

COUNTRY REPORT

NORTH MACEDONIA



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Introduction¹

Constitution making-legal regulations

Republic of North Macedonia is a so-called *new democracy*, born after the dissolution of Former Yugoslavia in 1991. The **Constitution of the Republic of North Macedonia** is a codified constitution outlining the North Macedonian system of government and basic human rights. It was adopted in the Parliament of the then-Republic of Macedonia on November 17, 1991. Regarding the article 129 of the Constitution the Constitution of the Republic of North Macedonia can be changed or supplemented by constitutional amendments. A proposal to initiate a change in the Constitution in the Republic of North Macedonia may be made by the President of the Republic, by the Government, by at least 30 Representatives of the Assembly of the country, or by 150,000 citizens. The decision to initiate a change in the Constitution is made by the Assembly by a two-thirds majority vote of the total number of Representatives. The draft amendment to the Constitution is confirmed by the Assembly by a majority vote of the total number of Representatives and then submitted to public debate. This procedure is regulated by the Constitution of the country.²

The biggest changes and amendments to the Constitution of the Republic of North Macedonia came with adopting of Ohrid Framework Agreement which ended an armed conflict and Prespa Agreement which ended bilateral dispute over the name issue with the neighboring country Greece. In 2001 it was announced that the country had adopted amendments to its Constitution which enshrined 15 basic amendments and has granted rights to the country's ethnic Albanian population, as part of the Ohrid Framework Agreement's implementation. The amendments protect the rights and interests of minorities / communities by restricting majority rule. The constitution now guarantees the so called Badinter's 2/3 majority rule for adopting decisions concerning other communities after the 2001 Constitutional amendments

Amendments XXXIII, XXXIV, XXXV and XXXVI to the Constitution of the Republic of North Macedonia shall be an integral part of the Constitution of the Republic of North Macedonia and shall enter into force upon the entry into force of the Final Agreement for the Settlement of the Differences as Described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993), the Termination of the Interim Accord of 1995, and the Establishment of a Strategic Partnership between the Parties and upon the ratification of the NATO Accession Protocol by the First Party to the Final Agreement. Integral text of the amendments followed due to the crucial meaning and changing the name of the country.

AMENDMENT XXXIII

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² https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspix

1. *In the Constitution, the words “Republic of Macedonia” shall be replaced with the words “Republic of North Macedonia”, and the word “Macedonia” shall be replaced with the words “North Macedonia”, except in Article 36 of the Constitution of the Republic of Macedonia.*

AMENDMENT XXXIV

1. *In the Preamble of the Constitution of the Republic of Macedonia, the words “as well as citizens living within its borders who are” shall be deleted, the words “the decisions of the ASNOM” shall be replaced with the words “the legal decisions cited in the Proclamation of the First Session of the ASNOM to the Macedonian people about the said session of the ASNOM”, the words “which expressed the will to create an independent sovereign state and the Ohrid Framework Agreement” shall be added after the word “year”, and the words “have decided to” shall be deleted.*

2. *This Amendment shall amend the Preamble – Amendment IV to the Constitution of the Republic of Macedonia.*

AMENDMENT XXXV

1. *The Republic shall respect the sovereignty, territorial integrity and political independence of the neighboring states.*

2. *This amendment shall supplement Article 3 of the Constitution of the Republic of Macedonia.*

AMENDMENT XXXVI

1. *The Republic shall protect, guarantee and foster the characteristics and the historical and cultural heritage of the Macedonian people.*

The Republic shall protect the rights and interests of its nationals living or staying abroad.

The Republic shall provide for the diaspora of the Macedonian people and of part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people, Bosniak people and others and shall foster and promote the ties with the fatherland.

In doing so, the Republic shall not interfere with the sovereign rights of other states and with their internal affairs.

2. *This amendment shall replace Article 49 of and Amendment II to the Constitution of the Republic of Macedonia.*

Deliberative democracy and citizen participation in constitution-making

Regarding the Constitution the sovereignty in the Republic of North Macedonia derives from the citizens and belongs to the citizens. *The citizens of the Republic of North Macedonia exercise their authority through democratically elected representatives, through referendum and through other forms of direct expression.* Article 21 regulates that the citizens have the right to association and to express public protest without prior announcement or a special license. The exercise of this right may be restricted only during a state of emergency or war. Article 24 of the Constitution regulates that every citizen has *a right to petition to the public bodies*, as well as to receive an answer. A citizen cannot be called liable for opinion expressed in petitions, unless they mean committing of a criminal offence. Citizens are guaranteed *freedom of association* to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties join them or resign from them. The programmes and activities of political parties and other associations of citizens may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance.

