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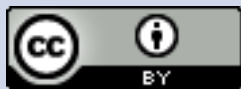
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Analysis of the Systems for Representation of Minorities in Public Administration: The Case of the Republic of North Macedonia

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Abstract

The paper analyses the implementation of the principle of equitable representation in North Macedonia. It examines existing consociational theory and the elements of consociationalism. It attempts to answer the question whether the theory supports the adequate representation of minorities in respect of the promotion and protection of their rights. The focus of the paper is on the instrument called “Balancer calculator” (балансер калкулатор) – an instrument used to set employment thresholds in the public administration in North Macedonia. This instrument strives towards the principles of equitable representation, set within the Constitution and the Ohrid Framework Agreement, additionally regulated by the relevant law and bylaws. In practice, this instrument is used to balance representation of the ethnic communities in public administration and to improve their position in general. The paper gives a critical approach to the implementation process since the tool is not adequately set or implemented. These come from its abuse as a purely calculative instrument, putting the numbers of the represented groups in first place, apart from the need of merit-based requirements; its inability to address the needs of smaller ethnic communities; and its ambiguity and irrelevance

coming from the non-existent legal clarification of the communities' identity markers. The paper does not offer options, but it opens discussion upon these questions whose answers may help towards the creation and establishment of more relevant policies for representation of minorities within public sector.

Keywords: *proportional representation; quotas; public administration; ethnic communities; consociationalism*

Introduction

North Macedonia is a multicultural and multi-ethnic society. The essence of the power sharing arrangements is the Ohrid Framework Agreement (OFA), signed in 2001, which aims to address inequalities and to secure greater participatory rights for non-majority communities (OFA, 2001). The ideas that OFA promotes, protected with series of constitutional amendments and consequent laws, are an equitable representation for persons belonging to all communities in public bodies at all levels and in other areas of public life. Hence, as one of the most important instruments of political and social inclusion of non-majority communities in the society based on non-discrimination, the OFA sets the main provisions for equitable representation in all levels of public administration, and especially in respect to employment in public administration and public companies (OFA, 2001). As a result of the policies set in the past 20 years, the position of the minorities (communities) in the country is significantly improved, being represented at each governance level and their identity is strongly protected with legal safeguards which are part of the Constitution and the relevant laws. However, although the system of minority protection aims towards equal opportunities for the communities, often it is seen as a merely calculative apparatus that relies on thresholds, numbers, and percentages, yet fails to take into account the country's reality, or the actual and ongoing situation. These notions are mostly related to employment in the public sector, often criticized for being politicized, oversized, and ineffective in providing public services (Gjorgijoska, 2020; Samardjiev, 2020). The professionalism and integrity of the public sector employees are often at stake, and that is seen as a general weakness of the Macedonian public administration (European Commission, 2022; SIGMA, 2021).

North Macedonia is a candidate country for EU membership and the screening process already started in June 2022. According to the new Methodology for the accession negotiation (European Commission, 2020), the functioning of the institutions and public administration is

within the cluster Fundamentals (that remains open during the whole process of negotiation). Based on these findings, part of the EU country progress reports, the EU considers that Macedonian public administration needs to innovate and to improve its effectiveness and efficiency towards better quality of services. Clearly, the EU accession process requires certain standards to be met that are subject to increased EU monitoring, and among them is the need for transparency, professionalism, and the independence/integrity of the administration. According to those standards, the principles of recruitment and promotion of the employees in public sector should be clearly based on merit. Nevertheless, over the years, EU reports as well as domestic and foreign experts and practitioners are pointing towards the evident lack of clear and transparent criteria for recruitment, together with the country's weak institutional capacity. This deteriorates the image of the public administration as a neutral service provider and decreases the legitimacy of the public sector's decision and performance. On top of that, there is noted inconsistency in the implementation of the principle of equitable representation. In summary, the EU considers that North Macedonia is moderately prepared for the reform of its public administration, and so far, has only managed to secure limited progress in reaching EU standards (European Commission, 2022). Hence, the existing legal framework referring to the organization and functioning of the public administration will soon be revised to address EU recommendations. However, therein lies the challenge since the government struggles to secure, on the one hand the existing principles of the equitable representation, and on the other, the need for merit-based principles in the public sector – aims set within public administration reform processes. Consequently, the criteria for employment of non-majority groups are part of the country's major political debates. The main concerns are related to the principle of equitable representation expressed in quotas that allegedly should be reached for the employment of persons belonging to the non-majority communities, and the policies that are used in that respect, vis-à-vis the need for securing a merit-based system within the public administration (Trajkovska, 2022; Bitiki, 2022; Pavlovska, 2022).

The article analysis the principle of equitable representation in employment in public administration in North Macedonia and how it is manifested. It puts it in a theoretical frame related to consociationalism, and considers its practical implementation reflected in the existing system that should secure equitable representation. The focus of this paper is the analysis of the instrument called "*balancer calculator*" (*Балансер калкулатор*) as an instrument used to balance the representation of ethnic communities in the public sector and its related challenges as a highly misused and manipulated tool that fails to attain set goals. From a methodological

point of view, the article will analyse the situation in North Macedonia taking into account the international standards and theoretical standing of consociationalism and juxtapose it with the current practices that are applied in North Macedonia. The main focus of the analysis will be the country's legal frame, the tool that should secure equitable representation on the one hand, and on the other the various national and regional reports resulting from this situation that focus on its implementation processes and achieved results. Internet sources and journalistic articles will be taken into account since they additionally highlight current practices and the ongoing political debates in the country about the efficiency of the current model and for finding appropriate ways for overcoming the situation. For the reasons illustrated and possible comparison, similar solutions from other countries will be taken into account and presented in the text.

