

**RULE OF LAW AND USE OF STATE AND MINORITY SYMBOLS IN  
MACEDONIAN AND SERBIAN CASE**

**The 7th International Scientific Conference Management and law 2024  
Modern Challenges in Management, Economy, Law, Security and Information Society –  
„MELISIS 2024“  
Belgrade, May17, 2024**

**Jordanka Galeva, PhD  
Faculty of Law, Goce Delcev University, Stip**

# Macedonia and Serbia

## part of Yugoslavia

### independent states

1944-1991 Yugoslavia

1991 Independence of Macedonia

The voting on the first constitution of independent Macedonia was not supported by Albanian parties PDP - NDP due to certain demands raised in parliamentary discussions. One of the topics of these discussions was also related to the question of the use of flags of nationalities

2006 Independence of Serbia

In the both cases the law guarantees the rights of state symbols and rights for culture expression and use of minorities symbols.

Considering the diversity of the population living in Macedonia and Serbia, these two societies are an example of multicultural societies.

Serbia	Macedonia 2021: The total enumerated population is 2.097.319 citizens: 1,836,713 resident citizens and 260,606 not resident citizens.
<p>Serbs 80,64%,  Hungarians 2,77%,  Bosniaks 2,31%,  Roma 1,98%,  Albanians 0,93%,  Slovaks 0,63%,  Croats 0,59%,  Yugoslavs 0,41%,  Romanians 0,35%,  Vlachs 0,32%,  Montenegrins 0,30%,  Macedonians 0,22%, ethnic Muslims 0,20%,  Bulgarians 0.19%, Bunjevci 0,17%, Rusini 0,17%,  Russians 0,16%, Goranci 0,12%, Ukrainians 0,06%,  Germans 0,04%, Slovenians 0,04%, others 0,33%.</p>	<p><b>54.21%</b> declared themselves as Macedonians (they represent 58.44% of resident population and 24.45% of non – resident), <b>29.52% as Albanians</b> (they represent 24.30% of the resident population and <u>66.36%</u> of non - resident population), <b>3.98% as Turks</b> (they represent 3.86% of the resident population and 4.79% of non - resident population), <b>2.34% as Roma</b> (they represent 2.53% of the resident population and 1.02% of non - resident population), <b>1.18% as Serbs</b> (they represent 1.30% of the resident population and 0.35% of non - resident population), <b>0.87% as Bosniaks</b> (they represent 0.87% of the resident population and 0.81% of non - resident population), <b>0.44% as Vlachs</b> (they represent 0.47% of the resident population and 0.19% of non - resident population), <b>0.98 %</b> belonging to</p>

# *International issues related to the flags in the Macedonian case*

- Constitution (Art. 4): the state symbols are the coat of arms, flag, and anthem for which there is a law that provides an accurate description and manner of their use.
- A golden-yellow sun with 16 rays, sun from "Vergina", was accepted by the parliamentary group. Hence, after the acceptance of this proposal on August 11, the Assembly of the Republic of Macedonia passed laws on the flag and anthem of the Republic of Macedonia, with a two-thirds majority, i.e., 88 votes.
- After the signing of the Interim Accord (agreement) between Macedonia and Greece on September 13, 1995, in New York, on October 5, 1995, the Macedonian Law on the Flag was adopted, according to which the official flag is red with a yellow sun and eight sunbeams.

As soon as the international issue was resolved, a new problem emerged internally. In July 1997, following the display of Albanian flags in front of municipal buildings in Gostivar and Tetovo, which resulted in injuries and one fatality, the Law on the use of flags through which the members of nationalities in the Republic of Macedonia express their identity and national characteristics was adopted.

However, the Decree for the proclamation of this law and the law itself, were declared invalid after a procedure conducted by the Constitutional Court to assess the constitutionality. Accordingly, the constitutional guarantee for the protection of the ethnic, cultural, linguistic, and religious identity of members of nationalities cannot be expressed by providing the opportunity, or by adopting special laws for the use of flags.

