



**Антонио Милошоски**

### ***ЗАЕВ се обидел ДА ЈА ИЗЛАЖЕ Венецијанската комисија!***

Премиерот во заминување Заев "транспарентно" криел од јавноста дека во врска со контроверзниот закон за јазици, кон крајот на ноември направил обид за манипулативно влијание врз Венецијанската комисија, со испраќање на писмо од име на владата. Писмото изобилува со политиканство и правни манипулации, што укажува на тоа дека Заев го третира претседателот на Венецијанската комисија на ниво на претседателот на Кривичниот суд во Скопје, на кого може да му наложува барања, ургенции и да му праќа СМС пораки.

Прво, Заев сугерира Венецијанската комисија да не ја третира (не)уставноста на Законот за употреба на јазиците, бидејќи, замислете тоа можело да влијае на резултатите на закажаните избори. Со ова, свесно или несвесно, Заев ја потврдува неуставноста на Законот за јазици, а исто така, јасно му е дека голем дел од јавноста не го одобрува ваквото негово пазарење со законитоста во Македонија.

Второ, Заев ја лаже Венецијанската комисија дека Законот за јазици бил дел од европската регулатива, а ниту во предлог законот ниту во материјалите немаше наведено никаков извор на правото на ЕУ (директива, број, одлука) со кој треба да се усогласи македонското законодавство. И понатаму Заев продолжува да ја манипулира Венецијанската комисија тврдејќи дека Законот не се донел по скратена постапка, иако и домашната и меѓународната публика добро знае дека злоупотребата на европското знаменце кое беше прикачено на Законот за јазици ја прави можноста за дебата по истиот поскратена и од скратената постапка.

На крајот Заев бара од Венецијанската да ги преправи своите заклучоци по однос на неприменливоста на Законот за јазици во судството и штетата што истиот ќе ја предизвика врз владеењето на правото и нарушувањето на правото на ефикасна правда. И епилогот од ова е веќе познат, Венецијанската комисија си остана на своите правни стојалишта засновани на меѓународни стандарди, не земајќи ги во предвид манипулативните и политикантски "аргументи" на премиерот во заминување Заев !



Government of the Republic of North Macedonia

PRESIDENT

*Courtesy Translation*

Skopje, 25 November 2019

Dear Mr. Buquicchio,

The Government of the Republic of North Macedonia appreciates the possibility to provide comments on the draft-Opinion on the Law on the use of Languages, No. 946/2019 issued in Strasbourg on 27 September 2019, CDL(2019)031. After careful consideration we find that the draft text prepared by the Rapporteur Group composed of members of the Commission: Ms. Klener, Mr. Velaers and Mr. Vermeulen, as rapporteurs, and the commission's secretary Mr. Markert and Mr. Bedirhanoglu of the commission's secretariat, as support to the group is well prepared, though we have some general and specific remarks, which we believe will improve the drafted opinion and make it more accurate.

In its draft-Opinion on the Law on the Use of Languages, more specifically in points 27 and 86, the Rapporteurs elaborate on the Constitutionality of the Law. The draft-Opinion acknowledges that this is an issue that falls under the competence of the Constitutional Court of North Macedonia and that the Venice Commission has no mandate to analyse it. However, this is a highly sensitive issue, and by raising it in the Opinion the Venice Commission adds to the complexity of the inter-ethnic relations. Said intervention may influence not only the Constitutional Court, but it could also affect political relations, stability and the results of the upcoming elections.

Therefore, the Government of North Macedonia suggests that the final Opinion on the Law on the use of Languages is exonerated from any remarks regarding the constitutionality of the provisions, considering the influence that the Opinion is likely to have. As mentioned in point 36 of the draft-Opinion, this is also in line with the *sub judice* principle.

In that sense the Government advises the Commission that the following paragraphs 27, 36, 50, 82, 84 and number 86 from the draft-Opinion are redrafted in order to exclude any reference to constitutionality, the Constitutional Court or the proceedings before it.