Military or paramilitary associations which do not belong to the Armed Forces of the Republic of Macedonia are prohibited.

Right to initiate state referendum

The right to referendum is regulated by the Constitution and by law. Constitution regulates that the parliament holds a referendum at the state level on its own initiative (but in the restrictive areas) and at the proposal of at least 150,000 citizens. The citizens exercise their rights through democratically elected representatives, through *referendum* and through *other forms of direct expression*. Referendums by law can be compulsory and consultative.³ The Law on Referendum and Other Forms of Direct Vote of Citizens⁴ was adopted in 2005. The referendum shall be a form of direct vote of the citizens when deciding on particular issues within the competence of the Assembly of the Republic of North Macedonia, regarding issues within the competence of the municipalities, the City of Skopje and the municipalities in the city of Skopje, as well as other issues of local importance. Article 3 of the Law on Referendum and other forms of Direct Vote of Citizen paragraph 2 regulates that Citizens' initiative may be started for submitting a proposal on amending the Constitution of the Republic of Macedonia (hereinafter: the Constitution), proposal on adopting law and initiation of a referendum at state level (hereinafter: citizen's initiative at state level). Regarding the Law on referendum and other forms of citizen votes, article 8 regulates that the referendum shall be scheduled for the purpose of deciding of the citizens or consulting the citizens. So, the *decision adopted at referendum for deciding shall be mandatory and the decision adopted at referendum for consulting shall not be mandatory*.

History of state referendums

Regarding the Law of the Referendum at state level may also be scheduled in case of a need of ratification of international agreements and other issues within the competence of the Assembly (previous referendum) and decisions adopted by the Assembly or for the purpose of citizens stating their opinion regarding other issues the Assembly has already decided upon (additional referendum). Referendum at state level shall be scheduled by the Assembly of the Republic of North Macedonia (hereinafter: the Assembly). The Assembly shall schedule referendum at state level on its own initiative and on a proposal of at least 150.000 citizens. The proposal on initiation of referendum at state level shall be submitted together with an explanation to the President of the Assembly of the Republic of North Macedonia. The Assembly shall be obliged to decide upon the scheduling of referendum within 30 days from the day of the submission of the proposal. The decisions from the referendum at state level shall be considered adopted if it has been voted by the majority of the total number of citizens, by more than half of the total number of citizens registered in the Electoral list,

³ Decision of the Constitutional Court of the Republic of Macedonia U. no. 195/2005 dated 21 and 22 December 2005 published in the "Official Gazette of the Republic of Macedonia" no. 3/2006. Article 2 of the Law on referendum and other forms of Direct Vote of Citizen

⁴ Official Gazette of the Republic of Macedonia" no. 81/2005

unless otherwise determined for particular issues by the Constitution and this Law. The Assembly shall be obliged to regulate the issue, i.e. the law being subject to deciding at the referendum within 60 days from the announcement of the results from the referendum, in accordance with the results from the referendum^{5,2}

Until now 3 state referendums are held in Republic of North Macedonia. During every referendum the quorum threshold was questioned. The first referendum was held on 8 of September more than 75 percent of voters or 1,079,308 voters cast their ballots, with nearly 97 percent voting "yes" to the question "are you for a sovereign and independent Macedonia with the right to join a future alliance of sovereign states with Yugoslavia." The referendum was boycotted by most of the Albanian community in North Macedonia.

The second referendum was held by citizens' initiative on 7 of November 2004. The question posted was about the territorial organization of the Republic of Macedonia after the new adopted Law which changed the number of communities. The referendum was initiated by collecting 150,000 signatures, which were gathered after Nikola Gruevski's VMRO-DPMNE party openly backed the initiative. The famous slogan "some questions do not deserve an answer" is remembered at the time, as the ruling party has ordered that no vote be taken to avoid censorship. More than 450,000 voters turned out, which is about 27% of the electorate, far from the required census. Over 95% voted in favor.

