

CENTER FOR RESEARCH AND POLICY MAKING

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**THE NEW LAW ON THE MUNICIPALITY
BOUNDARIES (LAW ON TERRITORIAL
ORGANIZATION) AND THE FAILED
REFERENDUM OF 2004; POLICY BRIEF N.1**

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MACEDONIAN ETHNIC POLITICS POST OHRID AGREEMENT: THE ISSUE OF THE NEW LAW ON LOCAL GOVERNMENT BOUNDARIES

Key Words: Macedonia, democratisation, decentralised government, interethnic relations

INTRODUCTION

This paper will discuss recent political events in Macedonia, concerning the implementation of the Ohrid Agreement in the sphere of development of decentralized government and in particular regarding the events surrounding the referendum on the newly adopted Law on Territorial Organization. On 3rd September 2004 the Macedonian parliament adopted a decision to hold a referendum on 7th November. If successful, the referendum, initiated by the World Macedonian Congress (WMC) in early 2004, would have effectively required a repeal of the newly passed Law on Territorial Organization, City of Skopje and Financing on Units of Local Self-Government, and a return to the status quo ante of 123 municipalities. The new Law has reduced the numbers of municipalities to 84. The calling of the referendum has also forced the postponement of local elections, previously delayed and rescheduled for 21st November, and now required by law to take place by 31st March 2005. A Law on Territorial Organization was part of the indispensable package of laws necessary to ensure the decentralization process, regarded as a crucial component of the Ohrid Framework Agreement (OFA) of 2001. The international community expressed widespread concern about the potential impact of the referendum on the Ohrid process and on inter-ethnic relations.

DRAFTING A LAW THE BALKAN WAY

The drafting of the law on the local government boundaries was not a transparent endeavor and lacked public approval. In fact, the three parties, members of the government coalition (Social Democrats Union of Macedonia, Democratic Union for Integration, and Liberal Democratic Party, SDSM, DUI, and LDP respectively), agreed on the main principles of the Law on Territorial Organization without transparency and public approval. The party talks between the coalition partners SDSM-DUI on the rearranging of Macedonia's 123 units of local self-government were held in June, 2004 at the mountainous resort of Mavrovo. Macedonian media reported that no experts on decentralization, public administrators or citizens were invited to take part in the talks. After the first meeting between the coalition partners it became evident that the discussion on the redrawing of territorial boundaries would remain behind closed doors. Instead of urging for transparency and more inclusive discussion, the international community legitimized the elite party bargaining by asking for a quicker solution to the issue. The EU representative in Macedonia Sheena Thompson stated that she was constantly in contact with the coalition partners and gave advice if necessary, but "it's all in the hands of the ruling elite." When asked to address the exclusive and non-transparent nature of the discussion, the EU spokesperson said that "these (the coalition partners) are the chosen representatives on the behalf of the citizens."¹

When the political parties finally reached a compromise on the new territorial boundaries, public opinion was outraged by the undemocratic process of negotiation. Many local political scientists and policy experts believe (d) that the new law on the municipality boundaries (Law on Territorial Organization) does not help Macedonia's democratization efforts and actually collides with the provisions of the OFA. Local non-governmental organizations were quick to react to the narrowness of the debates and the authoritarian decision on the decentralization process. For example, analysts from the Center for Research and Policy Making (CRPM) explained that the law was passed without:

¹ Grncharska, Tamara. 2004 "Makedonija ne Treba da gi Otlozhi Lokalnite Izbori[Macedonia should not postpone the Local Elections]", *Utrinski Vesnik*, 15 July, 2004.

