with terrorism were substantiated. After the ruling in Kadi's case, the effective proportion of fundamental rights has further been developed in subsequent cases before the European Court of Justice. In the joined cases of Hassan and Ayadi[17] and the case of Othman[18], again a breach of the right to be heard, the right to an effective remedy and the right to property was determined. Hassan, Ayadi and Othman claimed the annulment of Regulation 881/2002, and their claims were accepted by both courts. Sixteen months after Kadi's judgements, the Council adopted Regulation 1286/2009, which repealed Regulation 881/2002 and introduced a higher level of legal certainty for persons and entities designated as associated with Osama Bin Laden, Al Qaida and the Taliban.

Restriction of civil and political rights in the USA

Restriction of civil rights and liberties in the USA during times of major national military crisis starts with the Quasi-War with France at the end of the 18th century and continues with the Civil War, World War I, World War II, and the Cold War. During the Cold War, new federal intelligence agencies were established and expanded. Further, those already in existence, the FBI in particular, grew vastly stronger than they had been during previous crises. Although the creation and expansion of those agencies would have occurred regardless of the Cold War, the degree to which they expanded was undoubtedly greater than if the crisis had never occurred. That is relevant because it means that the footprint of the federal intelligence agencies after the Cold War was greater than if the crisis had not occurred. Additionally, the crisis reflected growing reliance on forms of electronic surveillance, such as wiretapping, bugging, and the monitoring of international communications. In the latter years of the Cold War and in the years after, the

[17] *See Joined Cases C-399/06 P and C-403/06 P, Hassan and Ayadi v Council of the European Union and the Commission of the European Communities (3 December 2009).*
[18] *See Case T-318/01, Omar Mohammed Othman v Council of the European Union and the Commission of the European Communities (11 June 2009)*

growth of technologies of mass surveillance was extraordinary. As a result, their significance was most clearly reflected in the current —"War on Terror". In every crisis in American history, including the —"War on Terror," policymakers and the public demonstrated a similar fear-based response to threats to American national security. In each, those fears led people to accept restrictions on their civil liberties that usually exceeded any limitations justifiable by the threat posed (Fairman, 2009). That is also the case with the USA Patriot Act signed by USA president George W. Bush after terrorist attacks in New York on 11th of September.

USA Patriot Act is a law that gave new powers to the U.S. Department of Justice, the National Security Agency and other federal agencies on domestic and international surveillance of electronic communications; it also removed legal barriers that had blocked law enforcement, intelligence and defense agencies from sharing information about potential terrorist threats and coordinating efforts to respond to them. The law is intended to help government agencies detect and prevent possible acts of terrorism, or sponsorship of terrorist groups. USA Patriot Act comprises 10 titles including: Enhancing domestic security against terrorism; Enhanced surveillance procedures; Anti-money-laundering to prevent terrorism; Border security; Removing obstacles to investigating terrorism; Increased information sharing for critical infrastructure protection; Improved intelligence; etc (107th US Congress, 2001).

But the Patriot Act raised concerns among civil liberties groups and other critics surrounding the data privacy rights of U.S. citizens, concerns that were heightened significantly in 2013, when NSA contractor Edward Snowden leaked information showing that the agency was using the law to justify the bulk collection of data about millions of phone calls. Among the Patriot Act's more controversial provisions is the ability to intercept Internet messages, included among the sections in Title II. Flowing out of the government's ability to legally tap telephone lines in certain cases, the USA Patriot Act permits the interception of all messages that are "relevant to an ongoing criminal investigation." Among its other surveillance-related authorizations, the act also allowed authorities to: compel organizations to provide access to "any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities;" and to engage in so-called roving wiretaps, which allows surveillance on a target without specifying the device to be tapped (Rouse, 2016).

Opponents of the law have criticized its authorization of indefinite detentions of immigrants; the permission given law enforcement officers to search a home or business without the owner's or the occupant's consent or knowledge; the expanded use of National Security Letters, which allows the Federal Bureau of Investigation (FBI) to search telephone, e-mail, and financial records without a court order; and the expanded access of law enforcement agencies to business records, including library and financial records. Since its passage, several legal challenges have been brought against the act, and federal courts have ruled that a number of provisions are unconstitutional. ("Patriot Act", n.d.) Also, critics say that the Patriot Act allows investigators to use spying and terrorism as an excuse for launching foreign intelligence wiretaps and searches. They point to the fact that the number of intelligence wiretaps now exceeds the number of criminal taps. Since

these probes are conducted in secret, with little oversight, abuses could be difficult to uncover. Civil liberties groups say one antidote would be to require that the Justice Department release more information about foreign intelligence investigations. (Abramson and Godoy, 2006)
Although it's difficult to measure the achieved results of the USA Patriot Act, some analysts claim that USA Patriot Act had success in identifying and arresting terrorists who have committed terrorist attacks, but showed no results in preventing terrorist attacks.

Conclusion

Restriction of civil and political rights is justified when it is in the name of national security, because the community rights overcome the individual rights. Non-infringement of restricted civil and political rights in terms of overdraft and abuse is crucial.
Any effort to prevent terrorist radicalization on the Internet (such as regulating, filtering or blocking online content deemed to be illegal under international law) should be in compliance with international human rights standards and made according to the rule of law, so as not to impact unlawfully on the freedom of expression and free flow of information. Security measures should be temporary in nature, narrowly defined to meet a clearly set-out legitimate purpose and prescribed by law. These measures should not be used to target dissent and critical speech. (Akdeniz, 2010)
Counterterrorism measures vary across countries, but countries must make even greater effort to increase cooperation in adopting a legal framework in combating terrorism and unification of some of the basic notions related to terrorism. For example, the fact that there is no unified definition of the notion of "terrorism" is very much incomprehensible and unacceptable.
Also, countries must be very careful about the level of restriction of civil and political rights in the fight against terrorism because a significant restriction, especially to the freedom of speech may drive people toward extremist ideologies. More restrictive counterterrorism legislation may be generating negative impacts that weaken the global fight against terrorism, in the sense of isolation of the communities which could lead to a rise in terrorism. The biggest challenge for governments is to find ways of countering the threat of terrorism without weakening civil and political rights, which many consider to be the best defense against violent extremism.

References

1. *Abramson, Larry and Godoy, Maria. (2006). "The Patriot Act: Key Controversies", http://www.npr.org/news/specials/patriotact/patriotactprovisions.html*
2. *Akdeniz, Yaman. (2010). "Freedom of Expression on the Internet: A Study of Legal Provisions and Practices related to Freedom of Expression, the Free Flow of Information and Media Pluralism on the Internet in OSCE participating States", Vienna: OSCE Representative on Freedom of the Media.*

3. *http://www.consilium.europa.eu/en/policies/fight-against-terrorism/passenger-name-record/*
4. *Lenaerts Koen. (2014). "The Kadi Saga and the Rule of Law within the EU", Court of Justice of the European Union, SMU Law Review, vol. 67.*
5. *"Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the Retention of Data Generated or Processed in Connection with the Provision of Publicly Available Electronic Communications Services or of Public Communications Networks and amending Directive 2002/58/EC", Official Journal of EU, L 105/54, 13.4.2006, http://eur-lex.europa.eu/eli/dir/2016/681/oj*
6. *"Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the Use of Passenger Name Record (PNR) Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime", Official Journal of EU, L 119/132, 4.5.2016, http://eur-lex.europa.eu/eli/dir/2016/681/oj*
7. *"European Convention on Human Rights as amended by Protocols Nos. 11 and 14 supplemented by Protocols Nos. 1, 4, 6, 7, 12 and 13", Council of Europe, http://www.echr.coe.int/Documents/Convention_ENG.pdf*
8. *Fairman, Matthew D., (2009). "The Restriction of Civil Liberties during Times of Crisis: The Evolution of America's Response to National Military Threats", Government and International Relations Honors Papers. 7.,pp. 232-235. http://digitalcommons.conncoll.edu/govhp/7*
9. *"Human Rights, Terrorism and Counter-terrorism, Fact Sheet No. 32" (2008), Office of the United Nations High Commissioner for Human Rights, ISSN 1014-5567, pp: 1-9.*
10. *"Patriot Act" Wikipedia, last edited on July 01, 2017, Retrieved April 20, 2017 from https://en.wikipedia.org/wiki/Patriot_Act*
11. *"Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach". (2014). Organization for Security and Co-operation in Europe Vienna, pp. 48-57 http://www.osce.org/atu/111438?download=true*
12. *Rouse, Jacqueline. (2016). "USA Patriot Act". Retrieved on April 21, 2017 from http://searchdatamanagement.techtarget.com/definition/Patriot-Act*
13. *"Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001"-107th United States Congress 115 STAT. 272, PUBLIC LAW 107–56—OCT. 26, 2001*
14. *https://www.gpo.gov/fdsys/pkg/STATUTE-115/pdf/STATUTE-115-Pg272.pdf*
15. *Wacks, Raymond. (2006). "Philosophy of Law -A Very Short Introduction", Oxford University Press pp. 55-58.*