1. Consociationalism and its postulates (theoretical standings)

Consociational democracy seeks to maximize the participation of various actors in the sharing and exercise of political power. The consociational model is characterized by inclusion, negotiation, and compromise, and according to many authors and practitioners (Lijphart 1977; Nordlinger 1972; Sisk 1998; Lijphart 1999; Mullerson, 2003) it contributes to the stability of multicultural societies. The power-sharing system is important for societies that are deeply divided on cultural grounds, where strict majority rule is inappropriate for society as a whole and can easily turn into a tyranny of the majority. The consociational mode accepts majoritarian democracy as a minimal condition for democracy. Therefore, the government should be responsive to the interests of as many people as possible. Consequently, this model tends to ensure wide participation for different groups in institutions that create regulations and should secure broad agreement about the policies that society should pursue. Within this system, executive power is divided among multiparty coalitions; there is a balance between the executive and legislative power, and proportional representation is secured within a decentralized system of governance (Lijphart 1969; Lijphart 1999).

The consociational democracy, established by political scientist Arend Lijphart and further developed by Eric Nordlinger, seems static and elitist but it is considered as the most realistic way to deal with problems in culturally divided societies (Lijphart, 1977; Esman, 1977; Nordlinger 1972). It supposes that states can be stable if they provide a base for the cooperation of elites coming from different cultural and social segments. Therefore, consociational

democracy is often considered to be the best solution for ethnically mixed societies. The consociational system assumes mutual veto, autonomy, and accommodation of the elites of ethnic groups in the political centre etc.; these elements can be applied fully, partially, or selectively. The choice depends on political circumstances. Nonetheless, a certain level of autonomy and division of power is needed for integration in plural societies, and other democratic means need to be in place, together with forms of recognition and acceptance of existing diversity (Mullerson, 2003). The arrangements that ensure consociational democracy need to be constitutionally safeguarded. Additionally, they need to be implemented in practice despite the obstacles they may face related to existing institutional and cultural traditions. In that sense, the consociational democracy should be supported by a consociational political culture (Lijphart, 1969; Lijphart, 1999).

Theoretically predominant, the model of consociational democracy is often criticized exactly because of its inability to be fully applied in practice (Piacentni, 2021; Stojanovic, 2020; Orlovic, 2015; Horowitz, 2003a). Although consociational democracy is a model that should contribute to national integration, many note that it does not promote single and effective leadership, coherent and sufficiently operative policies, or promote a decision-making process that is less fast and decisive (Horowitz 1985; Lustick 1979; Barry 1975; Daalder 1974; Butenschon, 1985). However, according to its proponents (Lijphart, 1977; Nordlinger, 1972; Sisk, 1998; Lijphart, 1999), quick and sharp decisions are not always wise. On the contrary, its proponents consider that policies supported by a broad consensus are much easier to be successfully implemented in comparison to policies imposed by influential leaders and contrary to society's desires. For them, consociational democracy produces good results but in the long run, reflected not only in the accommodation of differences, but also in terms of securing the general progress of society (Lijphart, 1969; Lijphart, 1999). The other strand of criticism of consociationalism is related to the absence of a democratic opposition (since all the groups are in the government), and for its inability to be applied in the countries where ethnic divisions are sharp (Horowitz, 2003b). Ultimately, that makes the system appealing to the minority but not to the majority, and although many countries adopt it, they are very few that can fully practice it, especially concerning the creation of large coalitions and using minority vetoes (Horowitz, 1985; Horowitz, 1993; Horowitz 2003a). Apart from those reasons, governments dislike consociational democracy since power-sharing engagements are expensive, time-consuming, and highly demanding; but arguably, for a modern democratic state faced with ethnic differences and tensions, there is no other alternative (Mullerson, 2003).

1.1 Special rights for the employment of non-majority communities in public administration

One of the elements that power-sharing systems assume is the representation in public life, or in other words the equitable representation, of members of the minorities. This is especially related to the participation and representation of the minorities in public service offices. Discrimination, implemented or tolerated by the state in the field of employment, is the most visible manifestation of existing divisions between the minority and the majority. The best is if the state is seen as an independent arbiter when it comes to fundamental government policies. If the minority is deliberately excluded from the decision-making process at the administrative level, then its members can conclude that the political process is fraught with prejudice and that can be a general cause for ethnic resistance. However, the freedom of expression and association, and the application of the principles of non-discrimination, are not powerful enough to solely prevent the image of a majority-dominated state, and present the state as an independent arbitrator of law, since the minorities are usually underrepresented in the public service. Imbalances in the state administration, employment, and security forces can complicate a situation that needs to be resolved. Considering this, the special rights that should help in overcoming these situations can have many forms. They can be special access rights (on equal terms) towards certain public services (education in the mother tongue, use of minority languages in the administration etc.), and the “reserved” or “preferential” rights needed to overcome obstacles in society, also known as affirmative actions.