The latest referendum was supposed to inform the parliament of the population's opinion regarding the change of the country's name and the goal of EU and NATO accession. In consultative referendum, the Macedonian population was asked three interconnected questions: "Are you for an EU and NATO membership by accepting the agreement between the Republic of Macedonia and the Republic of Greece?" with 91.61% of votes cast for and 5.64% against. The voter turnout of 36.87% was clearly under the symbolic quorum of 50%, which essentially means that the agreement's opponents boycotted it. The quorum assumes that 1.8 million voters registered inside the country and outside it could have cast their votes. This number, however, is outdated and distorted, suggesting that indeed 50% of Macedonians eligible to vote and residing in the country voted on the referendum with a "yes". The referendum followed by the signing of the Prespa Agreement in June 2018 by the Macedonian and Greek governments, which requires Macedonia to change its name to the Republic of North Macedonia, and Greece to drop its objection to the country joining NATO and becoming an EU member. Republic of North Macedonia joined NATO officially on 27 of March 2020 under the new name.

⁵ Law on Referendum and Other Forms of Direct Vote of Citizens ("Official Gazette of the Republic of Macedonia" no. 81/2005)

Citizens initiating a law proposal

Regarding the Constitution of the Republic of North Macedonia article 132 every Member of the Assembly, the Government and at least 10,000 voters shall be entitled to propose adoption of a law (authorized initiator of a law). Article 133 regulates that every citizen, group of citizens, institutions and associations shall be entitled to submit an initiative for adoption of a law may be to the authorized initiators. The initiative referred to the Assembly shall be forwarded to the Members of the Assembly and the submitter of the initiative shall be informed thereon. If a group of Members of the Assembly is an authorized initiator, one Member shall be appointed as representative of the initiator. If no such representative is appointed, the first Member signed on the proposal shall be considered as representative of the initiator.

The Constitution also regulates the public involvement t.e the citizens opinions during the adoption of law. Article 145 regulates that on a law proposal of broader public interest, the Assembly, following the general debate, may decide to carry out a public debate and determine a relevant working body to organize the public debate. The working body organizing the public debate shall:

- ensure that the law proposal is published and thus made available to the citizens, public organizations, institutions, civil associations, political parties, trade unions and other interested subjects;
- ensure collection and arranging of the opinions and suggestions presented during the public debate;
- prepare report on the results of the public debate.

The law proposal put for public debate shall be published in a daily newspaper determined by the relevant working body. Appeal for presenting opinions and suggestions and the timeframe for their submission shall be announced together with the law proposal. On the basis of the opinions and proposals presented in the public debate, the relevant working body shall prepare a report and submit it to the Assembly together with the law proposal for second reading. The President of the Republic, the President of the Government, Ministers and an authorized representative of a proponent of a law submitted by at least 10,000 voters may be present and participate in the work of parliamentary sessions. The President of the Assembly may invite representatives of other bodies and organizations to attend and participate in the work at a session of the Assembly, when it considers issues in their field of competence. The Law of the Organization and Operation of the State Administrative Bodies in article 10 regulates that the state administration bodies, in the course of preparation of the laws and the other regulations within their competency, shall consult the citizens through:

- publication of the type, content and the time schedule for adoption of the regulations;
- organizing public hearings; and

- gathering comments from interested citizen's associations and other legal entities and the like.⁶

The role of citizens associations in legislative procedures

The Law on government of Republic of North Macedonia⁷ regulates that on invitation of the Prime Minister, directors who manage other state administration bodies and administrative organizations and representatives of public enterprises, *citizens' associations and foundations*, institutions and other legal entities *may attend the Government session without a voting right in order to take part in the discussion, give opinion and proposals on issues within their competency*. Article 24 of the Law regulates that Government may establish expert councils as permanent consultative bodies. On the request of the Government or on their own initiative, the expert councils, shall discuss and express expert opinion on specific legal, economic and other issues. The president and the members of the expert councils shall be appointed and dismissed by the Government in manner and procedure defined by the Rules of Procedure. With the changes of the Law on Government of Republic of North Macedonia, the citizens associations also can communicate with the State Secretariat.

