

# The federal state and the decentralized states (Case study: the Republic of Macedonia as a regional state)

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## ABSTRACT

The subject matter of the article is the content of the federal state and the decentralized states, studying the case of the Republic of Macedonia as a regional state. In order to understand the differences and similarities between the federal state and the self-governing state (Spain), or regional state (Italy), in the first part of this article, the following questions are analyzed: the notion of federal state the characteristics of the federal state and the difference between the federal and unitary state. After that, the second part analyzes the unitary (regional) state: the notion of regional state and the similarities and differences between the regional and the federal state. Finally, in the third part, the author analyzes the state structure of Republic of Macedonia, its problems and possible solutions. In this part, the author writes broader for the following questions: the Republic of Macedonia as a unitary state, problems in the state development of the Republic of Macedonia, and possible solutions for the existing problems in the state development of Republic of Macedonia as a new state in the Balkans (the decentralization of the state authority and the integration of the Albanian minority into the institutions of the Macedonian state)

**Key Words:** federal state, unitary state, regional state, public authority, centralization, decentralization, federal loyalty, territorial autonomy, Republic of Macedonia, Albania minority.

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## 1 - FEDERAL STATE

1 - *Notion of federal state.* The federal state is a complex form of internal structure of state authority. Within this state there are two types of organs (federal organs and organs of the federal units) and two types of laws (federal laws and laws of the federal units). As a consequence of that, the governmental structure of the federal state is a complex one because it is composed of federal constitutional structure and constitutional structure of the federal units. In these conditions, the federal state resembles a house on two stories: the first story is composed of federal units and the second of federal power. Within this kind of structure, the citizens are subjugated to the federal units as well as to the laws of the federal authority. The United States of America are a contemporary model of federal state although this model was introduced more than 200 hundred years ago (the Constitution of the USA from 1787).

The term *federal state* originates from the Latin word *foedus*, meaning union or agreement. The term *federalism* was created out of this word. This term denotes the various forms of free associations or uniting of different subjects for the purpose of achieving mutual goals on social, cultural or political plan: accomplishing certain social economic and political interests; defending from aggression of other states: carrying out common foreign policy; creating common economic union; or creating common state in confederation or federal form.

In its *widest sense*, federalism encompasses various forms of associations of a large number of subjects of different nature such as: states, regions, economic subjects, political parties, societies and associations of citizens. These subjects associate in various forms for the purpose of accomplishing the mutual goals in the narrower and broader sense, including the world as the most global area (realizing the idea of *Gens una sumus*). In this wide notion of association, the confederation is completely included as a form of linking the mentioned subjects. On the other hand, in *narrower sense*, the federalism is connected to the federation as a separate form of the complex state which is different from the unitary state on one, and from the confederation as a union of states, on the other side (Jovici, 1993).

As a form of state linkage, federalism appears in two forms: federation and confederation. The federation represents a complex state as a special form of *inter state federalism*. In contrast to this, the confederation is a union of states, that is, *inter state union*, but without special state quality (Heraud, 1961). The confederation is only an embryo of federation, but not a complex state with its subjectivity. Because we are speaking about different phenomena, the German theory of law operates with special legal terms: the federation is denoted by the term Bundesstaat, and the confederation by the term Staatenbund.

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In practice, however, there are examples of transferring from confederation to federation and vice versa. For example, Switzerland is formally a confederation and in its essence it is a federation. And vice versa, the Canadian federation contains emphasized elements of confederation although it is formally denoted as federation (agreement of all federal members for amendments of the federal constitution). How these two forms are interwoven can be seen in the structure and the functioning of the European Union as a form of *public authority* (*pouvoir publique*) (Isaac, 1992). Also interesting is the example of Belgium which, with the amendments of the constitution in 1993, has officially declared itself a federal state, although its regions do not have constitutions as an important feature of the members of the federation. With the *Minsk Agreement* from December 8th, 1991, the Soviet Union (SSSR) transformed into confederation (Community of Independent States). The example of Belgium represents a new phenomenon in the comparative constitutional law, because for the first time in the world constitutions a federation has been created with an internal transformation of one unitary and decentralized state. The Soviet example is also a new phenomenon in the constitutional law because it happened for the first time a concrete confederation to be created with a transformation of a previous federation. The aforementioned examples of transfer to federation from confederation and vice versa as well as the example of transfer to unitary state in federation, unambiguously show that often there is no visible difference between these two forms of state linkage, as it is maintained by the classical legal theory.