According to Levy (1997), the most controversial rights are the ones resulting from preferential policies, common worldwide; among those are affirmative actions, not only related to the preferential hiring and admissions, but also ‘ethnic’ quotas and land allocations. Within power-sharing systems we can observe different ways for introducing institutional arrangements that can be set by formalised, legally-binding rules, or by informal practices. Most of them are characterized by temporality. In some examples, the representation concerning public posts is secured by the application of the principle of proportionality (as a proportional share of the posts considering the numbers of the population in total); or with regulations that over-represent the minorities in specific posts and ranks (set as fixed quota systems); or combination of both models (Schneckener, 2004a). Examples and lessons learned where using quotas as a part of a minority-majority arrangement (for example in South Tyrol, Bosnia and Herzegovina, etc.) suggest that if they are to be used and to be fully functional, their regulation needs to be transparent and well regulated – not ambiguous. However, each case and solution have unique features, but despite the empirical diversity, the important factors

that secure the functionality of the system are the existence of favourable conditions and specially designed regulations. Within these processes, institutional reforms are unavoidable since those regulations need constant readjustments. To secure harmony, society has to be permanently open for negotiations and subsequent reforms. In other words, after a set period of time, all of the society actors have to be prepared to re-evaluate their decisions and regulations and make new compromises. Nevertheless, the created institutional arrangements should foster co-operation among elites and not result in instruments that will initiate further confrontation or mutual blockages (Schneckener, 2004b).

1.2 Some examples

Although each of the situations are unique and depend on various circumstances and the political and economic situation, before analysis of the situation in North Macedonia we will present two examples that apply the principle of equitable administration to communities within the public administration.

Trentino South Tyrol is one of the five autonomous regions in Italy (Trentino-Alto Adige/Südtirol). South Tyrol, on the other hand, is one of the two provinces of the region, also referred to as the Province of Bolzano, having extensive political autonomy status as the only autonomous province in Italy. In 1972, with its Statute of Autonomy, a power-sharing system was put in place as one of the most advanced minority protection regimes (Carlà, 2023). German and Italian are both official languages of South Tyrol (in some municipalities, Ladin is a third official language).

Language quotas are established in the Province of Bolzano as a clear framework that needs to be followed. In the electoral sphere, for example, each candidate must indicate the language group to which he/she belongs. A declaration as such is important to manage the whole ethnic quota system which is embedded in everyday life and the whole public sphere in the Province of Bolzano, and establishes a detailed regime of individual and collective linguistic rights (Alber, 2021, p. 187). A particular characteristic is linguistic proportionality within the process of public employment. This quota system foresees that German, Italian and Ladin speakers are considered according to their numerical representation in the overall population. Based on the Gruber-De Gasperi Agreement from 1946 (Steininger, 2003) whose provisions are transferred as a requirement in the Autonomy Statute of the region, it is declared that “the posts in the state offices in the Province of Bolzano shall be reserved for citizens

belonging to each of the three linguistic groups in proportion to the numerical strength of those groups, as evidenced by statements made in the official census of the population” (art. 89, para 3 of the Special Statute of Trentino – South Tyrol). The quota system is also based on the Quota Decree no. 752 of 26 July 1976 as a system of gradual implementation. In cases where it is not possible to fill the vacancy with a qualified candidate belonging to the group for which the post is reserved, the post is given to the most qualified candidate of one of the other two linguistic groups. This latter group, however, has to return such ‘off-quota’ granted posts during one of the subsequent selection procedures (Lantschner and Poggeschi, 2008).

A certain tool needs to be applied in order to identify membership of a particular linguistic group. In the case of the Province of Bolzano, the declaration of linguistic affiliation, linked with the general census of the population, is the most important instrument. When applying for a vacant post in the public administration, proof of linguistic affiliation is the deposited declaration of affiliation. The possibility/right to make such declarations is given to all citizens residing in the Province of Bolzano, who can make the declaration spontaneously between the ages of 14 and 18, as well as citizens who come from another Italian province or from another country belonging to the EU who transfer their residence to the Province of Bolzano; residents who acquire Italian citizenship; non-EU citizens residing in the Province of Bolzano since 2016 in possession of an indefinite/unlimited or long-term residence permit. A person can modify their declaration and for that to occur, five years must pass since the initial declaration was made. The modified declaration will become effective after 24 months (Tribunale di Bolzano, n/d). In the declaration form there are four options to choose from: 1) German linguistic group; 2) Italian linguistic group; 3) Ladin linguistic group; and 4) Other. Individuals choosing the last option must nevertheless then choose to ‘aggregate’ to one of the three linguistic groups in order to take advantage of certain rights that are granted to the three linguistic groups (Tribunale di Bolzano, n/d).

Similarly, the quota system is also applied in Bosnia and Herzegovina. The implementation of ethnic quotas in Bosnia and Herzegovina follows ‘discretionary’ criteria (Piacentini, 2021). Ethnic quotas are not formally prescribed and in the public administration there is the tendency to not have ethnically pure sectors. However, in electoral material, affiliation to a particular (constituent) group is prescribed. When candidate lists for elections are determined (in accordance with Art. 4.19 of the electoral law), the list should contain the full name of every candidate on the list, their personal identification number, permanent residence address, declared affiliation with a particular constituent people or group of “Others”,

a valid ID card number and place of issue, and the signature of the president of the political party or presidents of the political parties in the coalition. Considering this, a declaration of affiliation is used as grounds for exercising the right to be elected or appointed, and this statement is one of the conditions. An absence of the declaration is considered as a waiver of the right to elected or appointed office for which the declaration of affiliation with a particular constituent people or the group of “Others” is a condition. In practice, it has been observed that candidates change their declaration of affiliation to a constituent people or a group of “Others” after the end of the election cycle (Council of Europe, 2022b, p. 62).