IMMIGRANTS AND SOCIAL RESPONSIBILITY OF HOST STATES

Assoc. Prof. Dr. Bejtulla Demiri
International Balkan University
bejtullademiri@yahoo.com

Abstract: Humanity is faced with a deep moral crisis, we as human beings have forgotten the value and dignity of every person as core element of the universal rights and freedoms. As socially responsible people, our ethics call us to acknowledge the immigrant experience and to do the maximum for their accommodation. Host states are obliged to respect the scope of human and political rights of immigrants in the context of international law, as well as current political rights regulations of the country of asylum. Immigrants, like other strangers, are entitled to the same political freedom of expression, association and assembly as host state citizens. These rights are often seen as a threat to the national cohesion of the host state. Responsibility toward immigrants is also applied to non-governmental organizations which are concerned with them in order to help the administration of international activities in these areas

Keywords: Immigrants, Social Responsibility, Host States, Humanity, Political Rights, Political Freedoms

Introduction

This article will try to define the social responsibility of host states toward migration as one of the central topics that concern European countries in the last decades. The aim is to analyze and classify different dimension of migration in the context of significant social responsibility of European Member states, their activities and action for preventions of migrants from undignified treatment. In social aspect migrations are an important global phenomenon, going on in every state and they do impact in a series of relevant social structure from politics to demographical changes. The overview of migrations in EU is closely connected with the present wave of immigrants from the Syrian conflict; their route is through Balkan countries. These countries from beginning of migrant crises have been on the forefront of international media and politics. Displaced persons, refugees, migrants have arrived from different middle east states mostly from Syria, and Iraq, who run away from war or political execution. The goal of refugees is European Union specially Germany, but the largest brunt of the crisis fell on the budget of Republic of Macedonia and republic of Serbia, as gates before entrance in European Union. Political and economical capacity of Republic of Macedonia and Republic of Serbia to manage this influx is very weak; European Union took a great initiative for help through material assistance and expertise.

The treatment of refugees on their route to European Union

Immigrations are an important worldwide phenomenon, happening in almost in every country and they cover a series of relevant social issues from political and democratic to economic to demographic. The western Balkan countries haven't been excluded from such global migration flows. On the contrary, it can be said that migrations represent a significant part of the Balkans' past, especially in the last decades. Sharlamanov Kire (2016) explains that the Balkan route became passageway into the EU, on entrance in Hungary, migrants requested protection and accommodation in acceptance refugee centers. In these centers they are categorized as either: a refugee, an asylum-seeker, an irregular immigrant or a legal immigrant. European Border and Coast Guard Agency, FRONTEX played a crucial role in process of control and registration of migrants. In the past years migrant tragedy has seen a catastrophic increase in the loss of life or missing at sea (Migration and asylum: a challenge for Europe) 2017.

Support was provided to local governments in Macedonia and Serbia to control increased pressure on waste management, water supply, food, health care and social work. It is hard to judge how Western Balkan countries would handle through the situation, without any support from European Union. Social Responsibility of European Union toward migrants was realized by the assistance provided by the European Commission and other EU agencies, which have been functioning strongly with the Serbian and Macedonian establishment to fulfill the humanitarian needs of the refugees. Another project prepared by European Union is Regional Refugee and Migrant Response Plan for Europe (RMRP) covering Turkey, Southern Europe, Western Balkans and other parts of Europe. Through it, importance is located on ensuring regular border and protection monitoring, strengthening existing national protection, relevant services and assistance *Europe Situation - Regional Refugee and Migrant Response Plan January-December 2016 Eastern Mediterranean and Western Balkans route* (2016). The Regional Refugee and Migrant Response Plan for Europe present a structure for an inter-organization reaction to the migrant and refugee mass flows into Europe. It scheduled out the largely strategic direction at the regional level, while building upon specific state obligations. Influenced states have also approved direct communication regarding migrant issues, without which hard work for the human care of refugees would be inefficient. From the whole crisis we can derive that regional cooperation and the EU assistance is paramount for the sustainable solution of this situation. Western Balkans countries do not have sufficient capacities for housing this number of people, but the EU has constantly provided help towards this objective. In future EU policies and cooperation with Serbia and Macedonia will be aimed to improve border control and better preparation for refugee acceptance.

Immigrants and Social Responsibility of European Unionfor social integration in the European Union

Managing immigration, solving their problems, finding strategies and holding under control integrity of union is one of the most important and difficult issues that the European Union is facing today. Since enlargement to 28 members, but after BREXIT

27 the problem of functional system has become even more critical *Questionable immigration claims in the Brexit white paper* (2017). The success of European Union policy on immigrants depends on their project and programs on the integration of them into the European Union society. Social Responsibility of European Union toward immigrants is very complex phenomenon, and need a very serious approach for efficient solution. This social Responsibility of union for successful migration policy depended on the prosperous integration of immigrants into the host society. The discourse raised a number of different questions in addition to its core issue: "What are the most important factors in successful integration? What are the main blockades? What should be the political objectives at European Union level, bearing in mind that integration and acceptance of migrants is the primary responsibility of Member States? What kind of action should be made-up?

This paper is trying to address what should be the policy objectives of migrants for integration policy of European Union. The European Union Strategies for integrating migrants are important for implementing integration projects in all members through different, clear integration policies that attracted necessary job migration, especially and particularly high skilled workers. These policies automatically build trust among the host country and immigrant community. The core elements that needed to be addressed as very important dimension on human rights and freedoms is the issues of family reunification of migrants, education of their young generations, jobs, health care, conditions for practice of their religion culture, as well as political participation and rights to vote. Another obligations or challenge is discourse with all members of European society analyzing their worries and dilemmas toward migration and migrants. All citizens of European Union needed to be aware, for that diversity is one of the core strengths of the European civilization. The issues of failed mission of European society to integrate migrants represent a serious indicator for weak side of western society. The division and different understanding of integration policies at the local and central level needed to be the focus of policy discussions on EU institutions. Refugee, Migration and their integration processes were always background for sensitive debate, which meant that combination of different strategies are needed to maneuver the procedure. With out a detailed understanding of nature and how integration works, there are no potential solutions to develop successful functional policies. Normally immigrants, refugees or marginal and minor groups are powerless to influence the European Union policy maker (*Research on Migration: Facing Realities and Maximising Opportunities)* 2016. But in reality, and practice a very tolerant policy in the field of acceptance and integrations is needed, where construction and implementation of norms and rules in European Union for status of migrants should be codified, to increase antidiscrimination policies and improvement of the amount to which immigrants have access to public institutions and to the economic, social, political and cultural spheres in their host state. But the problem notion integration is controversial and a very complex process and for that reason, bringing the different stakeholders to define practical solutions analysis is needed. One of the definitions of integrations is the free association of people from different states, racial and ethnic backgrounds, for an aim of the civil rights association to defeat different policies of segregation and discrimination. According to this definition there is struggle against segregation and discrimination for better live conditions in host states. The integration process is taking place at the local level of state organization,

starting from primary needs for example the need for education of migrants for understanding the basic norms of the host society, which had consequences for the discussion of integration as whole process. In these activities language courses are included, right to use to the job market and local schooling. Participations and accesses to political rights are particularly important. In integrations process the recognition of professional skills is very important, abilities and qualification of immigrants, housing issues etc. Initiatives and expression of need for a European Union agenda and plans on integration of refugees is not a question mark, but the question is that agenda should be legal and political, as results of challenges in integration process of migrants into society. European Union is complex political organization where each member state has its characteristics and specific needs in creation of policies on migrants for establishing of national targets, implementation of these policies should be put into national reports and sent to the Commission. The role of the Commission as the coordinator of this process is to create point of reference these experience and knowledge on successful or most effective practice *Managing the Refugee Crisis: Commission reports on implementation of EU-Turkey Statement* (2016). In this process the Commission as the coordinator is faced with the problem of undocumented migrants, who are at higher risk for legal and health problems, because of their irregular status and the consequences of economic and social marginalization. Moreover, the emergent reality of illegal and undocumented migration in Europe calls for action in the field of administration in health care demands of migrants, as their access to health institutions has become a sensitive political and social issue.
Obligation of member states is to improve the political environment and decision-making structure in needed to be reminded, to help them toward taking brave, positive approaches with respect to immigration and integration. Actual engagement in promoting the positive impact migrants could have on the European labor market but also more widely, might have to be less politically correct, when addressing the media and actively and aggressively point out the positive contributions made to host societies by integrated immigrants. The migration without real integration in society could make societies weak and could have an antagonistic effect on those elements of society that were already in trouble**.** Civil society and other social stakeholders had to hold these positive practices and work with other societal groups to find functional solutions *(What European Union Strategy for Integrating Migrants? 2010).*