- a broad public debate on the new territorial boundaries of the municipalities;
- consultations involving local officials organized in the Association of the Units of Local Government (ZELS);
- taking into consideration concerns by foreign and domestic experts;
- taking into consideration the will of the people, ignoring in particular the expressed objections of 41 municipalities for redrawing the district boundaries
- taking into consideration the position of the opposition parties
- taking into consideration article 3, section 2 of the Ohrid Framework Agreement which proclaims that “the revision of the municipal boundaries will be effectuated by the local and national authorities with international participation”²
- taking into consideration that Macedonia has signed and ratified the European Charter of Local-Self Government which states that “changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute” (article 5).³

The Macedonian Helsinki Committee “reminded” that since decentralization aims to satisfy citizen’s needs and interests, it *“should begin and end with active participation of citizens through their common will.”* A similar message came from a group of civic NGOs, which also displayed concern with the autocratic manner of reaching a decision on the decentralization process. The organizations declared that:

² The Ohrid Framework Agreement is found at http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Police_and_internal_security/Police_cooperation/OHRID%20Agreement%2013august2001.asp

³ See the presentation by CRPM at <http://www.crpm.org.mk/ALSPA%20conference.htm>. The European Charter of Local-Self Government is found at http://www.lps.lv/Dokumenti/European_Charter_of_LocalSelf.htm

“the process which resulted in the proposal for territorial organization of the local governments in the Republic was non-transparent, disregarding the principles of all stakeholders, public involvement, openness, and sincerity towards the citizens, which are all necessary while generating such crucial changes” (Macedonian Center for International Cooperation (MCIC) et al 2004).

Additionally, particular decisions such as the one to enlarge the city of Skopje to include Saraj and Kondovo, making the Albanian population in the capital 21%, and to include the surrounding Albanian villages in Struga, thus making the Albanians a majority within the municipality, ran contrary to experts’ advise on municipal organization, which claimed that adjoining villages with big cities suffocates the development of the village.⁴ The plan of the municipality of Kichevo, which in 2008 was to be enlarged to include the surrounding Albanian villages was also impractical according to decentralization experts, who stressed the unproductive results of adding a population of 30 000 people to a city with the same amount of inhabitants. Expert opinion has also pointed out that 7 municipalities in Macedonia have been enlarged to extend which seriously compromises the possibility for citizens to participate actively in the decision making process.⁵

Furthermore, other cases, where ethnicity seems to be the sole factor influencing the decision on municipal boundaries, failed to meet the criteria of the municipal unit set by the Law on Decentralization itself. In 13 such cases, the condition that a municipality has more than 5000 inhabitants to secure sufficient economic and financial and human resources to perform its new prerogatives has been clearly overlooked. Finally, objections were raised to the erasing of the municipal status of some municipalities, which regardless of their capacity

⁴ Various opinions of experts on local government and decentralisation are cited in Changova, Katica. 2004. “Decentralizaciata Oceneta Kako Izborna Matematika [Decentralization Judged as Being Electoral Math]”, *Utrinski Vesnik*, 22 June, 2004.

⁵ Helsinki Committee on Human Rights of the Republic of Macedonia. Report “Decentralization and Sustainable Development”, 2004.

to function as such lost their autonomy in order to alter the ethnic composition of other units.⁶

⁶ Ibid.

MOST CONTENTIOUS QUESTIONS AND THE PUBLIC REACTIONS

The most contentious questions in the law were the proposed new boundaries of the municipalities of Struga, Kicevo and Skopje. The substance regarding the boundaries of Struga and Kicevo on the one hand, and Skopje on the other, is similar but different. Macedonians are concerned that they will be denied access to public resources once the municipalities of Struga and Kicevo become Albanian majority. The examples of Gostivar and Tetovo are sufficient to align the fears of the Macedonians in Kicevo and Struga. In Tetovo, after the democratization of the country in 1991 local power was taken by Tetovo Albanians and *all* Macedonians in charge of the public enterprises in the town were replaced by ethnic Albanians. Similar was the situation in the branch offices of the ministries and other central organs. Macedonians in this region fear that the domination of Albanians in the public sector will make their economic position precarious and force them to emigrate to Skopje or abroad. On the other hand, local Albanians are concerned that if the 1996 boundaries are maintained the areas where they live great numbers such as Zajas, or Veleshta will remain underdeveloped and they will not have access to public resources.⁷

Skopje on the other hand, is a capital city and the question of the “bilingualism” concerns both questions about access to public resources and services in the native language, as well as symbolic status of the city. Macedonians fear not only that the city resources will be wasted on providing services in Albanian language, but also that the capital will somehow lose its Macedonian identity. The capital city holds a significant symbolic power to both communities and that although Skopje Albanians do not constitute 20 % access to services and public resources in their native language is an important matter for building new realities in Macedonia based on the Ohrid Framework Agreement.