2. North Macedonia in focus

2.1 System of minority protection

The Republic of North Macedonia became an independent state after the dissolution of Socialist Federal Republic of Yugoslavia (SFRY) in 1991. The political system is democratic, and it is open towards EU perspectives. The country has candidate status for EU membership since 2005, and the decision to open accession negotiations was endorsed by the European Council in 2020. The draft negotiation framework was accepted and the screening process has been ongoing since July 2022. The country is multi-ethnic, multinational, and multicultural. Macedonian society is composed of ethnic Macedonians, who are a majority in the country and to whom the term ‘*people*’ (*народ*) in the Constitution refers; and ‘*communities*’ (*заедници*) or ‘*members of communities*’ (*припадници на заедниците*), a term reserved for the ethnic Albanians, Turks, Roma, Serbs, Vlachs, Bosnians and others who live in the country, or for the citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Romany people, the Bosniak people and others (*граѓаните кои живеат во нејзините граници кои се дел од албанскиот народ, турскиот народ, влашкиот народ, српскиот народ, ромскиот народ и другите*) (Constitution, 1991: Amendment IV). According to the last census, minorities represent around 30% of the population (State Statistical Office, 2021). However, the legal framework does not use the term “minorities” but “communities” as well as the “citizens who are part of other peoples” living in North Macedonia (Constitution, 1991: Amendment IV). To resolve the interethnic tensions among the two biggest communities (Macedonians and Albanians), a series of constitutional amendments were introduced to address the needs of minority Albanians for greater rights and political representation. The changes relied on introducing of power-sharing agreements (based

on the example of the Good Friday Agreement 1998), and were incorporated into the Ohrid Framework Agreement (OFA, 2001), and were later transformed into practice (although within the country's relevant documents there are no formal requirements for forming grand government coalitions). Therefore, signed under the patronage of the EU and the international community, the OFA became a pillar of interethnic relations in North Macedonia.

The OFA wants to build a multicultural society. In essence, it envisages greater rights for minority participation, access to public administration for minority groups, use of the minority languages for official purposes, redistribution of public resources and political power as well as the forming of institutions that will enforce and oversee its implementation. But the most important is that the OFA terminated violent ways of resolving problems; it established a framework in which different political, ethnic and, ultimately, civic visions for the development of a democratic society, are articulated in a unitary state, fully integrated into the Euro-Atlantic community. The OFA promotes exclusively peaceful political solutions and encourages a participatory process. Decentralization and appropriate funding systems are particularly set as possible tools for the proper distribution of resources, especially in the areas of local economic development, culture, education, social and health care, and public services (OFA, 2001).

To ensure equal access to public services, OFA establishes a framework that takes into account equitable representation and respect of the principle of non-discrimination, especially in the composition of public administration, police forces, and other spheres of public life and public funding. To the non-majority communities in North Macedonia, the OFA provides the opportunity, through a parliamentary mechanism based on specific requirements regarding the required majority for decision-making, to directly influence legal arrangements in respect of their culture, use of their language, minority education, personal documents, use of minority symbols, distribution of local funding, and local elections.

In addition to the Constitution and the OFA, the protection of the minorities' rights is granted by systemic laws that regulate different aspects, such as self-government, education, public administration, etc., as well as by bylaws. In this set of regulations are the Law on local self-government (2009); the Law for the use of languages (2019) and other sub-legal acts. On the national level, there are institutions that advance and monitor all aspects related to the rights of the communities (Constitution 1991: Amendment XII; Law for the Committee for the relations between communities, 2007; Law for the rights of the community that are less than 20% from the population of the Republic of North Macedonia, 2020). Within the national legal

frame, the communities can establish cultural, educational, and other institutions, to express and nurture their identity and use their symbols (Constitution, 1991, Amendment VIII). The communities have the right to education in their language in primary and secondary schools; there is no threshold in respect of education in minority languages and the rights are also enjoyed by communities with less than 20% of the population. Higher education in minority languages is publicly financed for the communities that represent more than 20% of the population (OFA, 2001, art. 6.2). Being a member of a community is an individual choice, minority lists do not exist. Self-declaration is not registered or deposited anywhere; formally there is no legal requirement to do so (n.b. such as in the case of the Province of Bolzano). The quotas of 20% for the exercise of the granted language rights are fulfilled on the basis of population percentages from the second census in 2001 and confirmed by the last census in 2021 (State Statistical Office, 2021).

2.2 Markers for ethnic identification

Ethnic or identity markers are studied by cultural anthropologists (McElreath, Boyd and Richerson, 2002; Peagle, 2021) whose aim is to examine features of human society when individuals engage in significant interactions. In minority rights discourse, and within this article, we define legal markers for ethnic identification as distinct markers that a certain group (national or ethnic, religious, and linguistic) has and which are evident, established, and guaranteed by a legal framework, representing a feature which determines belonging to a distinct group. If we look at language as a distinct marker that determines belonging to a particular linguistic group, we can argue that language is an element of a group's identity. And it has also been well established that languages may not only determine decisions about self-identity or belonging to a certain group, but can be key elements in state-building and formation (Andeva, Sela and Matovski, 2022). Identity markers, for example, pose some questions that need to be taken into account: *If you declare that you belong to a particular linguistic/ethnic, religious group, have you made a formal declaration? If such a declaration is made, can this be acknowledged as a legal proof and taken into consideration in fulfilling the thresholds for representation of different minority groups in the public administration?, etc.*

In North Macedonia, state identity and the identity of ethnic communities and their development has passed through several different stages and characteristics. For example, it is argued that during Ottoman Macedonia the ethnic Slavs did not develop a clear feeling and

understanding of national identity (Stojanovski et al. 2014:, p. 300; Sielska, 2018, p. 79). Macedonian identity was developed solely around the religion and the language (Macedonian) as an identity marker. The 1991 Constitution defines the Macedonian people as a term by referring to those citizens speaking Macedonian as their mother tongue (language as identity marker). Thus, state identity and formation was linked to the Macedonian people as well as to the other ‘nationalities’ (national or ethnic group as identity marker) according to the Preamble of the Constitution. As previously mentioned, the term ‘nationalities’ was changed to ‘people’ after the constitutional amendment IV (following OFA). A more close and equal position of all citizens within the country was made in the changed Preamble:

“The citizens of the Republic of Macedonia, the Macedonian people, as well as citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Romany people, the Bosniak people and others taking responsibility for the present and future of their fatherland, aware of and grateful to their predecessors for their sacrifice and dedication in their endeavours and struggle to create an independent and sovereign state of Macedonia ...”