To solve the crises now and to create prevention for the future, three main goals are needed: prevention, protection, sustainable solutions. Just if all different aspects are carefully dealt with, the further development of crises can be stopped and EU can be prepared for the future. In this paper our recommendations for new policies of EU toward migrants, starts with the root causes of the crises. Migrations flows can be limited by tackling the reasons why people are fleeing. This is difficult task and it cannot be completed by EU alone. An international cooperation between states and human rights organization is needed. The root causes of this migrations crisis cannot be detected to one accusation or country, it is rather a combination of factors that has caused so many people to flee from their homes the overall issues are related to a lack of democracy and respect for rule of law. The measures taken as preventions must not be completed in order to focus on the next steps. However, the EU must

certainly keep the root causes and its possible solutions in mind while drafting its policies. The member state must understand that they cannot stop migrations without taking these preventions, such as the importance of addressing the root causes of irregular migration and forced displacement. Another measure in the process relates to the protection of asylum seekers and refugees. This includes providing humanitarian aid and offering temporary protection and asylum. EU states are obliged providing humanitarian assistance and are helping to create safe areas. The protection measures are adopted to ensure safety and support to the people living in conflict zone, the following aspects concerns the migrations process itself. Especially in the beginning of a conflict and later on, if the previous measures turned out to be unsuccessful or ineffective, an exodus of civilian will follow. This situation requires mechanism of temporary protection and asylum. As practical solutions, whereby the essential rights of the migrants will be ensured, until a more permanent system comes into effect. Sustainable solutions are key success for overcoming the migration crisis and helping those needed. Migrants must be either returned or resettled, and thereby integration is crucial factor. Being a migrant, refugee or asylum seeker should be a temporary stage in a person's life, not ones definitive status. Long term solutions can either be focused on return or resettlement. Both solutions must endorse the uttermost respect for the non-refoulement principle. Discrimination is based on inter alia gender, race, beliefs, nationality, social origin or sexual orientations. Returning migrants can only be an option if there is no more danger to their fundamental rights either in their home country or in the third country.

Media coverage and responsibility of international community toward immigrants

Media inform on the global migration and refugee issues regularly fail to tell the true story and they fall into manipulations led by different political interest group. There is a reality on the world media coverage is often is under influence of journalist who are following agendas dominated by negative language and discriminatory talk on immigrants and their social status in host states. In reality those stories don't have to be like that. According to professional ethics journalist are obliged to talk with empathy and their center of attention needs to be on the suffering of those unlucky people involved on wars, exodus and immigrations.

The most European mainstream media organizations failed to inform on time about an imminent influx of refugees fleeing war in Syria and Iraq. On these situations, hate speech, anti-migrant or anti-Muslim statements were on focus by statements of politicians especially in EU and USA fuelled increasing public concern and occupied media coverage. In such situations media standards failed to provide detailed and reliable information about the refugee crisis because of irresponsible journalists not able to provide responsible and sensitive reporting. In drama of refugees media coverage is driven by hyperbole, intolerance and distortion with media in confusion over what are the correct terms to use to describe migrants, refugees and asylum-seekers *Where media fails on the reporting of migrants and refugees* (2017).

Journalism, much of it negative and focused on numbers of migrants on the move, took a dramatic turn with the deaths of refugees and the publications of pictures of

their bodies. All these actions serve as an instrument for the human tragedy within the migration story. Journalist's news shows a lack of humanity on the information of public opinion and the responsibility of international community is a broader lens to see what really is going on. In level of European Union is a trend, equally among many politicians and in segments of the majority most important media house, to attack immigrants and represent them as an apparently endless wave of people who will take workplace, and become a weight on the host state and ultimately threaten the public way of social and private life. But in reality, such kind reporting is not only wrong; it's unethical, dishonest and manipulative. Reality is totally different and migrants always bring enormous benefits to their accepted or host countries.

Conclusion

It's a very exciting work to contribute in the exploration, teaching and analyses related to immigrant and refugees for their successfully transitioning to new homes. As is stated in this paper responsibility of host states is trigger for human treatment of immigrants. Our analyses are based on huge number of sciences as political sciences, economics, sociology, demography and anthropology. The issues of immigrants as global discourse are central and important theme for understanding immigrants and their life experience.
In this context we can conclude that the European Union has an important role in advocating and enabling durable solutions for immigrants, especially with regards to fulfilling their right of return to their countries of origin. European Union member's states as host states are obliged to recognize and detect the needs of refugees as targeted for humanitarian aid combined with sustainable development assistance.
European Union also advocates for the full identification of the new opportunities and benefits for national and local policies and economies which effectively immigrants can create. These circumstances require instruments for protection and asylum and practical solutions, whereby the essential rights of the migrants will be ensured, until a more permanent solution comes into effect.

It's important to emphasize that the role and responsibility of the media is crucial in informing and telling the truth about immigrants and their unlucky positions. Unfortunately, media coverage didn't fulfill their duty in this process and they were dominated by negative language and discriminatory talk on immigrants. Finally, as results we can conclude that the most important winners in this complexity are the host states, because migrants always bring enormous benefits to new homes in their accepted or host countries.

References

1. *What European Union Strategy for Integrating Migrants?. (2010). Retrieved from: https://www.euractiv.com/section/security/opinion/what-european-union-strategy-for-integrating-migrants/*
2. *Sharlamanov,Kire (2016).Migration in Balkan Countries as Social Phenomenon; Wulfenia Journal, Vol. Vol 23, No. 9*

3. *Migration and asylum:a challenge for Europe) 2017 http://www.europarl.europa.eu/RegData/etudes/PERI/2017/600414/IPOL_PERI(2017)600414_EN.pdf*
4. *Europe Situation - Regional Refugee and Migrant Response Plan January-December 2016 Eastern Mediterranean and Western Balkans route(2016)https://data2.unhcr.org/en/documents/download/46697*
5. *Questionable immigration claims in the Brexit white paperhttp://bruegel.org/2017/02/questionable-immigration-claims-in-the-brexit-white-paper/Questionable immigration claims in the Brexit white paper*
6. *Research on Migration: Facing Realities and Maximising Opportunities)https://ec.europa.eu/research/socialsciences/pdf/policy_reviews/ki-04-15-841_en_n.pdf*
7. *Where media fails on the reporting of migrants and refugees*
8. *http://ethicaljournalismnetwork.org/assets/docs/038/141/6adda26-23eaf8d.pdf*
9. *Managing the Refugee Crisis: Commission reports on implementation of EU-Turkey Statement.*
10. *http://europa.eu/rapid/press-release_IP-16-1444_en.htm*

DISABILITY RIGHTS IN GERMAN TENANCY LAW

Assist. Prof. Dr. Nurten Ince
Marmara University
nurten.ince@marmara.edu.tr

Abstract: Approximately 650 million disabled people live worldwide. This number corresponds to approximately 10 percent of the world population. Unfortunately, these people are often victims and they have been discriminated. European Tribunal for Human Rights regularly deals with complaints from disabled persons with human rights conventions. In Germany, the Article 554a of the German Civil Law (BGB) has been inserted through a modernization of obligation law. This standard aims to improve the legal position of disabled people in tenancy situations while the tension between them is different and divergent forlegal entities and legal goods. There is no such provision in the many legal systems. It is therefore necessary to examine the standard in detail and to establish whether such a norm is also necessary in the other legal systems.

Keywords: Human rights, Disability Rights, Tenancy Law, German Law, Housing Right

Introduction

Disability is an umbrella term covering impairments, activity limitations and participation restrictions. Impairment is a problem regarding the functioning or the structure of the human body. The second one, the activity limitation, refers to a difficulty in performing a task or an action.[19] And finally, a participation restriction is a problem experienced by individuals in their daily life. It is well-known that the disability is not only a health problem. It is also a complex phenomenon reflecting the interaction between features of a person's body and features of the society in which she or he lives.

According to the data provided by the United Nations Development Program (UNDP), a huge number of disabled people live in developing countries. Due to economic situation in which these states find themselves, disabled people mainly suffer from poorer health, lower education achievements, fewer economic opportunities and higher rates of poverty (Zengin, 2014: 24). Although there is a considerable amount of disabled people in every country, it is hardly difficult to see a comprehensive research on the rights of these people. In the past times, generally women, children, black people, sexual minorities or foreigners were labelled as disabled people. And they were categorized as „less human than others".[20] Even sterilization and euthanasia were explicitly covered by disabled people, however, they remained largely 'invisible' in the society, and unfortunately they could not

19 For more Information: http://www.who.int/topics/disabilities/en/
20 For more Information: http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf

fairly enjoy the human rights. As previously pointed out, disability is not only a public health issue, but also a matter of human rights.
The number of disabled people is increasing. Senility is one of the reasons for this: Elderly people are at higher risk of disability and chronic health problems such as diabetes, cardiovascular diseases, and mental illness. Environmental and other factors; such as traffic accidents, natural disasters, conflicts, and nutrition and substance abuse, are also increasing and the increase effect the number of disabilities in a negative way. Disabled people are the weakest and most disadvantaged social group in accessing and using their rights. The obligation preventing and eliminating grievances, further deepened by disability-based discrimination, has placed on the agenda the need to combat internationally disadvantaged rights with more effective weapons. That is why today, more is explicitly spoken about the rights of the disabled (Zengin, 2014: 25; Genç & Çat, 2013: 364). Regardless of the international agreements, many countries are also trying to improve and legalize the rights of disabled people in their domestic legal system. One of these laws is the German Tenancy Law. Disabled people are constantly trying to reach equilibrium in their lives. Housing for the disabled is one of their most important needs. The right of housing is a general problem for the people and it has been mentioned in many international agreements. But for disabled people, barrier-free apartments play an enormous role. Article 554a of German Civil Law (BGB) regulates barrier-free housing for disabled people and it can serve as a significant example for other countries as well.