2 - *The characteristics of the federal state*. Theoretically speaking, the federation as a complex state has the following characteristics: first, the existence of two kinds of state authorities in one and the same territory and on one and the same population; second, each of these authorities has its own independent sphere of activity as a parallel sphere of activity with other spheres of activity (independent and competitive spheres of activity) and third, the existence of legal guarantees for the independent sphere of activity of the two authorities (the constitutionalism as important characteristic of the state federalism). These characteristics can be synthesized in the following key values of the federal state: autonomous and equal position of the federal units; and participation and co-operation of the federal units in realizing federal functions.

The autonomous position of the federal units enables the federal state to be a complex state rather than unitary state. The federal members maintain their capacity of states with various names: states (USA, Brazil, Mexico); republics (Russia, Yugoslavia); provinces (Germany, Austria, Canada, Argentina); cantons (Switzerland); and regions (Belgium). The equal position of the federal units enables the federation to develop as a complex state of equal subjects, with same power and responsibility for the development of the common state community. Exception of this rule

is the asymmetric federation, that is, a kind of federalism which tolerates different position of federal units (Russia and Bosnia and Hercegovina). Canada, in which the province Quebec persistently demands privileged position in regard to the other nine Canadian provinces or secession in a separate sovereign state (referendum 1980 and 1995), also inclines towards asymmetric federation. The constitutional theory is still not able to determine the acceptable limits of asymmetrical federalism for all members of the federation. But objectively speaking, the subtle character of federalism does not exclude the existence of asymmetrical federalism, as the decentralized unitary state does not exclude the existence of more kinds of laws on its territory. An example of such unitary state is the *united union* in the form of the United Kingdom of Great Britain and Northern Ireland from 1800.

Federalism as a form of state is based on the idea of the existence of a certain circle of common values which are to be realized by co-operation, collaboration and dialogue of the federal units and not only by orders and state methods of the federal organs. Through collaboration and co-operation of the federal units interwoven with altruism and tolerance in solving each others' conflicts, in fact, the loyalty of the federal units towards the federal state is expressed as new constitutional category. The category *federal loyalty* is introduced for the first time with the constitutional alterations in Belgium in 1993 as a basic method for preventing and solving the clash of interests between the federal government on one side, and the languages communities and regions on the other (Art. 143). In such a context, federal loyalty has the same importance for the survival of the federal state as the loyalty of the citizen for the survival of the unitary state. Thus, not accidentally, the real followers of the federal idea insist not only on the autonomy and equal position, but on their loyalty towards the federal state, as well. (Verdussen, 1995).

3 - *The difference between the federal and unitary state.* The federal state differs from the decentralized unitary state in several points: first, the federal units are states, while the decentralized units are administrative units of the unitary state; second, the functions of the federal unit are stipulated by the constitution, and the functions of the decentralized unit by the law of the unitary state (exceptions are federal units in India); third, the federal unit participates in the exercise of the constitutional and legislative power of the federal state, and decentralized units do not have that opportunity regarding constitutional and legislative power of the unitary state; and finally, the decentralized units are placed under political and legal control of the central organs of the unitary state, and the federal units are placed only under legal control exercised by the constitutional and ordinary judiciary (judicial review). In any case we are speaking about two different entities, although the territorial autonomy and the region as decentralized units *in nuce* tend to become federal unit or independent state (Spain and Italy).

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In comparison to the unitary state, the federal state is by far a more complicated and more delicate mechanism of internal state structure. For this reason, the federal state demands much higher level of altruism, tolerance and political culture of the citizens and state institutions. It specially concerns the multiethnic federations. As a result of that, the federation are much more fragile and unstable forms of state structures than the unitary state as simple states. Figuratively speaking, the federations are very subtle plants which need a very cultivated gardener, with developed sense for the differences and created awareness for the advantages of joint living. Thus, not accidentally, federations collapse fast, but at the same time, they restore on new regions with new contents and subjects. Regarding this, professor Georges Burdeau has noted the following contradiction: on internal plan the federalism is in constant crisis, and on international plan it is in progress as a form of supranational linkage of peoples and states (Burdeau, 1972).