The rapporteurs, and through them the Venice Commission, in the draft-Opinion is using the terms ethnic or linguistic minority. However, North Macedonia represents a *sui generis* situation where the Albanian population has been recognized as ethnic community. This is part of the concept for strengthening the integration of ethnic communities that are not in majority established with the Ohrid Framework Agreement and is profoundly enshrined within the Constitution of North Macedonia and our political system. Macedonian legal system uses the general term ethnic communities that are not a majority, which implies that Albanian, Turkish, Serbian, Romani, Vlach and other groups are **ethnic communities**, rather than minorities or nationalities.

Therefore, the Government of North Macedonia suggests that the Commission take it into account, and bypass the comparison with the minority rights/languages/municipalities or



national minority or ethnic/linguistic minority since it could cause ambiguity within the standards that are applicable to each of the groups respectively.

In point 31 of the draft-Opinion, the Commission has commented on the procedure for the enactment of the Law and its link to the EU Integration process.

In this regard, we find that the Law facilitates the full implementation of the Ohrid Framework Agreement. For clarification purposes, since its signing and introduction into the Constitution, the European Commission has considered the Ohrid Framework Agreement as a cornerstone of our EU integration process. Therefore, the Government of North Macedonia is of the opinion that the Commission cannot comment the link between the Law and the EU Integration process. This on the other hand justifies the procedure in Parliament and the debating of the Law within the European Affairs Committee rather than the Committee on Political System.

Additionally, with regards to the legislative procedure, we would like to point out to the fact that the Law was submitted to Parliament for enactment on August 8, 2017, while the vote took place on November 1, 2017. Furthermore, we find it necessary to point out to a factual mistake in the draft-opinion which states that the Law was enacted by using the shortened procedure. More specifically, this is addressed by point 28 in the draft-opinion. The Law was enacted by the use of the regular procedure, and after the first vote in Parliament, and the suspensive veto of President Ivanov, the Parliament came back to it for a second vote, which took place on March 14, 2018. Having these dates in mind, it appears that the Law on the Use of Languages was in legislative procedure for a period longer than 18 months.

Finally, the draft-Opinion at several points comments the absolute majority used to enact the Law on the Use of Languages. The Government had the Constitution in mind when proposing this Law to Parliament and particularly the articles speaking on the nature and character of the Law and the necessary majority for its enactment. In this case, the Law on the Use of Languages was enacted, as provided by the Constitution, with absolute majority in Parliament that ensured the so called double majority, i.e. majority of the representatives of the ethnic communities that are not majority.

In that sense, the Government of North Macedonia advises the Commission to redraft the paragraphs 28 31 and 103 in order to correct the factual error on the parliamentary procedure for the enactment of the Law.

At this point, we would like to draw your attention to points 50, 69-71 in the draft-Opinion, which, in our opinion, are based on an inaccurate translation of Article 7 of the Constitution. In fact, amendment V to the Constitution, changes Article 7 and uses exclusively the term "citizen", meaning that the right is linked to citizenship. Besides, when reading Article 7 of the Constitution of the following should be taken into consideration:

- the article stipulates the minimum standard for use of official language other than Macedonian, and makes a gradation of the minimum standard *sine qua non* through the paragraphs from (1) to (4).
- paragraph (5) from this article though, regulates the possibility of a wider scope of application which the Constitution delegates to the legislative by stipulating that in the state authorities/organs in North Macedonia an official language, other than Macedonian, may be used in accordance with the law. Thus, it is in the power of the Law which scope of application will be chosen or how wide shall that language be used.
- finally, the Constitution prescribes what constitutes state authority/organs, and it foresees Parliament, the President of the State, the Government, the Judiciary and the Public Prosecutor. Hence, the judicial system is considered to be part of the state authority and falls within the scope of Article 7, paragraph (5) of the Constitution.

**Антонио Милошоски: ЗАЕВ се обидел ДА ЈА ИЗЛАЖЕ Венецијанската комисија!**

Петок, 20 Декември 2019 08:48

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