General Development of Disability Rights

There are regulations in many international documents that emphasize the rights of disabled people. For example, Article 25 of the Universal Declaration of Human Rights has emphasized the rights of disabled people. According to this article "Everyone has the right to a standard of living, adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control". And Article 2 clarifies that no one can be discriminated because of his race, origin, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It does not explicitly mention disability, but other status includes disability as well.[21]
In recent years, there has been a revolutionary change globally in the approach to filling the gap in protection and ensuring that disabled people are granted the same standards of equality, rights and dignity as everyone else. The Convention on the Rights of Disabled Persons, which was adopted in 2006 and entered into force in 2008, is an international human rights instrument.[22] This Convention aims to protect the dignity and rights of disabled individuals. All parties which ratified convention have to protect, promote and ensure the accomplishment of the rights of

21 For more Information: http://www.un.org/esa/socdev/enable/dispaperdes1.htm
22 For more Information: https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html

disabled people. The party states have to provide equal rights to these individuals and they have to respect their dignity. The Convention entered into force on 3 May 2008, with the Optional Protocol foreseeing the individual complaints mechanism. In Turkey the Convention entered into force on 18 December 2008.[23]

Disibility Rights in Germany

a) In General

Germany, after the Second World War, was in extreme need of the implementation of human rights. To establish this further, an amendment was made to the constitution in 1994. "No one may be disadvantaged because of its disability" was added to Article 3 of the German constitution (Rips, 2003: 16, 48; BT-Drucks 14/2913: 3 ff.).
This regulation is very important as all state institutions must respect the fundamental rights and the people cannot be disadvantaged. Today, even the effects of the fundamental rights on private people were discussed and it was also accepted that the fundamental rights are also important between private people (Rips, 2003: 44; Belling & Ince, 2014: 11, 29, 35).
Regulation of above cited provision under the Constitution is significant, as the judges may apply this provision in order to make a broad interpretation. Constitutions are objective world orders. Even the laws, which contain offense against the disability rights, can be found by Constitutional Court as unconstitutional (Rips, 2003: 46; Belling & Ince 2014, 29).
Furthermore, the Equal Treatment Act of Disabled people has come into force in 2002 in Germany. Social law is a part of public law which obliges the government to support the disabled people (Frehe, 2013:17). The Social Housing Act Art. 1, 6 and 24 makes it possible to provide the elderly and disabled people with social housing. The law also provides support for people and of course, disabled people who do not have financial opportunity. The aim of these arrangements is clear. By means of these rules, the lawmaker would like to protect people with handicap and to make them participate in the society, but more significantly is that the the lawmaker can protect the disabled tenant between two private individuals.

b) Tenancy Law

Article 554a, which has been newly created as a part of the reformation of the tenancy laws, enables disabled housing tenants with the right to the landlord's consent and access to a rented property intended for the disabled by the tenant (Rips, 2003: 28; Welti & Sulek, 2001: 131; Mersson, 2002: 313; Drasdo, 2002: 213 ff). The aim of this regulation is to grant an opportunity to the disabled people to live in a place which is appropriate for disabled people. It means that this provision, in the legal and socio-political context, is governed by other laws of this nature such as Social Law IX and the Equal Opportunities Act. Only 4.5% of all disabled people are

23 http://www.ankarabarosu.org.tr/Siteler/2012yayin/2011sonrasikitap/engelli-haklari-birlesmis-milletler.pdf

disabled from birth (Derleder, 2004: 119). Accidents, illness, and beyond all, senility are other additional causes of disability (Barfknecht, 2012: 252; Mersson, 2002: 313). These people need care facilities, such as suitable kitchens, furniture, beds, and floors. Constructional measures are not only primarily necessary for access to the house, but also for the apartment door, bathroom, kitchen and the living area (Barfknecht, 2012: 253; Derleder, 2004; 119). Substantial interventions are necessary in order to provide sufficient freedom of movement which would ease their life. Living in one's own home without constant help is not only a matter of individual desirability; however, in the face of the overburdening experiences of institutional care services by the welfare state in a society with a reversed population pyramid and steadily growing expense, it has become a compulsion (Rips, 2003: 189; Mersson, 2002: 313). Accessibility, thus, also has had a whole social backwind (Welti, 2013: 24).

c) The History and Purpose Behind the Regulation

The decision of the Federal Constitutional Court has influenced the German legislator to codify such a norm. This act was put into action based on the following Reasons: (Mersson, 2002: 313). The plaintiff in question has been living together with his paraplegic partner in a rented apartment in Berlin since 1992. The apartment is on the second floor. His partner is dependent on the wheelchair for movement and must be carried daily through the stairwell (BverfG, WM 2000:298 ff.).
For this reason, he asked the landlord for permission to build an electrical stair lift. The applicant offered to install the stair lift at his own expense and promised to restore it back before he moves out of the apartment. However, the landlord rejected his offer. In the main case, the applicant brought an action against the lessors in the context of a refusal to grant permission to build the lift. His application failed in both instances (BverfG, WM 2000:298 ff).

According to the opinion of the German Federal Constitutional Court:

- the property rights under Article 14 GG also includes the right of co-use of the stairwell leading to the apartment, both for the tenant himself and for the partner in life admitted to the property.
- If the partner is hampered and is not in a position to commit the stairwell without any mechanical help, the civil courts are obliged to find under Art. 242 BGB (German Civil Law), individual weighing of the conflicting interests in the tenancy relationship to the tenant's and his /her partner's rights under Article 14 of the Basic Law (BverfG, WM 2000:298 ff).
- In weighing of interests, the tenant cannot be referred to a disabled-friendly housing; as Article 14 of the Basic Law protects the specifically rented apartment and not the availability of an apartment on the rental market.

d) Conditions in the Regulation

Disability

The term "disability/ obstructed" should not to be interpreted in the strict sense of social law, as in Article 2 Social Law (SGB IX). In particular, any significant and permanent restriction of the freedom of movement, regardless of whether it already existed at the beginning of the rental period or only occurred during the course of the tenancy (e.g. due to an accident or the aging process), should be considered (Rips, 2003: 97 ff; Barfknecht, 2012: 256; Mersson, 2002: 314). The nature of the disability does not matter; a disability is not counted only of the tenant but also of a family or household member or of any other person who has a special personal relationship with the tenant (Rips, 2003: 95 ff; Barfknecht, 2012: 256; Mersson, 2002: 314). It could be argued that whether the disabled visitors of tenants can ask for such changes to § 554a BGB. Some argue that it cannot be possible. As rental agreement has two parties and only singed by lessee and lessor (Blank/Börstinghaus, 2001: § 554a: 6 (Nr)). Giving this right to the third parties definitely goes beyond Article 554a BGB which is regulated as an exceptional provision. On the other hand, some may assert that the purpose of this norm (§ 554a BGB) is to protect disabled people (Barfknecht, 2012: 256). Thus, it should be interpreted broadly and should also include visitors (Pfeifer, 2002: 41). Visitors of the tenant should be also considered the use of the apartment as a rule also includes the possibility of attending disabled persons, at least if the handicapped visitor has a special relationship with the tenant (Barfknecht, 2012: 256, Pfeifer, 2002: 41).

Structural Changes and Other Facilities

The term "structural change" applies to the building internally and externally and it covers all the construction made inside or outside the building (Rips, 2003: 110 ff). The term "other facility" covers the measures which do not interfere massively with the structural substance. It merely serves to install devices reconstructions within the rented housing as well as outside, as far as access to the housing is to be made possible or improved (Mersson, 2002: 314; Drasdo, 2002: 123 ff). For example, lighting elements, motion detectors, emergency switches, bell systems, parts of the kitchen furniture and door frames apart from structural changes. This covers the entire range of housing assistance for disabled people. Article 554a of the German Civil Law (BGB) is thus directed to the possibility of using all areas of life around the apartment without avoidable difficulties and largely without the help of others (Drasdo, 2002: 123 ff).

Necessity

The measures sought by the lessee are necessary, if the measure geared to the specific handicap of the resident concerned; if the measure is also suitable to enable and facilitate the life of the disabled. This does not exclude the possibility of being useful to others; if reasonably, no other measures are possible to fulfil these

purposes with a lower substantial effect (Barfknecht, 2012: 257; Mersson, 2002: 314).
It is always necessary to examine whether a minor interference with the rights of the landlord can lead to a legitimate change in the legal status of the landlord or can be achieved in the same way without some type of destruction. Article 554a of the German Civil Law (BGB) contains the constitutional principles which is necessary to weigh the interests of the tenant, the landlord and the other tenant (Mersson, 2001: 956). In principle, all general and concrete circumstances of the individual case are included in the consideration process (Barfknecht, 2012: 257; Mersson, 2002: 314). This allows a reasonable balance between the owner's freedom of disposal resulting from the property protection the claim of the disabled tenant resulting from the human dignity and the prohibition of discrimination (Barfknecht, 2012: 257; Mersson, 2002: 314).