Viewed in perspective, the federal state has advantage regarding the unitary state because more and more the world unites in one unique global organization. It is possible to provide *eternal peace* on global world plan only on condition that the egoism and limitations of the national (unitary) state are successfully overcome and parallel to that, Kant's concept of *foedus pacificum* of the free republics is gradually realized in practice (Kant, 1995). In this function is the establishment and the several decades development of the European Union as United States of Europe (Winston Churchill) or as Confederation of 24 States (Fransoa Miteran). For the moment, the European Union very successfully links the federalism and confederation on one side, and pluralism and democracy on the other, in one functional whole (Skaric, 1995). As a consequence to that, federalism appears as an authentic form of linking, that is, as a form for *creating new values* (Simon Bolivar) or as a form of creative authority (Harold Lasky), and not as mechanic copy or utopia. In this context, the federal state is more powerful than the unitary state in any respect, that is, the federal state will not be defeated in collision with the unitary state as the English professor Albert Von Dicey considered, in the second half of the 19th century (Dicey, 1885).

## II - UNITARY (REGIONAL) STATE

1 - *Notion of unitary state*. Unitary state is a form of state structure with high level of concentration of the state authority in the central state organs. As a result of that, the unitary state has simple internal structure because there is only one kind of state authority organs. In such conditions, the citizens are subordinated only to one authority, that is, the same laws and same kind of constitutional structure applies to them. Thus, the state authority in the unitary state is homogeneous and unique authority, and not authority divided to more levels and more subjects. In the unitary state the laws are applied on the whole state territory. Exception to this rule is the *united union*.

From the aspect of the achievement of the state authority, the unitary state appears in two forms: centralized and decentralized unitary state. The first form is characterized by concentration and deconcentration of the state authority, while the second form is characterized by decentralization in different kinds: transfer of power from central to the lower state organs with certain independence and transfer of power from state to non-state organs on local and regional level. Decentralized unitary state with two-level self-government on the local level is dominant in the world today.

*Centralized unitary state* is based on the concentration of the state authority in the central state organs. However, for the successful functioning of the state authority in practice, the centralized unitary states deconcentrate the state authority from the higher to the lower state organs, without independence and original jurisdiction. In this context, deconcentration appears as a form of centralized conduct closer to the citizens than it is the case of concentration of the authority in the central organs. The internal structure of the centralized unitary state leads down to two elements: central organs and territory units of the central organs located on local or regional level. This type of state structure is characterized by strict hierarchy of the state organs and full supervision of higher organs on the lower ones. Figuratively speaking, deconcentration of power in unitary state looks like a hammer with shortened handle.

The internal relations in the centralized unitary state are brought down to two levels: the relations between the central and territory organs of state authority represent the first level, and relations between state organs and the units of the local self-government represent the second level. The first level is characterized by high level of hierarchy and complete guardianship of the central organs over the lower organs in the state authority, and the second one is characterized by local self-government as legal and dependent category from the centralized state authority. With the help of the second level of relations, centralized unitary states tend to avoid the blockade and futility of the central state organs as well as the paralysis of the territory units of the central state authority.

*Decentralized unitary state* appears in two forms: transfer of the part of the competencies of the central organs to the lower organs of the state authority which have some independence and transfer of part of the state authority to the non-state organs, such as local self-government and territorial autonomy. The characteristic feature of these two forms is that the organs to which the state authority is transferred are elected by the local population. Electiveness and independence are specially typical of the local self-government and territorial autonomy, as non-state and constitutional categories. Under the influence of decentralization, in many countries in Europe and North America the *local or territorial constitutional law* has been successfully developed lately (Verdussen, 1995).

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The comparative constitutional law recognizes two types of decentralization: functional and territorial. Functional decentralization is recognition of independence to certain public services in realizing public interest of wider meaning. An example of functional decentralization is the autonomy of the university as a public service in the sphere of science, art and education. Territorial decentralization assumes existence of independent territorial collectives, with own financial sources and original competence, controlled by legal means and the judiciary. In these circumstances, the territorial decentralization appears as a form of division of power (polyarchy). The most significant forms of territorial decentralization are the *local self-government* and territorial autonomy. The first form appears as a rule in all states in the world, but with different status and different levels of organization (first-level, second-level and third-level local self-government). Contrary to that, the *territorial autonomy* appears as an exception, because it exists only in about ten countries in the world. This form of territorial decentralization also appears with different status and different form of organization (autonomous communities, autonomous province and regions) the forms of territorial decentralization exist in unitarian as well as in federal states (Russia, Yugoslavia).