From language as an identity marker (during the Ottoman period) to ethnicity as identity marker (with the formulation “peoples” and “ethnic communities”), the Constitution does not explicitly mention “language” as an indicator. However, subsequent legal provisions concerning the use of languages spoken by the ethnic communities in the country clearly stipulate that ‘language’ is an element to be taken strongly into consideration as a distinct feature of an existing ethnic group. Lytra (2016) considers two views on language and ethnic identity. The first, an essentialist view, sees language and ethnic identity as fixed and bounded categories predisposed on individuals and groups in a given interaction, where language is a marker of an inherited ethnic identity. The second view, a constructionist one, sees language and ethnic identity as social constructs that are relational, negotiable and are recognized as historically, contextually, socially and discursively constructed.

In the examples mentioned above and concerning the application of quota systems, it has been seen that sometimes ‘language’ acts as a sole identity marker of a group (as in the case of the province of Bolzano) and other examples suggest more emphasis on the ‘ethnicity’ which also comprises language as an element (Bosnia and Herzegovina). The case of North Macedonia resembles closely the practice established by Bosnia and Herzegovina whereas ‘ethnicity’ dominates as an identity marker.

2.3 The public sector in North Macedonia

The Macedonian legal framework recognizes broad and narrow spheres of the public sector. The wider sphere includes all segments of society that provide public services, while the narrow sphere relates to administrative (civil and public) servants. The scope of the public sector is defined in the Law on Public Sector Employees, and the roles, duties, and responsibilities of administrative servants are regulated in more detail by the Law on Administrative Servants. The main distinction lies in the nature of the work performed; administrative servants perform professional, normative-legal, executive, financial, and supervisory activities, and decide upon administrative matters in accordance with the Constitution and laws.

The Macedonian public administration is overburdened (BTI, 2022) in comparison to the population which according to the last census is 1,836,713 (State Statistical Office, 2021). The Macedonian public service has around 132,088 employees in the public sector, and 15,302 civil servants working in 1,346 institutions (MIOA, 2021). However, the number of employees in the public sector grows each year, the same as the number of the institutions (for example, in 2016 there were 129,653 employees in the public sector in 1,291 institutions (MIOA, 2016a), although the number of civil servants had decreased for a time. The number of those employed is not so problematic as such, as the public administration is efficient and effective in providing services to the citizens and to reaching EU standards (BTI, 2022). Having in mind the country's low scale economy and huge unemployment rate that is over 16% of the population (Macrotrends, n/a), the government is arguably the main employer in the country, and the public administration a "sacred" place where most of the people strive to reach the security that they are unable to accomplish in the private sector (US Embassy, 2021). However, despite the considerable size of the administration, based on the analysis of the available (published) surveys and studies, citizens are not satisfied with the quality of the available public services, at the central as well as at the local level. That can be seen from the vast number of citizens' complaints addressed to the relevant institutions which aim to protect citizens' rights (Ombudsman of Republic of North Macedonia, 2022; Blazhevski, 2022) and different related analyses (Shikova and Gocevski, 2019; Macedonian Platform Against the Poverty, 2017; Kurcieva and Todevski, 2018).

Considering the causes, often the low level of professionalism and lack of employee competences are blamed. Commonly, the requirements and promotions of civil servants depend

on the candidate's political affiliations. Although according to the set declarations the public administration should be professional and merit-based, any changes in the country's political life have a deep impact on the public administration's structure and functioning. That is highly visible with respect to the new requirements, replacements, and dismissals from posts at all levels of the public administration. It is not a secret that for a long time, the public sector has been inflated through the practice of creating new posts for certain individuals based on political or social grounds (European Commission, 2015). These challenge efforts towards promoting a merit-based career system in the public administration, and diminish the role of the public administration as an impartial provider of services to the citizens (European Commission, 2016). Despite legislation that in some aspects is even contradictory, inconsistent practices considering recruitment and promotion are present, marked by a lack of transparency (European Commission, 2020). The mentioned defects make the public administration particularly vulnerable to political influences (mainly by parties that are in the majority in parliament or are represented in the executive). They directly affect the public sector and strongly undermine the need for professionalism of the administration.

2.4 Equitable representation in public administration

The most important provision of the OFA in respect of equitable representation that became an article of the Constitution (Amendment VI) is the equitable representation in state bodies and other public institutions at all levels of citizens belonging to all communities. The OFA stresses that laws regulating employment in public administration should include measures to assure this principle in all central and local public bodies, and at all levels of employment within such bodies while respecting the rules concerning merit, competence, and integrity that govern the public administration. Additionally, it points out the necessary action to be undertaken by authorities to correct present imbalances in the composition of the public administration, in particular through the recruitment of members of under-represented communities (OFA, 2001).