Weighing of Interests

However, the tenant's rights are not unlimited. The landlord may refuse his consent in accordance with Article 554a, Paragraph 1, Sentence 2 of German Civil Law (BGB), if his interest in the preservation of the rented property or of the building predominates that of the tenant. It is therefore a matter of weighing interests (Rips, 2003: 125; Barfknecht, 2012: 257; Mersson, 2002: 314). In this respect, as it is clear from sentence 3 of the regulation, the legitimate interests of other tenants in the building must also be adequately taken into consideration. Since the landlord is only allowed to refuse consent if his or the other tenants' interests are overlooked, the landlord must be given an equivalent interest (Mersson, 2001: 956). The provision does not provide a clear guideline in which circumstance the balancing must be carried out. Examples are also not enumerated. The legislature has worked exclusively with so-called undefined legal provisions. Thus, it can be concluded that a making a general conclusion is not possible, as every individual case will have different dynamics (Mersson, 2002: 314). The type, duration and severity of the disability as well as the scope and necessity of the measure must be taken into consideration while making a decision. It is also the duration of the construction period, the associated impairment of other house residents and the possibility of dismantling. Ultimately, the rebuilding measures also do not violate any existing laws or impose an unacceptable liability risk on the landlord. According to Article 554a, Paragraph 1, Sentence 3 of German Civil Law (BGB), the interests of the other tenants in the building must also be taken into account in the weighing-up. In doing so, these restrictions must be tolerated, so that the provision can still have a meaning. In particular, optical impairments, which do not correspond to the particular taste of the individual tenant, must be ignored.

Conditions Against the Tenant

According to the justification of the legislature, it is permissible for the landlord to impose conditions on the renter because of the conversions should be carried out (Mersson, 2001: 956). Provisions of a different structure may be made in such a way that the landlord requires that the works must be carried out professionally and that

liability insurance must be taken for the hazards arising from the alterations for the duration of their maintenance (Barfknecht, 2012: 257; Mersson, 2002: 315).

Security Deposit

Under Article 554a of the German Civil Law (BGB), the landlord may make his consent to the establishment of the facilities depending on the tenants' providing adequate additional security for the restoration of the former condition (Mersson, 2001: 956). The tenant's claim to accessibility is thus not unconditional. If the tenant is unable or cannot afford the deposit, the landlord is entitled to prohibit the execution of measures, even if the tenant is dependent on them or to demand the removal (Barfknecht, 2012: 257; Mersson, 2002: 317; Derleder, 2004; 120).
Costs and security must be borne by the beneficiaries of the social assistance as soon as the tenant has no financial possibility (Barfknecht, 2012: 257).

Conclusion

Recent developments in the rights of disabled people have been made and 2003 has been accepted as a year of disabled people. Many have tried to create awareness on this issue.
Social development is essentially determined by two trends: Individualization and globalization. Both developments reinforce the company's decolidation, polarization between young and old, healthy and sick and intensify economic and individual competition, the pace of the work processes and the yield-oriented performance. The winners of this change consciously and unconsciously use the liberties resulting from liberalization. In such a situation, the legal order, especially private law, must increasingly take over the management of social behaviour instead of generalizable moral forms, thereby providing multifaceted alternatives for differentiated markets and social spheres. Article 554a of the German Civil Law (BGB) is a private statute which constitutes a major contribution to the social balance. In the elementary important area of housing, it provides a certain degree of life security for people who are particularly dependent on it. 554a BGB is therefore more than a "white ointment" and more than a "populist bow before social-fundamental considerations." Article 554a BGB improves the legal status of disabled people in existing rents and is an important basis for the fact that disabled people outside of homes can lead a self-determined life (Barfknecht, 2012: 257).
Disabled people must be supported not only by state organs by creating adequate housing, they must also be supported in private law and from discrimination by private people. In the German legal system, there are many standards which protect disabled people. In this context Article 554a of German Civil Law (BGB) is extremely important. For the handicapped people should not be removed from their habitual environment, but should be integrated more into the society. The state must create many new apartments with accessibility. But the people who have become disabled later due to old age, are more protected by this standard. Only under these circumstances they can live in the same social, familiar surroundings and in peace where they feel secure (Rips, 2003: 188).

In cases in which one of the parties of the Contract is weaker in terms of social economic and similar reasons, it is common for the legislator to make relative mandatory arrangements in favor of the weaker party. It is possible to encounter the rules for protection of the weaker party of the contract in consumer law, labor law and rental law. In our opinion, it is pleasing that the German legislator goes one step further with norms that protect the tenant in the renting law and protects the disabled tenant. Although yet general regulations for protecting disabled people are included in the law, there is a need for regulations that protect the disabled people in private law in order to put these in practice in real terms.

We do not think that this arrangement made in German law in favor of the disabled tenant damages of the proprietary right of the lessor. Because, as stated in the constitutions of many countries, the proprietary right may be restricted without touching the essence of the right, provided that it will not unbounded due to the public interest. That the tenant receives permission from lessor to make proper changes in accordance with its own disability, the tenant meets the costs itself and that the tenant returns the housing to its previous condition when the rental contract ends show that the interests of the lessor are also taken into consideration. In many countries, for example in France, UK and Belgium, arrangements have been made in private law for the rights of disabled individuals. Although, most of these regulations are related to the labor law. In civil law, especially in rental law, the provisions that protect the rights of disabled individuals after the establishment of the rental contract are so few if any. Also in the new Turkish Code of Obligations that entered into force in 2012 many new regulations were included in favor of the tenant. However, in parallel with the Article No. 554a of German Civil Law (BGB), the rights for the disabled persons to make changes in the rented housing has not been given. Today, it is an unignorable reality that the number of disabled persons in the society, especially in old age, increases continuously. Also in private law relations, we think that the legal arrangements, that will protect the disabled individuals by taking the interests of the other party of the contract into consideration, are extremely required. While making legal arrangements on the rights of disabled persons, also the interests of the other contracting party (especially the fundamental rights and freedoms arranged in constitutions) should be taken into consideration. One of the most fundamental rights for individuals to live in a way proper to the human dignity is the housing right and this right is a must for many rights included in the constitutions. Housing right; is in association with the rights such as right to life, the right to health, the right to environment, the right to education, the right to develop the person's own material and spiritual existence. It is very important for the disabled persons, who are tenants, to make changes in the rented housing in accordance with their own disabilities. Therefore, it is not enough for the government to construct only social housing for the barrier-free housing.

In our opinion, in addition to the task of creating the new barrier-free social housing, the lawmakers must also support disabled people in private law, as laid down in Article 554a of German Civil Law (BGB).

References

1. *Barfknecht, D. (2012). Barrierefreies Wohnen aus mietrechtlicher Sicht, Wohnungswirtschaft und Mietrecht (WuM 2012), 252-257.*
2. *Belling, D-W. und Ince, N. (2014). Türk-Alman Hukukunda Temel Hakların Özel Hukuk İlişkilerine Etkileri, Legal Hukuk Dergisi, Volume 12 Issue 137, 3- 59.*
3. *Blank, H. & Börstinghaus, U. (2001). Neues Mietrecht, Verlag C. H. Beck München.*
4. *Derleder P. (2004). Barrierefreiheit im Wohnungseigentumsrecht, Zeitschrift für Wohnungseigentumsrecht (ZWE 2004), 118-129.*
5. *Drasdo, M. (2002). Die Barrierefreiheit im Sinne des §554a BGB, Wohnungswirtschaft und Mietrecht (WuM 2002), 123-130.*
6. *Frehe H. (2013) Das Gleichstellungsgesetz für Menschen mit Behinderung in F. Welti (Ed.), Rechtliche Instrumente zur Durchsetzung von Barrierefreiheit (17-23), Kassel University Press GmbH, Kassel.*
7. *Genç, Y. & Çat, G. (2013). Engellilerin İstihdamı ve Sosyal İçerme, Akademik İncelemeler Dergisi, Cilt: 8, Sa.: 1, 363-393.*
8. *Mersson G. (2002). Barrierefreiheit - doch nicht hindernisfrei!, Neue Zeitschrift für Miet-Wohnungsrecht (NZM 2002), 313-320.*
9. *Mersson, G. (2001). Behindertengerechtes Wohnen – die „Barrierefreiheit" im BGB, Zeitschrift für Miet-Raumrecht (ZMR 2001), 956-958.*
10. *Rips, F-G. (2003). Barrierefreiheit gemäß §554a BGB Ein neues Rechtsinstitut im Mietrecht und dessen Einordnung in das allgemeine deutsche Recht, DMB-Verlag, Berlin.*
11. *Welti, F. (2013). Barrierefreiheit als Rechtsbegriff in F. Welti (Ed.), Rechtliche Instrumente zur Durchsetzung von Barrierefreiheit (25-35), Kassel University Press GmbH, Kassel.*
12. *Welti, F. und Sulek, C. (2001). Die Ordnungsfunktion des SGB IX für das Recht der Rehabilitation und Teilhabe (31-162) in: Igl, G. und Welti, F.(Eds.). Die Verantwortung des sozialen Rechtsstaats für Personen mit Behinderung und für die Rehabilitation. Interdisziplinäre wissenschaftliche Tagung des Instituts für Sozialrecht und Sozialpolitik in Europa der Christian-Albrechts-Universität zu Kiel und der LVA Schleswig-Holstein 23./24. November 2000 Lübeck, Band 7 Wiesbaden.*
13. *Zengin, M. O (2014). Engelli Haklari Çerçevesinde Dilde Önce insan Yaklaşımı ve Medya Alanına Uygulanması, Uluslararası Hakemli İletişim ve Edebiyat Araştırmaları Dergisi, April / May / June – Spring Semester Volume: 2 Issue: 3, 24- 44.*