2 - *Notion of regional state*. The regional state represents a third form of state structure. This form as *teritium genus* appears more recently, that is, with the appearance of regions as forms of territorial autonomy which changes the character of the unitary state. The first such regional state was formed in Italy in 1948, and the second one, 30 years later in Spain in 1978. The theoretical model of the regional state was created on the basis of the examples of these countries, and not on the basis of the examples of regions as territorial units in France, Great Britain and Sweden.

Regional state is formed in countries in which there are historical, ethical, linguistic, geographical or economic reasons for recognizing a status to a certain territory that is higher in regard to the status of the local self-government unit, and lower in regard to the status of the federal unit. It is based on the idea of autonomy of a certain area as well as on the idea of linking of the autonomy with democracy, providing for the participation of the citizens in the exercise of authority and in the governing themselves within a state. In such context, the regional state pays equal attention to the differences and the autonomy of certain areas in the country as well as to its territorial unity.

*The regions (regioni)* in the Constitution of Italy from 1948 are defined as autonomous units with their own competencies and functions stipulated by the Constitution and the statute of the region. There are two kinds of regions: regions with regular status and regions with special status. The Constitution introduces 15 regions with regular status and 5 regions with special status. Regions with special status are result of geographical factors (Sicily and Sardinia) or result of the cultural and

linguistic distinctions of the ethnic minorities that live in the border areas in Northern Italy (Vale d'Aosta, Trentino Alto-Adige and Frulia-Juliska Venice). In the regions with regular status, the Regional Council adopts the statute with absolute majority of votes and it is confirmed by the Parliament with special law. On the other side, the statute in the regions with special status is directly adopted by the Parliament, by passing a special constitutional law, as a higher act than the laws which confirm the statute of the regions with regular status. The aforementioned differences of these two kinds of regions, speak for themselves that there is a determined form of asymmetry in the state structure of Italy.

*The autonomous communities* (comunidades autonomas) in the Constitution of Spain from 1978 are determined as nationalities and regions with wide autonomy. These communities constitute the neighboring provinces (as the highest level of local self-government) with common historical, cultural and economic characteristics, then, different island areas and finally, the provinces which represent separate historical community (the Land of the Basks, Catalan and Galicia). In contrast to Italy, there is only one kind of autonomous community in Spain. Besides the Constitution, the statute is the basic act of every autonomous community. The draft statute is regulated by the assembly, composed of delegations of the neighboring provinces as well as of the delegates and senators elected in these provinces. The general *cortes* confirms the statute by adopting a special law. In contrast to Italy, the formation and number of autonomous communities is an open constitutional process in Spain. Namely, the initiative for forming autonomous community belongs to all interested delegations of the provinces as well as to the two-thirds of the municipalities whose population represents the majority of the electorate of each province. By organic law, the general *cortes* may appear as a founder of the autonomous community, if it is imposed by the wider national interest. There are 17 autonomous communities on the territory of Spain today. Spain as a *State of autonomies* (Estado de las Autonomias) was formed in nearly 5 years: the first autonomies were formed immediately after the Constitution of Spain was adopted in 1978, and the new ones were formed with the adoption of the statutes of the Baler Islands, Ekstemadura, Madrid and Castle-Leon in February 1983. In contrast to Italy, Spain is a model of symmetrical regional state. As a consequence to that, Spain is used more than Italy as a model for building the theoretical concept of the regional state as *unitary federal state*, especially by the Spanish constitutionalists (Juberias, 1996).

The similarities of the regional structure in Spain and Italy can be seen from the following: first, in both countries there are historical, cultural, economical and geographical conditions for introducing regional structure as a middle solution between unitary and federal state; second, the competencies of the regions differ clearly from the competencies of the units of self-government; third, the highest

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constitutional act of the regions is the statute; fourth, the regions have financial autonomy which is guaranteed by the constitution; fifth, the organization of the authority is based on similar basis: legislative assembly, government and president of the government; sixth, regions participate in the formation of the central organs, especially the parliament; seventh, in both countries there is central bicameral parliament, and the Senate as upper House is the chamber of the territorial representation; eighth, the central organs have the right to supervise the normative acts of the region; ninth, there is a special separate organ of the central authority in the regions; and tenth, there is a ban on violation of the unitary structure of these two countries. Above that, the Constitution of Spain strictly forbids federalization of the autonomous communities (art. 145, p. 1).