Four years later, in 2001, the largest amendment to the constitution was made by adopting 15 amendments, derived from Ohrid Framework Agreement

- According to point 7 of OFA, entitled *expression of identity*, with respect to emblems, next to the emblem of the Republic of Macedonia, local authorities will be free to place on front of local public buildings emblems marking the identity of the community in the majority in the municipality, respecting international rules and usages. Considering this provision, the Law on the use of flags of communities in the Republic of Macedonia was adopted in 2005.

According to Article 2 the communities in the Republic of Macedonia, for the purpose of expressing their identity and characteristics, have the right to use a flag, chosen and used by the communities as a means of expressing their identity and characteristics.

Article 3 determines that the communities in the Republic of Macedonia use the flag that expresses their identity and characteristics in public, official, and private life, in a manner determined by the law. The council of the unit of local self-government decides on the use of the flag from paragraph 1 of this article in public and official life.

Article 8 of the law regulates the manner of displaying the flags of communities, while Article 8a stipulates that the flag of the Republic of Macedonia is displayed alongside other flags in accordance with the law and is larger in size than one-third of the size of other flags.

Article 5 determines the circumstances in which the flags of communities are displayed in front of and in the buildings of state authorities, public services and legal entities established by the state, public services, and legal entities established by the unit of local self-government, on the streets, squares and other infrastructure objects

According to Article 4 of the 2011 law, in the units of local self-government where citizens belonging to the community are more than 50% of the population in that unit of local self-government, the flag of the Republic of Macedonia and the flag of that community are permanently displayed in front of and in the buildings of the authorities of the unit of local self-government.



# *State symbols and national symbols of Serbia*

- The flag of the Republic of Serbia (red-blue-white) shall exist and be used as the national flag and state flag. The double-headed eagle on the tricolor was restored in 2004.
- The first Law on the appearance and use of the coat of arms, flag and anthem of the Republic of Serbia was adopted in 2009 and then in 2023.
- The section 3 titled *state and national flag* regulate the use of the Serbian flag as state and national flag. According to article 18, the state flag is a horizontal tricolor with fields of the same height, from top to bottom: red, blue, and white, and above all, the small coat of arms

- According to article 18, the state flag is a horizontal tricolor with fields of the same height, from top to bottom: red, blue, and white, and above all, the small coat of arms.
- According to art. 19 the national flag is a horizontal tricolor with fields of the same height, from top to bottom: red, blue, and white

# *The symbols of Vojvodina and traditional symbols*

- Article 9 of the Statute AP Vojvodina determines its symbols – the flag and the coat of arms - and the manner of their use based on the Constitution
- The flag of AP Vojvodina consists of three colors, red, blue and white, arranged horizontally in proportions of 1:8:1. In the center of the blue field, three yellow stars are arranged in a circle.
- The flag of AP Vojvodina is a traditional tricolor with horizontal fields of equal height in red, blue, and white, from top to bottom. The ratio of the flag is 3:2 (length to height). The coat of arms of AP Vojvodina is a traditional coat of arms from 1848.

# *Symbols of national minorities in Serbia*

- According to article 16 of Law on the Protection of Rights and Freedoms of National Minorities from 2018 members of national minorities shall have the right of choice of national symbols and signs.
- According to the law the national symbols and signs may not be identical to symbols and signs of other states. National councils may suggest national symbols, signs and holidays of national minorities

The National Council of the Hungarian National Minority in Serbia has chosen the official flag of Hungary tricolor (red-white-green) flag, with the coat of arms in the middle.

The Bulgarian national minority currently uses a tricolor (white-green-red) with the coat of arms in the middle, featuring a princely crown.

The lion has a smaller shield on its chest depicting a golden lily and a black eagle.

Croatians and Slovaks changed small details on the flags, which are also the national flags of their respective countries. Croats removed the crown above the coat of arms from the Croatian flag, while Slovaks painted the white border of the Slovak flag's coat of arms gold.