MULTI-ETHNIC COALITION GOVERNMENTS AS PRECONDITION FOR MAINTENANCE OF POLITICAL STABILITY, THE EXAMPLE OF THE REPUBLIC OF MACEDONIA

Asst. Prof. Dr. Natalija Shikova
International Balkan University
natalijashikova@hotmail.com

Abstract: The Republic of Macedonia is constantly facing the challenge to reach democratic standards; establish rule of law; keep peace and stability; lower inter-ethnic tensions; to increase its economic growth and eventually become an EU member state. Macedonian society is multi-ethnic and multicultural. The main pillar of multi-ethnic Macedonia is the Ohrid Framework Agreement. The established political model is based on power-sharing and redistribution of public resources and political power. The system is not a typical consociationalism model but shares many of its characteristics. Ever since Macedonia has become an independent country, multi-ethnic coalitions are a regular occurrence on the Macedonian political stage. They are generally accepted as a factor that provides political stability of the society, although this practice is not legally based. In this paper the case of a shared form of governments in the Republic of Macedonia will be presented. It will be shown that although traditional multi-ethnic coalition governments are not considered to be stable, they are an important part and a necessity in multi-ethnic societies. The conclusions can serve as a ground for maintenance of peace and political stability especially in countries with less developed democratic traditions where more than one community coexist in one state.

Keywords: multiculturalism, power sharing, coalition governments, legal framework, integration

Introduction

Almost every modern democracy is utilizing one or more mechanisms to accommodate different ethnic and cultural groups living within the borders of a multicultural state and increase their political representation. The idea behind is based on the notion that a state can leave an impression of "neutrality" toward various national groups, but it can (and it usually does) in certain ways, systematically privilege the majority group. State decisions on various society issues can significantly reduce the political power and cultural representation of the minorities (Kymlicka, 2004). The model for assimilation of minorities, often used as a means for the nation and state building, has proven to be inadequate in the long run, because in many cases claims connected to the need to protect and promote separate identity were not repealed; on the contrary, the model only strengthened them. In view of this, if various requirements related to issues such as protection and promotion of separate ethnic or cultural features have already risen, political

regimes have the option to respond timely and adequately through the processes of democratization and liberalization of the society (Birch, 1989). In these processes, numerous political and legal tools that are enhancing ethnic accommodation and increasing the representation in the decision-making process can be used on various government levels. This is a two-way process and needs to involve multiple engagements that are simultaneously protecting the identity and uniqueness of the group and are securing its position in the political processes i.e. make the group capable of influencing and maintaining control over concerning questions. Models which are typically used as tools for diminishing ethnic tensions in contested societies include proportional representation and disproportionate representation as consensual models (Heraclides, 1991), but the list does not end here. There can be a variety of options and hybrid models suitable for a certain political environment. Despite the advantages of these models, their application may cause many problems such as blocking the system or diminishing or even losing the quality of the processes. The models can even stimulate a creation of dual citizenship and instead of having positive effects they can create even deeper separation, causing the groups to exist on the political stages two parallels. Consequently, it is not an easy task to set balance, to ensure integration and greater representation and at the same time to establish and maintain social cohesion.
In this paper the case of the Republic of Macedonia will be presented, through the example of the current and past governments, established as multi-ethnic coalition governments - seen as a necessity for the Macedonian society from a theoretical and practical point of view. Since there is neither a legal basis nor a binding act for creating a coalition arrangement, existing practices can serve as a good example on the one hand –they are in line with the practices of multiculturalism and power sharing– but on the other hand they show the shortcomings of the system promoted in democratic surroundings as a suitable model for societies where more than one group coexist and share common political space. The example will show that multi-ethnic government coalitions are preconditions but not the ultimate tool for cooperation, integration and peaceful coexistence in multi-ethnic societies. To fully achieve positive results from the power sharing systems, the established practice needs to be accompanied by more structured measures going beyond formal representation and simple division of political power.

Multiculturalism and power sharing policies

a) Concepts

Multiculturalism should first and foremost develop new models of democratic citizenship based on the ideals of human rights, and to replace former undemocratic relations of hierarchy and exclusion. More precisely, multiculturalism is constructing new civic and political relations to overcome the deeply rooted injustices that have survived after the abolition of formal discrimination. Multicultural policies include recognition of separate cultural traditions, economic redistribution, and political participation. In this regard, multiculturalism is a deep, targeted and transformative project for minorities and majorities. It requests engagement of the dominant historically subordinate groups in new practices,

entering into new relationships and it embraces new concepts and new discourses (Kymlicka, 2012).

It has long been said that the only way to accomplish "citizenship" is to impose a single, unified model for all individuals. Nevertheless, the ideas and policies of multiculturalism, which have arisen since the 1960s, are based on the assumption that complex history inevitably generates differential ethno–cultural group requirements. The key step to be taken here is not to suppress those diverse requirements, but to frame them with the language of human rights, civil liberties, and democratic accountability. Consequently, an increasing number of countries are accepting models that protect certain forms of cultural differences through special legal or constitutional measures, beyond the common citizens 'rights (Kymlicka, 2004). The accompanying measures tend to increase equality and integration and to overcome the socially disadvantaged position of a minority group. Such measures include: protecting the rights with the laws that prohibit discrimination in all spheres of the society; promoting measures for affirmation or positive discrimination to increase the level of group achievements; requesting from political parties to a have mixed ethnic composition; proportional representation in public services and other official bodies where decisions are taken, etc. (Deng, 2002). Adequate systems are the systems that are enabling integration without forced assimilation (Henrard, 2000).

The consensual model is part of the power sharing system and theoretically it is suitable for societies divided by deep ethnic, racial or religious dissimilarities. Power sharing is a term used to describe a system of governance in which all major segments of society are provided with a permanent share of power and it is often contrasted with government vs. opposition systems, in which the ruling coalitions from time to time rotate on the political stage.

The basic principles of power sharing are traditionally conceived as follows:

1. Big governmental coalition in which nearly all political parties are taking part;
2. Protection of minority rights;
3. Decentralization of power;
4. Decision making based on consensus.

The set of principles of the division of power can be summarized in five points: 1) the essential need for participation of "all relevant groups"; 2) giving a high degree of autonomy to all significant groups; 3) providing proportionality in the governance; 4) the right to veto that minorities have concerning issues that affecting their convictions and 5) lesser dominance of the majority (Lijphart, 1999). For these systems to function effectively it is mandatory to maintain law and order through a carefully designed constitutional framework and recognized safeguard mechanisms provided by an established neutral and fixed administration (Frckoski, 2012).

Although it has been much disputed, consensual democracy produces good results in the long run, not only in terms of accommodating the differences but also with regard to the general progress of society, by making - at least initially, the plural societies even more plural, transforming divisions into constructive elements (Lijphard, 1999). There is no guarantee for the prosperity of the system, but in order make it more effective, large cross-ethnic and cross-linguistic coalitions should find pragmatic measures that need to stretch beyond the elementary features based on blood, language or religion (Waterbury, 2002). However, it is important to point out

that the“consociationalism" is a single form of power sharing options from the very broad range of political varieties for settling ethnic problems. The essence of the policy options can be exceptionally different in terms of aims, structures, and effects for promoting inter-group moderation and compromise. The goal is to make an optimal political participation of different society segments in the policy decision processes (Sisk, 2005).

b) Possible shortcomings

Apart from the positive effects on ethnic accommodation, multicultural policies and power sharing systems have many shortcomings. Furthermore, in some communities, multicultural efforts have failed and recently there has been a regressive trend in respect of their application. The obstacles for successful functioning of multicultural policies may be of a different nature. They can be real or anticipated, and are usually related to: security threats, weak state institutions, lack of liberal and democratic traditions in society, weak economies, traditions of discriminatory practices in various societal spheres and isolation of the country. All these elements are even more visible in societies going through a transition period, or in developing democracies, because of their inexperience and greed of the political elites who see nationalism as a winning combination for acquisition and maintenance of power (Kymlica, 2012).

Just as with multicultural policies, consensual democracy may not be able to put down roots if is not supported by a consensual political culture, i.e. if it is not based on institutional and cultural traditions (Lijphard, 1999). Some of the scholars point out that integrative power sharing is powerful in theory only and will fail to succeed the moment it faces deeper ethnic antagonisms (Sisk, 2005). Although it is a model that contributes towards national integration, many scholars note that it does not promote unified and influential leadership, coherent policies and efficient decision-making. Power sharing systems are also criticized as they are not applicable in environments with sharp ethnic divisions. Ultimately, the system is attractive for minorities, but not for the majority group. While many states are adopting modalities for power sharing, very few of them can truly and fully practice it especially in the creation of large coalitions and use of minority veto (Horowitz, 2003).