In previous years, different modalities were used to accommodate separate ethnic and minority groups to secure the coexistence of North Macedonia's multi-ethnic society. The political model established with the OFA is based on power-sharing options, redistribution of public resources, and political power. The system is not a typical consociationalist model but shares many of its characteristics. This is irrespective of the fact that 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; its practices and tendencies are familiarized to Macedonian society (Shikova, 2018). In that regard, in 2003 the government adopted the Basics for the preparation of the Program for improving the fair representation of communities in the public sector and public enterprises (*Основи за подготовка на програмата за подобрување на правичната застапеност на заедниците во јавниот сектор и јавните претпријатија*). The Strategy for equitable representation of persons belonging to non-majority minority communities in the Republic of Macedonia (*Стратегија за правична застапеност на лицата кои што припаѓаат на мнозинските заедници во Република Македонија*) was adopted in 2007. The Strategy contains measures and activities towards those directions. According to the Strategy, the increased number of members of minority communities in the public administration should strengthen the multiethnic society, but at the same time should offer better services for all citizens. Within this document, a special role was given to the Ombudsman for protecting the principle of non-discrimination and fair representation. On that basis, the Ombudsman can initiate a procedure, give an opinion or recommendation, initiate disciplinary measures, and submit a request to the Public Prosecutor. Additionally, the Ombudsman generates annual reports which document the progress or lack of it in applying the principle within public institutional bodies. The full implementation of the Ohrid Framework Agreement and building a civil state with ethnic and social cohesion based on the principles of mutual tolerance and respect is part of the government's strategic priorities. Moreover, the government recently brought in a national strategy for the development of one society and interculturalism (2020-2022), whose aim is to undertake measures for building an integrated society and rejecting the exclusivist ethnonationalist policy that led to the formation of parallel societies (Government of the Republic of North Macedonia, 2019).

Since the introduction of the OFA and consequent reforms, without a doubt there has been a significant increase in the number of minorities in the public administration. However, the current measures for ensuring equitable representation conflict with the merit-based recruitment procedures in the public administration as conditioned by the EU and as set within the laws. The primary scope of the legislation is to regulate all aspects of the public administration to establish a politically independent and professional public service based on competencies (for admission) and merit (for tenure and career progression) (Law on public service employees, 2014; Law on administrative servants, 2014; MIOA, 2016b). On the other hand, some laws further develop the principle of equitable representation and establish the

mechanisms and instruments to be used by all public institutions to achieve the anticipated balance.

2.5 *Balancing with a calculator*

The “*balancer calculator*” (*балансер калкулятор*) is a human resource tool that aims to increase the number of members of non-majority communities within the public administration and increase their representation (part of the power-sharing arrangements within consociational model of democracy). According to the set methodologies, public calls for employment in public institutions should be prepared according to a procedure carried out in accordance with the Law on Administrative Servants and the Law on Public Service Employees. Namely, the Law on Public Service Employees stipulates that employment should be according to its Article 5 (which describes the methodology for planning new employment procedures according to the principles of equitable representation); Article 20a, Paragraph 2 (which regulates the annual plans for employment in public sector, among them attaining and maintaining equitable representation); as well as Article 20b (which regulates ways for obtaining the confirmation for developed plans, among them elements that envisage equitable representation) (Law on Public Service Employees, 2014). Hence, the Law on Public Service Employees foresees a mechanism for the distribution of new employment with adequate and fair representation of members of non-majority communities at the central and local levels of public sector institutions, based on their institutional needs and expressed in their Annual Employment Plans. Before preparing the Annual Employment Plan, the existing institutional data in respect of the number of communities in the country, and the number of the employees in public administration, is entered into the “*balancer calculator*” tool available on the webpage of the Ministry of Information Society and Administration (the responsible institution for the coordination of the public sector in general). The existing tool calculates the number of the employees of certain ethnic communities that need to be hired to reach the desired threshold for equitable representation in the institution that plans to recruit new employees. The necessary percentage threshold for equitable representation is presented as a calculation which considers the total number of employees in that institution vis à vis data from the last population census, both at the national level and at the level of the municipality where this institution operates. The Annual Plan for Employment is submitted to the Ministry of Political System and Inter-Community Relations (as the responsible institution for the implementation of the OFA and thus employment of minorities within public sector), which should confirm or give

suggestions for correction of the plan to reach the required representation threshold set in the “*balancer calculator*.” After a positive opinion from the Ministry, the employment process can be carried out. Within this institutional scheme, it is the Agency for Administration that deals with the aspects of the civil service relating to the clarification of employment conditions, job descriptions, assessment, selection, and employment of civil servants. The Agency provides an instruction of how institutions should prepare and publish their public call for employment (based on the Annual Plan for Employment), and among the necessary conditions for a valid call is stating the preferred or needed nationality (or community) of the civil servant that should be hired through the public call (Decree on implementation of the employment procedure for the administrative servants, 2018). In that way, the current legal solutions and methodology protect the principle of equitable representation. Additionally, there is an annual obligation for each institution to report if the threshold is reached (Law on Public Service Employees, 2014).

3. Discussion: Implementation challenges

Public services in North Macedonia refer to the various services and programmes provided by the government to its citizens. The government of North Macedonia is responsible for ensuring that these services are accessible, efficient, and of high quality for all its citizens. Public reform processes are ongoing challenges that should contribute to more efficient administration as an independent provider of services. The reforms are focused towards more professionalism and the recruitment and promotion of civil servants that should be based on merit. Often those goals contradict with the determination for reaching an equitable representation of the non-majority communities as reflected in fulfilling certain thresholds for their employment (presence) in the public sector. Since the introduction of methodologies and instruments aimed in that direction, there has been an improvement of the ethnic representation of different groups of citizens in the central government bodies, in the staff of the local self-government units, and in the public sector. As an illustration, in 2007 10.8% were Albanians; in 2021 that percentage was 20.6%. Turks represented 1.1% in 2007 and 2% in 2021. Roma represented 0.8% in 2007 and 1.3% in 2021. Vlachs remained at the same level, and Bosnians increased their representation from 0.3% to 0.5%. However, this progress is not even and the situation did not improve equally in all sectors, institutions, and authorities, as well as for all minority communities (Ombudsman of the Republic of North Macedonia, 2021; Ombudsman of the Republic of North Macedonia, 2022b).