The right of the autonomous community to have its own flag and emblem is specific for Spain. These symbols can be placed only on public buildings and they can be used only on official holidays and celebrations together with the Spanish flag. The autonomous community has also the right to stipulate with its statute the official use of its own language together with the Castilian language. The Castilian language is the official language and all Spanish people have to know it. In Italy, in addition to the Italian language, the official use of other languages is normatively regulated with special status only in the three areas on the northern border in which ethnic minorities live. The symmetrical character of the regional state in Spain is strengthened by the obligation of the central government to pay special attention that solidarity and just economic balance is established on the whole Spanish territory. In function of that, there is a Fund for Compensation in Spain as a constitutional category.

3 - *The similarities and the differences between the regional and the federal state.* The regional state tries to combine the advantages of the federal and the unitary state, on one side, and to eliminate the weak sides of these two forms of state structure on the other side. The regional state realizes this delicate task in a way that provides the unity in the differences more successfully than the federation, avoiding the excessive concentration of the state authority characteristic for the unitary state. In other words, it pays attention to the distinctive features of the certain areas of the state territory, making the desintegration of the state territory impossible, although these areas enjoy wide autonomy.

Similar to the federal units, the regions have constitutional status, they appear as participants in exercising the central authority and to a certain limit they are placed under constitutional control. The regions are constitutional rather than legislative category. It enables them to have higher level of stability than the local communities which are legislative category by rule. Similar to the federal units, the regions appear as in exercising the central authority. Their participation consists of the representation of the regions in one of the chambers in the central parliament. Thus, they indirectly through their representatives participate

in the implementation of the constitutional and legislative power. The regions have certain similarity with the federal units in view of the manner of forming their own organs, determining their status and financial autonomy. The regions have normative competencies which in many aspects bring them close to the competencies of the federal units. On the other hand, the status of the regions enjoys constitutional and judicial protection, as it is the case with the status of the federal units.

But the regions do not have the level of independence and statehood as the federal units have. They do not have their constitution, they do not have the same level of independence as the federal units, nor the three branches of state authority (the judiciary is especially deficient). Generally speaking, the status of the region is closer to the status of the territorial unit of the unitary state than it is to the federal unit in the federal state. It is so because the relations between the region and the central state authority are mostly based on hierarchy vertical line in the legislative and executive - governing power, and very little on constitutional horizontal line. Still, it is not an obstacle to treat the region as a form *in-between*, which in certain circumstances can be a *transitional form* from unitary to federal state. Such possibility has already been announced by the Northern League in Italy which tries to form Republic of Pandania as a separate state.

Contrary to realistic danger of break up or excessive federalization of the unitary state, those who are well informed about the regional state unambiguously conclude the following: the regional state successfully blends the good sides of the unitary state and the federation; it enables wide autonomy of the regions and their representation in the central parliament; within the regional state the problems of all national minorities can be solved in an optimal way; and the regional state has its future, especially in the Balkans as a defense from the authoritarian regimes and as a pass of the Balkan countries to enter the European Union (Jovici, 1996).

### III - THE STATE STRUCTURE OF MACEDONIA: PROBLEMS AND POSSIBLE SOLUTIONS

1 - *The Republic of Macedonia as a unitary state.* According to the Constitution of the Republic of Macedonia from 1991, Macedonia is a unitary state. It is a unitary state because there is only one state authority with one kind of laws on the whole territory. After the examples of Italy and Spain, the state territory of the Republic of Macedonia is also indivisible and inalienable. The state unity of the Republic of Macedonia is manifested through the existence of state coat of arms, flag and anthem as well as through the establishment of the Macedonia language as an official language on the whole state territory. In other words, the

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unitary character of Macedonia is visible through four key elements: unity of state territory, one level of state power, the existence of state flag and anthem, and the existence of language unity in the country.

The Republic of Macedonia is a decentralized unitary state because of three reasons: first, there is a local self-government as a constitutional category on its territory; second there are forms of functional autonomy; and third, there is linguistic and cultural autonomy in the units of local self-government with majority or significant numbers of members of the ethnic minorities.