The Macedonian public become antagonized and had in great numbers supported the initiative by the World Macedonian Congress (SMK) to hold a referendum on the new municipality boundaries. This initiative was also supported by the main opposition party

⁷ See the study “Ali Ahmeti’s Village” done by the leading think tank on the Balkans, European Stability Initiative: http://www.esiweb.org/docs/showdocument.php?document_ID=36

VMRO-DPMNE. This party organised a series of protests, the largest of which took place on 27th July in Skopje, where around 20 thousand people gathered to oppose the proposal on territorial adjustments. In fact, citizens of all backgrounds expressed negative views about the proposed boundaries of the municipalities and 41 municipalities out of 123 municipal units organized local referendums proclaiming their will to preserve the local government boundaries and objecting to the new law. Even municipalities inhabited by Macedonian Albanians and Macedonian Turks held referenda regarding this issue.

Referenda objecting the new law were successful in the municipality of Labunishta, mostly populated by Albanians, Macedonians (mostly Macedonians with Muslim religion or *Makedonci Muslimani*), and Turks, Centar Zhupa, a municipality where the majority people espouse ethnic Turkish identity, with many Macedonians and Albanians.(this municipality overwhelmingly voted against (95%) redistricting with the municipality of Debar) the municipality of Rostushe (where citizens voted against being aligned with Mavrovo, the Mayor Durmishi describing the new law as a decision made in “*haste*” and lacking “*proper argumentation.*”). Local Albanians from Negotino-Poloshko, Dzhepchiste and Bogovinje expressed their dissatisfaction with the new law with acts of public disobedience blocking the local roads. The disappointment of ethnic Turks from the municipalities of Vrapchiste and Banjica is evident too. All these examples clearly showed that the opposition to the redistricting law was not ethnically-based, but has local and multiethnic dimensions.

REACTIONS OF THE INTERNATIONAL COMMUNITY AND THE REFERENDUM FAILURE

However, the international community was of another opinion. Considering that much was at stake with the new law and that the situation could turn critical if a successful referendum was held that de facto would have returned the status quo ante, the international community attempted to influence the results. The European Union could not have directly criticised the basic democratic right to hold a referendum, asked the citizens to think of the interconnectedness of Macedonia's EU accession and the implementation of the agreement with the referendum. The prospect of a successful referendum was communicated as a step back from the implementation of the accord, and therefore a step back from EU integration. Thus, while Macedonians did have the choice to go out and vote in the referendum, according to EU representatives, the dilemma in front of the citizens was one of integration, or isolation, whereas in the latter scenario Macedonia would fall back in the isolated "*black hole*" alongside with Albania, Kosovo, Serbia and Montenegro.⁸ Using the backing of the EU and borrowing its rhetoric on the choice between the past and present, integration vs. isolation, the government campaigned that the referendum question is "*not worth an answer*"⁹ and pressured citizens not to vote in the referendum.

The United States attitude towards the referendum was in unison with EU declarations. A senior US diplomat warned that rejection of Macedonia's new territorial arrangements would "*run counter to the word and spirit of the Framework Agreement.*"¹⁰ The US Undersecretary of State for Political Affairs Marc Grossman was more dramatic, stating that the upcoming referendum was a "*choice between the past and the future.*"¹¹ Using the "*carrots*" and

⁸ Duvnjak, Gordana. 2004. "Makedonija ne smee da go Izpusti Vozot za Vlez vo EU [Macedonia cannot afford to miss the train catching up with EU Accession]", Utrinski Vesnik, 4th November, 2004.

⁹ Slogan of a mass billboard campaign in Macedonia

¹⁰ See *Southeast European Times*. "US Voices Concern Over Macedonia Referendum", 17 September, 2004.

¹¹ See *Southeast European Times*. "Prodi Gives EC Questionnaire to Macedonian Government", 3 October, 2004.