Though the system is ambitious and sets important changes, there are constant challenges for the substantial implementation of the policies. Among other things, there is the lack of qualified applicants from non-majority communities for public sector positions. Candidates have difficulties in meeting the criteria and established standards for merit-based requirements, yet often they are employed to mainly secure that the set quotas are reached. The reasons for the lack of qualifications and competences can arguably be found in the absence of modern and adequate study programs compatible with requirements in the public sector, but as well in the provisionally set system of thresholds that does not consider the existing realities and imbalances persistent in society. Instead of increasing community wellbeing, this only deteriorates the already weak public administration standards further.

The “*balancer calculator*” tool that determinate the whole procedure of employment in the public sector is prepared by the Minister for the Information Society and Administration. This instrument should secure ethnic balance, but is not greatly or evenly welcomed among all ethnic groups or communities because of its perceived misuse and preferential treatment towards some of them. Additionally, the instrument is used as a stepping stone among the political parties in power, and therefore a reason for many calculations in securing positions. For example, after the last population census in 2021, there was an idea for modifying the existing “*balancer*” so that in the future calculations it should consider the numbers of a group’s total population (citizens who are residents in the country as well as non-resident population). According to the envisaged changes of the new “*balancer*”, there should be 31.54% of Albanians in the state administration, and not 24.3%, as that corresponds with the percentage of Albanians who live in the country as a resident population (MKD.mk, 2022; Antevska, 2022; Jovevska 2022; Fokus, 2022). That ministerial initiative caused adverse reactions among the general public, but also opposition from the State Statistical Office (that handled the population census in 2021), which pointed out that the category of non-resident population in the population census exists in relation to the emigration policies issues related to the loss of the population - therefore, only the number of the resident population can be used for in country policy creation (European Commission, 2022), or setting the group’s public employment thresholds.

Despite the aspect of calculating numbers, another challenge remains providing evidence about membership in a certain community. In North Macedonia, self-declaration (not deposited or registered prior to a public call for a post in the public administration, such as in the case of the province of Bolzano) is the only relevant indicator about someone’s ethnicity

(ethnicity as identity marker) that puts an additional level of misuse of the existing instrument. Recently, the State Commission for the Prevention of Corruption raised concerns that application of this tool directly affects the private feelings of citizens related to ethnicity, and often – only to get employment in the public administration – applicants are self-identifying themselves as the ethnicity needed in the public announcement (TV21, 2022). Since there is no register for current or previous ethnic self-identification, these matters affect the smaller ethnic communities (such as Vlachs, Roma, and Turks) the most. Some analyses point out that except for the two largest communities, there is almost no or limited progress in respecting this principle towards the other communities. The notable low growth of representation among certain smaller ethnic communities (such as Roma) requires additional measures and activities, such as analysis of the educational capacities and the need for their proportion to be increased (CPIA, 2019). Recently, even the Ombudsman recommended that the Ministry of Information Society and Public Administration should deal more seriously with these issues and to find an appropriate mechanism that will eliminate the abuse of the so-called *balancer*, pointing out that the principle of fair and equitable representation should be implemented according to constitutional principles (Ombudsman of the Republic of North Macedonia, 2021; Ombudsman of the Republic of North Macedonia, 2022b; Ziberi, 2022).

As we can clearly see in the presented cases, the that elements of the consociational democracy are difficult to apply in practice and often face barriers when confronted with real obstacles. Even more, in many ways they lead to further ethnic divisions and create an administrative sector that has an “ethnic” element to it. Additionally, this is not the only attempt to reach or to increase representation of the communities that does not correspond with reality. For example, in another previous administrative programme (K5), a huge number of members of non-majority communities (around 2,000) were only provisionally employed within the Ministry of Political System and Inter-Community Relations. Towards the end, by pressure of public opinion they were transferred to various institutions (Blazhevski, 2022), yet according to the EU’s findings, these occurrences continue to undermine the principles of merit and effectiveness within the public administration (European Commission, 2022).

The principle of equitable representation is not questionable, and as a result some progress has been made, even though in its opinion on North Macedonia the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) highlights many flaws. Among them is the deterioration of merit-based principles, although that is not the authorities’ opinion. In reported cases where applicants changed their ethnic

affiliation to increase their chances in application processes, the authorities admit that the possibility to change one's ethnic affiliation with every new application procedure that makes the process problematic. Another strand of criticism is related to the under-representation of people affiliated with the numerically smaller minorities, especially in managerial positions. In addition, the process becomes even more problematised since the higher positions are associated with a high degree of politicisation, that sometimes means that applicants need to have both the "right" ethnicity and political affiliation. Additionally, the system does not apply to the persons belonging to communities that are not mentioned in the Constitution (e.g. Egyptians, Torbesh etc.) (Council of Europe, 2022a).

Although the situation is complex, there are also ideas for possible termination of the tool for securing equitable representation, focusing more on the administration's performance, qualifications, knowledge, and merits, which are crucially important for the country's European perspective. Therefore, instead of using a calculation with percentages and false figures for state employment according to ethnicity, arguably the focus should be on the public sector's needs and employment should be based strictly on the required competences. This will secure the merit-based system and increase citizens' trust (Jakimova, 2022). Opposing these opinions are those who consider that this situation would stand only if the numbers show that the aims have been achieved, so afterwards it will be easier to maintain the attained balance (CPIA, 2019).