The local self-government represents a fundamental value of the constitutional order of Republic of Macedonia. It has original constitutional competence and conveyed competence from the central state authority. It also has substantial financial autonomy. With such determination, the local self-government becomes an optimal form for restriction and decentralization of state power, which differs in quality from the local government as a form of deconcentration of power on local level. The Constitution of the Republic of Macedonia recognizes one level of local self-government. The municipalities are the units of local self-government. With the Law on Local self-government from 1995, in the Republic of Macedonia there are 123 municipalities, on the territory of 25, 713 Km<sup>2</sup> and two million inhabitants. As the capital of the Republic of Macedonia, the city of Skopje is a separate unit of local self-government. The status of Skopje has been regulated by the Law on the City of Skopje from 1996.

The functional autonomy is manifested through the autonomy of the universities in the Republic of Macedonia as well as through the existence of certain civil (private) institutions with public competencies. The constitution guarantees the autonomy of the universities in the sphere of higher education, independently whether it concerns state owned or private universities. Significant forms of decentralization of the state authority are public services (bureau, post offices, railways, electrical industry an others) as well as the private associations with public competencies (practice of law, associations of citizens and other institutions).

The linguistic and cultural autonomy in the Republic of Macedonia exists on local level in nearly 30 municipalities in which the members of ethnic minorities live in larger number. According to the Constitution of the Republic of Macedonia from 1991, in the municipalities in which more than 50% of the population are members of certain ethnic minority, the language of that minority is in official use together with the Macedonian language as an official language of the state. With the Law on Local Self-government from 1995, the official use of the language of the ethnic minority extends to those municipalities in which more than 20% of the population are members of certain ethnic minority. Today in the Republic of Macedonia in a large number of municipalities, together with the Macedonian language in official use are the Albanian, Turkish,

Romanu and Serbian language as well as their writing. In that, the Albanian language is in wider official use, because the Albanian ethnic minority is the largest one in Macedonia (22,7% Albanians; 4,0% Turks; 2,2% Roma; 2,1% Serbs). The Albanian minority lives compactly in western Macedonia, that is, along the state border between the Republic of Macedonia and Republic of Albania, as well as along the border between Macedonia and Federal Republic of Yugoslavia (Kosovo).

As a peace-loving country in the Balkans, the Republic of Macedonia has become a member of the UN on April 8th, 1993. Under the pressure of Republic of Greece, the Republic of Macedonia was admitted under the provisional name FYRON. However, the Republic of Macedonia has been recognized under its constitutional name the *Republic of Macedonia*, by many countries in the world. The constitutional name is used and recognized even more in the diplomatic contacts. From the moment of constitution of the Republic of Macedonia as a sovereign and independent state in September 1991, until the end of 1996, the Republic of Macedonia was recognized by more than 80 countries in the world. This number is constantly increasing. The Republic of Macedonia was admitted to OSCE on October 12th, 1995, in the Council of Europe on October 17th, 1995 and to the program Partnership for Peace on November 15th, 1995. The Republic of Macedonia established diplomatic relations with the European Union on December 30th, 1995. In February 1998, the Government of the Republic of Macedonia signed the European Agreement on Associate Membership with the European Union. Becoming a member to the European Union is a strategic objective of the Republic of Macedonia. Thus, the state organs intensively work on convergence of the legal, economic and political system of the Republic of Macedonia with the economic and legal system of the European Union.

*2 - Problems in the state development of the Republic of Macedonia.* In the seven years of the development as an independent state, the Republic of Macedonia has faced three key problems. The first problem is the centralization of the state authority. The second problem is putting the state authority along ethnic lines as a strategic objective of the members of the Albanian minority in the Republic of Macedonia. The third problem is the conflict of the Republic of Macedonia with the Republic of Greece regarding the use of the name *Macedonia*. The first problem actualizes the question of democratization of the state authority, the second one, federalization of the Macedonia state on ethnic base, and the third actualizes the question of the state identity and the acceleration of becoming a member of the European Union.