The national council of the Albanian minority in Serbia in 2012 decided that their flag should be the same as the emblem of Albania

# Use of the state and national flag

The State flag is hoisted continuously at the main entrance to the buildings of state organs, except the National Assembly, and in their official premises; at the main entrance to the building of the National Assembly during sessions and on the national holiday of the Republic of Serbia; at the main entrance to the buildings of organs of provincial autonomy and local self-government and public services on the national holiday of the Republic of Serbia. If several state organs' official premises are located in one building, only one flag is hoisted (art.20).

The National flag is continuously hoisted at the main entrance to the building of the National Assembly and at the main entrance to the buildings of organs of provincial autonomy, local self-government, and public services. If several organs of provincial autonomy, local self-government, and public services have official premises in one building, only one flag is hoisted. The National flag is displayed at polling stations on the day of elections for organs of provincial autonomy and local self-government. If elections for state organs and organs of provincial autonomy or local self-government are held simultaneously, the State flag is displayed at polling stations (art. 28).

**The provincial assembly's decision on the appearance and use of symbols and traditional symbols of the AP regulates the detailed appearance and use of symbols and traditional symbols of the AP Vojvodina**

**(<https://www.skupstinavojvodine.gov.rs/>, 2016). The instructions on the detailed use of symbols and traditional symbols of the AP Vojvodina are further regulated by the Instruction on the detailed regulation of the use of symbols of the AP Vojvodina.**

The flag and traditional flag of AP Vojvodina are displayed alongside the flag of the Republic of Serbia when it is required by law or another regulation to display the flag of the Republic of Serbia, by placing it to the right of the flag of the Republic of Serbia.

**According to the law on the appearance and use of the coat of arms, flag and anthem of the Republic of Serbia, Serbian national symbols represent the country and express belonging to Serbia**

Additionally, it stipulates that when the Serbian coat of arms or flag is displayed alongside other domestic or foreign symbols, it should be given a place of honor (art. 3). Furthermore, it states that the coat of arms or flag of a foreign state can only be displayed in Serbia alongside the Serbian coat of arms or flag, unless otherwise determined by an international agreement

# Conclusions

Historically, both countries have different paths, but share a common history as part of the former Yugoslavia. After the breakup of Yugoslavia in 1991, Macedonia became independent, while Serbia declared its independence in 2006 after the dissolution of the federation between Serbia and Montenegro. As independent states, both face certain difficulties. Macedonia, under pressure from the international community, changed one of its national symbols, the flag, and later even the name of the country.



Regarding legal norms, there are differences between the Macedonian and Serbian cases. Although both constitutions guarantee the right to express identity through symbols, Macedonian legislation allows communities to choose their symbol without restrictions, while Serbian legislation does not permit, for example, the use of flags of respective countries as a symbol of the minorities living in Serbia. The analysis showed violations, disrespect, non-application, or abuse of the law in both cases, primarily by the Albanian minority.

In Macedonian case the violation refers to use of the Albanian flag without the accompanying Macedonian flag and use of the Albanian flag with improper dimensions.

In Serbian case the Albanians use the state Albanian flag, that is contrary to the law, and often without the accompanying Serbian flag. Other examples includes the disrespect of the law in non displaying the Vojvodina flag and the flag of the Croatian community in Serbia.

- The results of the research show that despite the existence of laws, the norms related to the symbols and use of the symbols often are abused or not respected. Even if Serbia would change the provision that refers to the use of symbols of other states, Macedonia serves as an example that that despite this right, violations continue (through the display of ethnic flags without the national flag or with larger dimensions than the national flag).
- The most relevant recommendation in this cases is, to respect the laws aimed at promoting culture and diversity, rather than marking territories and provoking tensions. In this context, it is not only the responsibility of the state inspectorate to react, but the same it is also expected from the personal responsibility of officials.