In addition, governments are not in favour of consensual democracy because power-sharing engagements are expensive, time and energy consuming. On the other hand, there are not many alternatives for a modern democratic state, confronted with ethnic requirements and related tensions (Mullerson, 2003). In that sense, the ideal of multiculturalism, correlated policies, and political arrangements should remain as an important option among the tools in a diverse democratic society and is worth serious consideration by policy makers. Nonetheless, in order to deal with the reality of politics a link between social context and political arrangements needs to be established, one that reflects different levels of satisfaction of citizens’ needs. In this regard, it is necessary to explore and apply various forms of participation, protection, power sharing and control to overcome the conflicting interests that exist among different society sectors (Nino, 1996).

The example of the Republic of Macedonia

In the proposed theoretical framework, multi-ethnic coalition governments in the Republic of Macedonia will be observed, beginning from the country's independence up to the present day. The analysis will take into consideration the social and political context in the country, its population composition, and its tendencies towards EU integration. In the analysis special attention will be given to the legal framework that is the basis of the political processes in the country in order to understand the complexity of the entire political situation. The multi-ethnic coalition governments will be further analysed in the *discussion part* where findings will be elaborated on through the expectation of multiculturalism juxtaposed with everyday political affairs in the described social, political and legal environment.

a) Social and political context

Macedonian society is multi-ethnic and multicultural. It is composed of ethnic Macedonians, who are a majority in the country, referred to with the term *people* in the Constitution and the c*ommunities* (or *members of communities*), namely ethnic Albanians, Turks, Roma, Serbs, Vlachos, and Bosnians who represent around 36% of the population.[24] The country has been independent for 27 years and similar to the other states that became independent after the dissolution of SFRY and the fall of the iron curtain (former SFRY republics) is constantly facing the challenge to reach democratic standards; to establish rule of law; to keep the peace and stability; to lower inter-ethnic tensions; to increase economic growth and eventually become an EU member state. Facing an unfavourable economic situation - among the other challenges, the country is always under inside and outside pressure to accommodate different ethno - cultural groups, diminish the ethnic tensions and answer the ethno - nationalist needs in a democratic manner.
The Republic of Macedonia has been an EU candidate state since 2015, after signing the Stabilization and Association Agreement with the European Union (Agreement, 2001) when it committed itself to fulfill the democratic principles and be integrated into the EU. The constitutive norm of the Union is explicitly prescribing that membership in the Union is open to all countries with a democratically elected government. Consequently, the country is determined to reach the democratic principles of the Union set as postulates that possess characteristics of legitimacy, legality and effectiveness such as: the right to choose and change governments through free and fair elections; division of power into legislative, executive and judicial; promotion and protection of fundamental rights and freedoms; protection of the freedom of expression, information, association and political organization; independence of judiciary; political and institutional pluralism; transparency and institutional integrity (Conclusions, 1993).

[24] *According to the census in 2002, the Republic of Macedonia has a population of just over two million people. Broken down into ethnic groups: 64.2% (or 1,297,981) are Macedonians, 25.2% (or 509,083) are Albanians, 3.9% are Turks, 2.7% are Roma, 1.8 % are Serbs, 0.8% are Bosnians, 0.5% are Vlachs, and 1.0 % are "others".*

In this view, every year the European Union generates a progress report for the country, which contains all the steps, achievements, and shortcomings in the process, aimed to help and move the country forwards. Despite previous years' efforts for reforms and democratization, set as main priorities of all Macedonian governments, and the declaratory determination of all institutions in the Republic to establish an efficient and steady political system prepared to respond to the EU requirements - the progress is slow. Namely, the observations in the Progress reports of the country (developed by the European Union bodies) are emphasizing the fact that the political dialogue is in political stagnation at some points (Report, 2015). Despite the political crisis (that occurred in 2015 and lasted until 2017, followed by the intercepted phone conversation of the main political figures of the country), in the previous EU Progress reports, it was noted that there was a need to enhance political dialogue and take more specific measures for overcoming ethnic imbalances.

b) Legal framework

The Republic of Macedonia is a unitary state. The Constitution of the Republic of Macedonia sets the basic provisions of the political system. The Republic of Macedonia was established as a civil and democratic state of the Macedonian people, as well as of the citizens living within its borders who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people, Bosniak people and others. The Republic of Macedonia is an independent, sovereign state, that is based on the rule of law, it guarantees human rights and civil liberties and provides peace and coexistence, social justice, economic prosperity and progress of the individual and the communities, represented through their representatives in the Parliament - elected at free and democratic elections. The Parliament of the Republic of Macedonia is a representative body of citizens and holds the legislative power. The organization and functioning of the Parliament are regulated with the Constitution and Rules of Procedures. Members of Parliament (MPs) are elected every four years. The mandates of MPs are verified by the Parliament. The mandate is given at the constitutive session of the Parliament held 20 days after the elections. The executive power resides with the President of the country and the Government of the Republic - consisted of President of the Government and the ministers. The mandate for constituting the Government is given by the President of the Republic to the candidate of the party or the parties that have a majority in the Parliament. Within 20 days of being entrusted with the mandate of Parliament, the candidate submits a program and proposes a composition of the Government, upon which the Parliament elects the government with the majority of the votes.
Part of the Constitution are the declared Amendments IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII and XVIII adopted by the Parliament, most of them following the signing of the Ohrid Framework Agreement (OFA) in order to give effect of its provisions.
The main pillar of the multi-ethnic Macedonia is the Ohrid Framework Agreement (OFA) signed in 2001 with international mediation and support, after a short armed conflict between the two biggest ethnic groups (Macedonians and Albanians) for

greater rights and bigger political representation. The idea of the OFA is ceasing the violent way of solving problems and establishing a framework that will articulate different political, ethnic and civil visions for the development of a democratic society, fully integrated into the EU and NATO. The OFA sets the basis of the political relations between the different communities in the country and provides guidelines for increasing respect among ethnic groups towards harmonious development of the society. The OFA acknowledges peaceful political solutions encouraged by a participatory process that promotes separate identities in a unitary sovereign state. The OFA encourages decentralization and an appropriate system of funding as possible tools for proper distribution of responsibilities, particularly in the areas of local economic development, culture, education, social and health care and public services. Among other things, the OFA establishes a framework that takes into account equitable representation, especially in public administration, police services and in other spheres of public life and public funding (OFA, 2001).
In addition to the abovementioned legal documents, laws regulating the position of the other no – majority ethnic groups include the Law on local self- government (Law, 5/2009);[25] Law for use of languages that are spoken at least 20% by the citizens of the Republic of the Macedonia in the local self-government units (Law,101/2008) and other sub legal acts.

c) Multi-ethnic coalition governments

In the previous years, in the Republic of Macedonia different modalities were used for the accommodation of separate ethnic and minority groups as a way to secure coexistence of the Macedonian multi-ethnic society. The political model established with the OFA is based on power-sharing options, redistribution of the public resources and political power. Despite having many characteristics of the political model of consociationalism, the tendency for establishing consociational democracy is not part of the constitutional provisions; it is not stressed in the OFA and it is not predefined in any political or legal act. At the same time, the Republic of Macedonia is following a continental legal tradition, where all authorities come from and can be restricted with legally written, binding documents. The Constitution does not set the obligation for forming a multi-ethnic coalition government, and neither do the other documents that establish, promote and enforce multicultural policies.
Since the independence, nine parliamentary elections have been held in the Republic of Macedonia. After each election, formation of the government, one of coalition and multi-ethnic, was carried efficiently by all political parties, with no exceptions at all. Namely, the winning political party that was almost always from the Macedonian political block (supported by the majority of the voters in the country) formed a coalition with the political party from the Albanian political block (with few exceptions - with the political party that had the majority of the votes among the

[25] *In order to ensure equitable representation and to resolve issues affecting ethnic communities, one of the mechanisms is establishment of the Committees for Inter- Communities Relations in the municipalities where at least 20% of the citizens are from an ethnic origin different than the majority population. However, as it is the case with many others, this instrument does not function in practice due to unclear regulations related with appointments, functioning, budgeting and lack of clearly assigned authorities, see Policy Brief, Committees for Inter- community relations, Community Development Institute, 2011*

Albanian ethnic group), sometimes involving other political parties that were representing different political options or different ethnic groups (such as Roma, Turks, etc).