In 2007, the Government of the Republic of North Macedonia adopted the first Strategy for Cooperation of the Government with the Civil Society and the Action Plan 2007-2011. Then, the Government adopted the **Strategy for Cooperation of the Government with the Civil Society 2012-2017** to implement measures that will promote, improve, and ensure active participation in decision making.⁸ Adoption of the Strategy is in compliance with the National Strategy for Integration of the Republic of North Macedonia in the European Union. Cooperation between ministries and CSOs takes place in the following forms:

- consultations prior to adoption of policies and laws;`
- inclusion of representatives from the civil society in working groups, working bodies and alike established by the ministry;
- development and implementation of joint projects financed by the ministries, co-financed by organizations or financed by other donors;
- direct financing of organizations' activities;
- giving authorizations to organizations for undertaking certain activities;
- informative events;

⁶ Official Gazette, No. 58/2000

⁷ Official Gazette No.59/2000 and the changes published in the Official Gazette No. 55/2005

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[https://www.nvosorabotka.gov.mk/sites/default/files/dokumenti/STRATEGY_FOR_COOPERATION_OF_THE_GOVERNMENT_WITH_THE_CIVIL_SOCIETY\(2012-2017\).pdf](https://www.nvosorabotka.gov.mk/sites/default/files/dokumenti/STRATEGY_FOR_COOPERATION_OF_THE_GOVERNMENT_WITH_THE_CIVIL_SOCIETY(2012-2017).pdf)

- involvement of organizations in regional and international initiatives.

Those measures focused on reporting mechanisms used to assess the implementation of **the Code of Good Practice for Participation of Civil Society Sector in Policy Creation**. The Code was a non-binding guiding document adopted by the Government in 2011. It prescribes best practices, forms, and ways of ensuring participation of civil society in the policy making of the government bodies, the Strategy itself, and government openness. One of the commitments pledged to establish the Civil Society Council, one of the most important measures promoted by civil society in 2012.

Previous experience in deliberation and positive case studies

The citizens associations took active role in adopting big numbers of Laws in Republic of North Macedonia such as: Criminal code, Criminal procedural Law 2003, the Law on free access of public information 2005, Law on social protection 2005, Law on protection on children 2005, Law on family 2005, Labor Law 2005 and other law and by laws. Also, the citizens associations influenced changes of existing laws such as Law on citizens associations and foundations, Law on social protection, Law on citizenship, Law on asylum and ext. Also, important numbers of state strategies are adopted line National strategy for education, National strategy for youth, National strategy for sustainable development, National strategy for drug control and ext.

The citizen association took active role in the process of policy creation and decision making through important campaign such as: the role of POLIO Plus in the adopting of the Law on disabled people, the role of Macedonian gender association in the campaign for increased role of the women in the politics, also active role of the Mobile parliament movement. One of the biggest movements in the last year was the citizens movement called Colorful revolution after that the Government was changed in 2016.

Summary and next challenges

The constitution of Republic of North Macedonia, such as the laws and bylaws regulate the active participation of the citizens for important questions in the process of giving proposals and consultation in adopting laws and creation of public policies. The report gives overview of laws and articles which regulates the citizen right of public involvement such as the institutionalization and practical implementation of these rights. The citizens exercise their rights through democratically elected representatives, through *referendum* and through *other forms of direct expression*. Regarding the Constitution of the Republic of North Macedonia article 132 every member of the Assembly, the Government and at least 10,000 voters shall be entitled to propose adoption of a law (authorized initiator of a law). In this process of participation of citizens and citizens associations in adopting laws and other important state bylaws is the work of the Permanent Commission in the Assembly of the Republic of North Macedonia, direct contacts with the Parliament delegates, public hearings organized in the work of the ad hoc commissions. Still, there is lack of institutionalization for giving

real effect of the citizens' proposals. In many occasions this depends from the will of the presidents of the parliamentary commissions. It is very often that the process of adopting laws is not transparent, the draft laws are not reachable for the citizens associations and thus adopted without using the right of giving opinion for the matters of their work. The draft version of the laws before adopting it should be sent to the relevant stakeholders and future implementations of the law. The time for adopting of the law it should not be shortened before consulting all the relevant subjects and the draft law should be put on the web page and thus be easily made reachable for comments and opinions. The European Commission in its reports also states the significance of the process of consultation in legislative procedure with the representatives from the regional and local governments, citizens associations, business sector representatives, and experts, public in general. Areas and measures that need to be particularly developed in the future, *inter alia*, are the following:

- Proactive involvement of CSOs in decision-making processes and European integration, especially in the development and harmonization of national development plans, operational programs and other strategic documents;
- Improvement of the financial sustainability of CSOs, particularly through realization of measures from the Strategy envisaged in this area (budget financing, financing from lottery proceeds, philanthropy);
- Increasing the involvement of CSOs in implementation of activities of state administration bodies in compliance with their scope of work and participation in policy and decision making processes
- Transferring public authorization to CSOs and development of public-private partnerships as an opportunity for improving and strengthening cooperation

References

- Constitution of Republic of North Macedonia, available at https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspix
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