The centralization of the state authority is visible especially in the first six years since the adoption of the Constitution of the Republic of Macedonia (1991-1997). Namely, in this period of six years, the Republic of Macedonia has functioned almost as a typical centralized state, with a form of decentralization of the state authority on local level. This negative

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trend of centralization has not been substantially transferred neither with the adoption of the Law on Local self-government from October 1995. This Law has three major defects: first of all, it does not follow persistently the constitutional principles of local self-government; second, the legal decisions are not at the same level as the standards of the European Charter on local self-government from 1995, especially concerning the statute as a constitutive normative act of the municipality; and third, the development of the local self-government is restricted by a large number of other laws that are adopted by simple majority of votes. In the context of overcoming these defects, the Macedonian constitutional science unavoidably actualizes the question of introducing local self-government with more levels in the Republic of Macedonia, including the introduction of regions as the widest form of self-government and decentralization of the state authority (Skaric, 1998).

Putting the state authority along ethnic lines has persistently been forced with the request of the Albanian ethnic minority the Republic of Macedonia to be built as ethnic state of Macedonians and Albanians, that is, as a state of two constitutive ethnicity. Behind this request, in fact, is the project for transformation of the Republic of Macedonia from unitary and civil into federal and ethnic state. This is nothing else but an attempt to revive again the ruined ethnic federations in former socialist countries (SSSR, SFRY and CSR). This process is, nonetheless, retrograding for the Republic of Macedonia and Europe in general, because it supports the inequality between the *constitutive ethnos* on one side, and other citizens and members of other ethnic minorities in the Republic of Macedonia, on the other side. The harmfulness of this request becomes more visible in the light of the data of the birthrate in 1994 for different ethnic groups in the Republic of Macedonia: the population growth of Macedonians on 1000 inhabitants was 3,8%; of Serbs 1,2%; of Albanians 19,9%; of Turks 14,3%; and of Roma 22.2%. It is obvious that there is low reproduction rate of the Macedonian and other Christian population on one hand, and high rate of reproduction of the Albanian, Turkish and Roma population on the other. With such enormous rate of reproduction, the Albanian minority with its current 23% has a real chance in near future to become the majority ethnic group with more than 50% of the total population in the Republic of Macedonia. (Macedonian Academy of Science and Arts, 1997).

The dispute between the Republic of Macedonia and the Republic of Greece regarding the name *Macedonia* has lasted for 7 years, that is, the whole time since the proclamation of the Republic of Macedonia as a sovereign and independent state. In that, the prospects for solving this problem in near future are minimal, because both sides firmly stand on their own positions. On one side, the Republic of Greece considers that only Greece has the right to use the name *Macedonia*. On the other side, objectively there are no chances for the Republic of Macedonia to renounce its own name because by doing so it will question the historical

and cultural identity of the Macedonian people. In these circumstances the negotiations about the name *Macedonia* between the Republic of Macedonia and Republic of Greece are brought to a standstill, although representatives of the United Nations participate as mediators in these negotiations. The negative repercussions of this dispute on the Republic of Macedonia can be seen from the fact that the Republic of Macedonia was the last country from East and Central Europe to establish diplomatic relations with the European Union. On international plan the Republic of Macedonia was impeded by the Republic of Greece several times, although the Republic of Macedonia is the peaceful Balkan country which started the process of rapprochement of its own legislation to the legislation of the European Union immediately after the independence in 1991.

3 - *Possible solutions*. The solutions for the existing problems in the state development of the Republic of Macedonia should be sought in the sphere of decentralization of the state authority and in the integration of the Albanian minority into the existing institutions of the Macedonian state.

The *decentralization* of the state authority should be aimed in several directions: first, wider acceptance of the standards of the European Agreement on Local self-government from 1985; second, introduction of a two level self-government (municipalities and regions); and third, introduction of a wider spectrum of forms of functional self-government.

Beginning with European standards, the local self-government in the Republic of Macedonia should have superordinated competence in regard to the state organs. It means that the functions of the local self-government have to be wider than those strictly stipulated by the Constitution of the Republic of Macedonia and the Law on Local self-government from 1995. In connection to this, the democratic principle has to be consistently respected: the local self-government should exercise all the functions, except those which are strictly forbidden by the Constitution and the Law on Local self-government from 1995. In this context, the statute of the units of self-government should be an act of self-organizing of the local self-government and legal base for wider participation of citizens in decision-making about questions of local importance.

The two level self-government opens wider possibilities for decentralization of the state authority and for wider participation of citizens in decision-making about questions of local importance.

At the same time, the two level self-government opens wider possibilities for direct representation of the local communities in the central organs of state authority, especially in the parliament. This idea induces the development of the Republic of Macedonia as a decentralized unitary state, with characteristics typical for regional state.