The situation was as follows:

No of elections	Period	Governmental Coalitions	No. of gained MPs seats
1.	1991-1992	Experts government	(following the independence of the country in 1991)
	1992-1994	SDSM and PDP	VMRO 37, SDSM 30, PDP 16
2.	1994-1998	SDSM, PDP	SDSM 63; PDP 13
3.	1998 – 2002	VMRO, Democratic alternative, Democratic party of the Albanians	VMRO 45; DPA 10; DA 3; DUI – PDP 17
4.	2002 – 2006	SDSM, DUI, LDP	SDSM 36; DUI 15; LDP 9
5.	2006 – 2008	VMRO, NSDP, LPM, DPA, PDT	VMRO 45; NSDP 7; DPA 9; PDT 1
6.	2008-2011	VMRO, DUI, DPTM, SPM	VMRO 63; DUI 18; DPTM 1;
7.	2011 - 2014	VMRO, DUI	VMRO 55; DUI 14
8.	2014 - 2016	VMRO, DUI, SRM	VMRO 61; DUI 19; NDP 1
9.	2016-	SDSM, DUI, BESA	VMRO 51; SDSM 49; DUI 10; BESA 5; Alliance for Albanians 3; DPA 226

[26] *The biggest political parties in Macedonia are VMRO - DPMNE, DUI, DPA, and SDSM. Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity - VMRO-DPMNE, is one of the two major Macedonian parties. The party has proclaimed itself as Christian Democratic party. It is an anti – communist, conservative party and center right wing political party that from time to time shifts to the extreme nationalistic causes. Nevertheless, in recent years the party formed multiple coalition governments with ethnic minority parties; Social Democratic Union of Macedonia- SDSM is a center-left positioned political party with social democratic ideology. It has shown a moderate and reconciliatory attitude towards ethnic minorities in Macedonia. The main ideology and the main support are towards social democracy and social liberalism; the Democratic Union for Integration – DUI is the largest Albanian political party in the Republic of Macedonia and the third largest political party in Macedonia. It was formed immediately after the country's 2001 conflict between the National Liberation Army (NLA) and Macedonian Security Forces. It supports the social conservatism, although its political position is center right and highly supports the Albanians nationalist causes; The Democratic Party of Albanians – DPA is a political party of the ethnic Albanians in the Republic of Macedonia. It is right wing political party and the main ideology is Albanian nationalism; Besa Movement is a relatively new political party in the Republic of Macedonia. It was formed in 2014 and its ideology is social conservatism.*

It is obvious that after all the elections held in the Republic of Macedonia, there was a clear limitation of the political power - gained through the election process (even before the signing of the OFA) and since its restriction does not reside in any legal document it is a matter of good will and political estimation in a certain political context.

Discussion points - policies of multiculturalism and power sharing vs. multi-ethnic coalition governments in the Republic of Macedonia

Considering the established practices of multi-ethnic coalition governments that that have been existing for 27 years on the diverse political stage in the Republic of Macedonia, it can be said that the applied political model is an example of a power sharing model that supports the development of multicultural society. This would be, however, only a formal and superficial observation. A simple analysis of daily political happenings in the country, analysed through the parameters supporting the goals and aims of multiculturalism, can clearly show the defects of the system. Namely, it appears that the coalition governments are supporting the dialogue as a democratic way of overcoming the problems; they are ensuring involvement of different communities in the public life of the country; they are clearly expressing the diversity of the society and in that way serve as role model for the acceptance of the other non - majority groups; they tend to secure balanced distribution as a condition for overcoming the presumption of inequality- but in any case - they are not using their full potential for inter- ethnic integration. Examples supporting that claim can be found in the events that had taken place prior to sign in the OFA, after that, and up to the present. Namely, although coalition governments existed before the OFA they did not secure coexistence, dialogue, or meaningful representation, nor did they prohibit the violence that occurred later. Before signing the OFA, after that and presently, the coalition governments only represent the ethnic structures existing as separate political blocks. Coalition partners are only functioning in their own sphere of interest, they are rarely harmonized in their views on what constitutes the state interests, especially how to provide a stable multi-ethnic society. Instead of promoting openness and acceptance, nationalistic rhetoric is common during election campaigns and analysis of the political parties' programs (the ones that form government coalitions later) can show that the tendencies for multiculturalism and integration exist only provisionally and political declarations are really followed with focused measures (Shikova, 2015).The political parties and multi-ethnic coalition governments are the main drives of the political life, but Macedonian society is far from creating a common identity beyond the ethnic lines of division, which is necessary for securing cohesiveness of the political unit. Usage of separate symbols of identification in all segments of societal life such as: the use of flags; the use of the official language/s (ongoing debate); remembrance days; different collective memories; even separate education programs and educational institutions (Study, 2009); are one of the many indicative examples of standard policies and practices.

Conclusion

Creating multi-ethnic coalition governments in the Republic of Macedonia is not mandatory, but it is considered a good practice and in essence, it is in line with policies of multiculturalism and modalities of power sharing. The Macedonian example shows that even if the country follows continental legal tradition, power sharing options can exist as soft law and allow for flexibility which written documents cannot do. Although traditionally coalition governments are perceived as unstable forms of governments, with many shortcomings, they are necessary in multi-ethnic and multicultural societies such as the Macedonian. However, multi-ethnic coalition governments are only the basis. They should serve as an integrative rather than a divisive point. The accepted power sharing model alone is not enough to secure steadiness of multi-ethnic societies. Instead of making progress towards more integrated society, previous and current multi-ethnic coalition governments in the Republic of Macedonia have been enforcing two separate lines of policies. They only share the political power at a certain political moment and do not promote multicultural goals. Policies of multiculturalism require greater society involvement going beyond simple political grouping under the label of power sharing. For these reasons, the recognized political arrangements need to be followed with more structured measures that will secure coexistence, will lead to greater societal integration and will ensure social cohesiveness.

References

1. *Birch, A. H. (1989) Nationalism & National Integration. London: Unwin Hyman Ltd.;*
2. *Deng, F. M. (2002) Self-Determination and National Identity Crisis: the Case of Sudan in Danspeckgruber, W. (ed.) (2002) Self –Determination of Peoples, Community, Nation and State in Interdependent World. Lynne Reinner Publishers, Inc.;*
3. *Henrard, K. (2000) Devising an Adequate System of Minority Protection. Hague: Kluwer Law International;*
4. *Heraclides, A. (1991) The Self - Determination of the Minorities in the International Politics. Frank Cass and company limited.;*
5. *Horowitz, D.L. (2003) A Right to Secede? In Macedo, S. &Buchanan, A. (eds.) (2003) Secession and Self- Determination. New York University press;*
6. *Horowitz, D.L. (2003) The Cracked Foundations of the Right to Secede. Journal of Democracy · Vol.14/2*
7. *Kymlica, W. (2012) Multiculturalism, Success, Failure and the Future. Queen's University, Transatlantic Council on Migration;*
8. *Kymlicka, W. (2004) Multicultural Citizenship. Skopje: Institute for Democracy, Solidarity and Civil Society;*
9. *Lijphart, A. (1999)Patterns of Democracy, Government Forms and Performance in Thirty- Six Countries.Yale University;*
10. *Ljubomir D. Frckoski, L. D. (2012) PregovaranjevoKonflikinaIdentiteti(Negotiation in Identity Conflicts). Skopje: Magor;*

11. *Nino, S. C. (1996). The Constitution of Deliberative Democracy. Yale University Press, New Haven & London;*
12. *Rein Mullerson, R. (2003) Sovereignty, and secession: then and now, here and there in Dahliz, J. (2003)Secession and International Law, Conflict Avoidance and - Regional Appraisals. Asser Press;*
13. *Sisk, T. D. (2005) Power Sharing, The Beyond Intractability Knowledge Base Project, Version II, 2003-2005, http://www.beyondintractibility.org/ (accessed 7 Feb.2005);*
14. *Shikova, N. (2015), The political parties' programs and their structure in regards to efforts for development of multi-ethnic society in Macedonia. Shtip: Center for Legal and Political Research;*
15. *Waterbury, A.(2002) Avoiding the iron cage of legislated communal identity, at Self–Determination of Peoples, Community, Nation and State Danspeckgruber, W. (ed.) (2002) Self –Determination of Peoples, Community, Nation and State in Interdependent World. Lynne Reinner Publishers, Inc.;*

Documents:

1. *Conclusions of the Presidency, European Council in Copenhagen, 21-22.06.1993 (SN180/1/93 REV1);*
2. *Constitution of the Republic of Macedonia, 1991;*
3. *Commission Staff Working Document, FRY Republic of Macedonia, Report 2015, EU enlargement strategy, Brussels, 10.11.2015, SWD(2015) 212;*
4. *Law on local self- government, Official Gazette no. 5/2009;*
5. *Law for use of the languages that are spoken at least 20% of the citizens of the Republic of the Macedonia in the units of the local self-government, Official Gazette no.101/2008;*
6. *Policy Brief, Committees for Inter- community relations, Community Development Institute, 2011*
7. *Stabilisation and Association Agreement between the European Communities and their member states, of the one part, and the FRY Republic of Macedonia, of the other part, Council of the European Union, Brussels, 2001;*
8. *Study for multiculturalism and interethnic relations in the education, UNICEF, Skopje, 2009 (Студија за мултикултурализмот и меѓу етничките односи во образованието, УНИЦЕФ, Скопје);*
9. *Ohrid Framework Agreement, 2001.*

INTERNATIONAL BALKAN UNIVERSITY
SKOPJE | REPUBLIC OF MACEDONIA