“sticks” approach, in addition, the US also pledged 9.5 million US dollars for the support and the realization of Macedonia's decentralization program.¹²

Despite the efforts of the international community and the government to influence the voters, the results of several polls conducted on the referendum reported in the media, indicated a general citizen's mood to vote and the referendum to succeed. Thus, a telephone poll by Brima-Gallup indicated that 63% of citizens would vote, and of them, 74% would vote to restore the 1996 law on territorial organization. More importantly among the respondents, 47.8% felt the referendum would succeed while 33% believed it would fail. Furthermore a SDSM supported survey indicated that of 1,200 persons polled, over 50% would support the referendum and that a majority would vote in favor of reinstating the 1996 Law on Territorial Organization (a "yes" vote). A third poll published in Vreme indicated that 64.6% responded that they would participate while only 51.4% would vote in "yes". These polling results, which suggested an overall tendency to participate and vote "yes," should be placed in the context of timing, notably the launch of the joint pro-referendum campaign by the Macedonian opposition and the World Macedonian Congress.

Perhaps alarmed by these polls United States recognized Macedonia by its constitutional name-the Republic of Macedonia only two days before the referendum was held. The recognition by one of the most influential members of the UN of the constitutional name was interpreted as a sign that other states will follow the US example and was met with euphoria by the Macedonian citizenry. The Bush administration explained the recognition as a move towards the “stabilization” of the country and rightfully predicted that it would decrease significantly the chances of success of the referendum. Many political analysts state that the biggest influence on the voters' behavior was made by the decision of the government of the US to recognize Macedonia by its constitutional name on the eve of the referendum. The international community was directly responsible for the drastic fall in the enthusiasm of the Macedonians to vote in the referendum. Thus, only 436.202 of the 1.709.536 citizens went out to vote on the 7th of November, 2004, whereby the 50+1 % majority needed to declare the referendum valid was far from met. The EU and the US

¹² Ibid.

praised the “wisdom” of the Macedonian citizenry to abstain from participating in the referendum and to bring Macedonia back on the path of Euro-Atlantic integration and stabilization.

CONCLUSION

Decentralization is one of the main instruments of democracy in the practice and protection of human rights and freedoms. To secure viable units of local self-government in Macedonia, the principle of decentralisation was supported by the Law on Local Self-Government, the Law on Financing of Local Self-Government and Law on Territorial Organisation of the Local Self-Government. The Law on Local Self-Government aimed to transfer local self-government competencies beyond the customary public aspects of life (fixing the roads, the sewage system, streetlights, other public works, etc.) and include prerogatives in the spheres of education, culture, health, and environment. On the other hand, the Law on Local Finance was supposed to provide possibilities for the fulfilment of these new functions through fiscal decentralisation and redistribution schemes. The role of the Law on Territorial Divisions needed to be considered in this context, whereby its objective should have been the regulation of the size and configuration of the municipalities to ensure their capacity to fulfil their new functions.

Macedonian decentralisation was supposed to take into account economic, geographic, infrastructure and prospect for development criteria. In Macedonia, these criteria were overshadowed by ethnic considerations and political deals among coalition partners. From the first round of debates, the political parties, contrary to the complex logic of a decentralisation process, perceived and portrayed the readjustment of units of local self-government as a solely ethnic issue essential to the fulfilment of the Ohrid Framework Agreement. This law was/is the most difficult step in implementing the 2001 Ohrid Framework Agreement that pulled Macedonia back from the brink of civil war. The Law on Territorial Organization should have marked a triumph for political sense in a region where politicians have too often been seduced by nationalism. The law enacted by the new government is no such triumph. Unfortunately, the international community has largely stood by the government's position on the new law and on the referendum effectively putting it in an uncomfortable position vis-à-vis the majority opinion in the country supporting bad policy making.

The mobilization of the general public regarding this question unnecessarily took Macedonia's attention from the most pressing issues facing the country, the state of the

economy and the integration in the European Union. Various statements from leaders of the pro-referendum campaign testified that while fully supporting the Ohrid Framework Agreement and the decentralization of the country the opposition would have liked to see a well prepared law on the local government boundaries taking into consideration both local and international perspectives as well as the will and needs of all citizens in the country regardless of their ethnic origin. Decentralization should begin and end with active participation of citizens through their common will.