The functional self-government should be in wider measure a balance not only of state authority but of local self-government as well. Thus, the forms of functional self-government should be represented wider in many fields of social life, especially in the field of public services, education, health and social welfare.

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In the theoretical creation of the two level self-government in the Republic of Macedonia, the knowledge of regional state as *tertium genus* should be used along broader lines, as a form in-between the centralized unitary state and federal state. In using this knowledge the following postulates should be respected as an initial base: the regions to be treated as form of self-government within the unitary state; the regions to be formed on geographical, demographical and economic basis; the Republic of Macedonia to be regional state composed of 13 regions: Bitola, Gevgelija, Gostivar, Veles, Kavadarci, Kichevo, Kumanovo, Ohrid, Prilep, Strumica, Skopje, Tetovo and Shtip; the regions, through their elected representatives to participate in the formation of Upper House (Senate) of the central representative body; and finally to protect the linguistic unity of the Republic of Macedonia, with the introduction of constitutional obligation for all the citizens of the Republic of Macedonia to know the Macedonian language and its Cyrillic letter. With such setting up of regions, the Republic of Macedonia would have symmetrical unitary structure, with broad self-government, with high level of decentralized state authority. This solution is more democratic and more functional than the solution of one level self-government, with territorial autonomy based on ethnic base. The second solution is asymmetrical and it objectively tends towards disintegration of the Macedonian state and its federalization on ethnic base.

The *integration of the Albanian minority* into the institutions of the Macedonian state is possible only if the Republic of Macedonia is built as Nation-State in sense of demos. Such integration is possible only on condition that the educational system and other means are used as help to build the awareness of the members of the Albanian minority for the necessity of loyalty towards the Macedonian state and if normative proceedings are built in the state institutions for more efficient protection of the cultural interests of the Albanian minority as the most numerous minority in the Republic of Macedonia.

The integration of the Albanian minority in the institutions of the Macedonian state and their denouncement of territorial autonomy in Western Macedonia is possible only with the help of the international factors, and especially with the help of the United States of America and the European Union. It is so, because the USA have key role in solving the Albanian question in the Balkans, and the European Union has a key role in the transformation of the ethnic states in Central and East Europe in Nation-State demos. The European Union can play a crucial role in the process of integration of the Albanian minority into the institutions of the Macedonian state only if it speeds up the procedure for full membership of the Republic of Macedonia into the European Union. With the membership of the Republic of Macedonia to the European Union, the Macedonian state would become an integral part of the European Union as multinational state, without political and ethnic splits (Andeoud, et al, 1997). The unitary character of the Macedonian state, the high level of decentralization, and integration of the Albanian minority into the

institutions of the Macedonian state are strongly supported in the Report of the International Committee for the Balkans, published in the study "Unfinished Peace" in 1996. In the aforementioned document it is strictly claimed that... the *Albanians and Slavs* are not able to solve their differences themselves, without help from outside. (Report of the International Commission on the Balkans, 1996). It is so because behind the requests of the Macedonian Albanians there is a strong support from the Albanians in Kosovo and Republic of Albania.

*Skopje, 16 March 1998.*

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## RESUMO

*O artigo aborda estado federal e estados descentralizados, estudando o caso da República da Macedônia como um estado regional. A fim de evidenciar as diferenças e similaridades entre estado federal e estado independente (Espanha) ou estado regional (Itália), a primeira parte deste artigo analisa as seguintes questões: noção de estado federal, características de estado federal e diferença entre estado federal e estado unitário. A segunda parte analisa o estado unitário (regional), abordando a noção de estado regional, as similaridades e diferenças entre estado regional e estado federal. Finalmente, o autor analisa a estrutura de estado da República da Macedônia, abordando seus problemas e possíveis soluções. Nesta parte, o autor examina mais amplamente questões relacionadas à República da Macedônia como um estado unitário, aos problemas no desenvolvimentos do estado na República da Macedônia e as possíveis soluções para tais problemas, sendo a República da Macedônia um novo estado dos Bálcãs (a descentralização da autoridade do estado e a integração da minoria albanesa junto às instituições do estado macedônio).*

**Unitermos:** estado federal, estado unitário, estado regional, autoridade pública, centralização, descentralização, lealdade federal, autonomia territorial, República da Macedônia, minoria albanesa.

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