In general, we can agree that except for the above-noted anomalies, the implementation of the principle has also been seriously affected by the weakness of the Macedonian public administration and its politicization (Ristovska-Jordanova et al, 2016). Despite strong opposition at the beginning (open or silent), the principle of fair and equitable representation was accepted by the majority within the public administration; at least on a normative level, it is seen as a fair principle. At the very beginning, it may have been natural for numbers/percentages to be at the centre of the implementation of the principle; however, this is still so. Considering this, perhaps it is wise if questions are reopened and discussed. Possible modifications and other options using the futures of the functional models (if any) should be adjusted or recreated to fit the local conditions and that country's capacity. Current domestic legal regulation and internationally ratified ones provide a good basis for the relevant promotion of the thresholds that favour equitable representation in North Macedonia. The constitutional guarantees of this principle are implemented in the laws. Still, other preconditions are needed to realize this determination in addition to the normative framework

(CPIA, 2019). Therefore, to contribute towards better functioning of the institutions in general, the government should implement a variety of measures. These can be the training and education of public officials on issues related to diversity and inclusion; encouraging the participation of underrepresented groups in decision-making processes; monitoring and evaluating the accessibility and effectiveness of public services for all citizens; implementing affirmative actions to address historical and systemic discrimination, etc. It is important to note that reaching equality is an ongoing process that needs continuous monitoring and evaluation beyond formally securing percentages. That means that the root cause for imbalances should be addressed, not just the outcomes. Nevertheless, among the mentioned options (and apart from the instruments that secure ethnic balance), further measures need to be taken in many areas, especially in the field of improving education standards and the professional development of the potential candidates. In addition, there is need for a proactive government policy that will encourage the highest-quality staff from various ethnic communities and the possibility to choose the best candidates among them (CPIA, 2019).

Conclusions

It is without doubt that the application of the principle of the equitable representation is of particular importance for the inclusive approach of communities in society, helping to increase trust in the institutions, and cultivating a sense of belonging and inclusiveness in the decision-making processes. Therefore, even though this principle apparently favours one or more communities, the appropriate application of the principle of equitable representation concerns and refers to all the communities that exist in North Macedonia. However, the supervision of this principle is not clearly settled yet, as well as what would happen if the application of the instrument that secures this principle is terminated, or if there would be a lack of suitable candidates from certain ethnic communities for employment in public sector. The analysis shows that smaller ethnic communities are less and insufficiently represented within the public administration. The relevant institutions have not sufficiently implemented the guaranteed constitutional categories and policies related to smaller communities when compared with the two larger ethnic communities (Government of the Republic of Macedonia, 2019). According to the Ljubljana Guidelines on Integration of Diverse Societies (OSCE, 2012), states should define targets for achieving adequate representation of persons belonging to minority groups and these are a practical instrument for governments to use. However, some reservations in this regard are noted, discouraging rigid quota systems that have specific proportions or would set

specific posts for a particular group. The recommendations state that those rigid systems could enhance existing inequalities. In the case of the Province of Bolzano where rigidity is evident, many point out that the individual right to freedom of self-identification is limited for the sake of the collective, as well as for smooth management of the system (Lantschner and Poggeschi, 2008). Evidence shows that in cases where there are no checks whether the declarations are true or false, nor punishments for false declarations, their validity is respected if they are properly deposited and as long as they secure the application of the quotas for employment in accordance with the law (Piacentini, 2021). In the case of North Macedonia, however, the main difference is that there is no clear deposited proof nor evidence of one's personal belonging to an ethnic community apart from the individual self-declaration made at the time of employment, or as needed (*ad hoc*). In both cases (the Province of Bolzano and North Macedonia) manipulation of the system is possible either by just depositing a declaration which is valid for several years (Toso, n/d, p. 116; Bona, 2023; Locatelli, 2023), or by balancing – or rather reaching towards – a desired percentage which puts on second place the competences required to fill a post in the public administration. According to the ACFC fifth opinion on North Macedonia, measures which aim to reach a rigid, mathematical equality in the representation of various groups (which often implies an unnecessary multiplication of posts) should be avoided since they risk undermining the effective functioning of the State structure and can lead to the creation of separate blocks in society. Additionally, self-identification with a national minority that is motivated solely for acquiring particular advantages or benefits undermines the standards of minority protection. Therefore, there is a need to improve the implementation of the principle of equitable representation together with efforts for reaching merit-based and efficient public administration as well as improving the position and representation of the smaller minorities (Council of Europe, 2022a).

It is important to note that achieving equitable representation in practice can be challenging, as there may be structural inequalities and discrimination that can limit certain groups' access to public services (CPIA, 2019). Having in mind the notified anomalies, the major intellectual efforts are how to secure a merit-based, professional administration which is capable of responding to society's needs as well as how the mechanisms which increase professionalism and accountability should be fully implemented and guarantee the independence and political neutrality of the public administration. Reaching equitable representation and overcoming imbalances in society can be achieved by creating more chances to obtain the skills and knowledge necessary for the civil service. In this way, these

communities will become more competitive on the labour market. These measures will be not in odds with EU standards and at the expense of the quality of services provided to the citizens. Additionally, existing options should be re-examined in an open dialogue, and if not terminated (that is the least favourable option), they should possibly be modified to help in creating more relevant and credible policies for representation of all communities within the public sector.

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