**FREEDOM OF BELIEF AND RELIGION AS A FUNDAMENTAL HUMAN RIGHT**

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**Abstract**

"Human rights are not alien to any culture and they are inherent in all nations; they are universal. "[[1]](#footnote-1)

Human rights are a complex social phenomenon characterized by specific: political, legal, cultural and economic regularities.

The freedom of religious beliefs has a millennial character and their beginnings are grounded in the being of man and his community. Religious freedoms and their regulation by international and regional legal instruments are undoubtedly the foundation of any modern democracy.

Based on the well-known concept of the separation of religious feelings from the state-legal system, in the democratic countries, and in that context in the Republic of Northern Macedonia, a specific symbiotic fusion of the state and religious communities is developing. States more or less successfully manage this very sensitive issue elaborated as a fundamental principle of human freedoms, of course only if it is practiced as an individual and not a collective right, which must not endanger the rights of others.

Keywords:. Human rights, International law, Religion, Religious community,

**1.Concept and principles of protection of human rights in the field of belief and religion**

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally, in a fair and equitable manner, on an equal footing and with the same degree of importance. Although the significance of national and regional specifics and the different: historical, cultural and religious views must be taken into account, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. freedom[[2]](#footnote-2).

In order to determine the essence of the term and the principles, ie the essence of the freedom of belief and religion, the most important thing is to understand in a legal sense the meaning of the word "religion". A generally accepted philosophical point of view is that it should primarily include at least confession, ie respect for faith, life in accordance with certain principles and some form of worship. Confession of faith in this sense implies an essential and detailed interpretation of the world (universe) and the human place in it, as well as the existence of mysticism and regularity (transcendentalism), which is an important criterion for distinguishing religion from philosophical belief.

The Universal Human Rights System is established by the United Nations with the primary goal of promoting and strengthening respect for human rights and freedoms for all without distinction as to race, sex, language or religion.

Through the Charter of the United Nations, its Declarations, Covenants and Conventions generate continuous progress in the democratic process, and in that context improve the situation in the field of human rights in the world. The World Organization thus more or less successfully creates a generally recognized and comprehensive structure for the protection of human rights, establishing two basic protection mechanisms:

- A system of protection arising from the Charter itself. Namely, the General Assembly of the United Nations establishes a Commission for Human Rights (Human Rights Council), which generates special procedures (Charter-based system);

- The second specific system is based on the nine established Covenants and Conventions in the field of protection of fundamental human rights (Treaty-based system);

In this context, a fundamental document is the General Declaration of Human Rights, adopted in December 1948 by the General Assembly of the United Nations. It is, in fact, the first international act to articulate human rights and freedoms as a being. All previous documents in this area were of national or regional character. The text of this Declaration has been prepared by representatives of the most important religious denominations and traditions, such as: Christianity, Islam, Buddhism and the Hindu tradition.[[3]](#footnote-3)

Because of this, human rights do not have true Christian values, although in the course of their development they have been intertwined in many ways with aspects of the Christian faith.[[4]](#footnote-4) In this context, on the other hand, what some legal theorists who criticize the alleged Western concept of human rights claim when they say that this concept comes down to the rights of the individual is not true.[[5]](#footnote-5)

Particularly important for us as a country striving for European integration is the regional system for the protection of human rights, ie the European system of protection to which the Council of Europe enters.[[6]](#footnote-6)

The Council of Europe in the field of protection of human rights on November 4, 1950 in Rome adopted the famous European Convention for the Protection of Human Rights and Fundamental Freedoms. It contains the following rights:

Article 2 - Right to life

Article3 - Prohibition of torture

Article 4 - Prohibition of slavery and forced labor

Article 5 - Right to liberty and security

Article 6 - Right to a fair trial within a reasonable time

Article 7 - Freedom from punishment without law

Article 8 - Right to respect for private and family life

Article 9 - Freedom of thought, conscience and religion

Article 10 - Freedom of expression

Article 11- Freedom of assembly and association

Article 12- Right to marriage

Article 13 - Right to an effective remedy

Article 14 - Prohibition of discrimination

Protocol No. 1:

Article 1 - Protection of property

Article 2 - Right to education

Article 3 - Free elections

Protocol no. 4:

Article 1- Prohibition of deprivation of liberty due to debt

Article 2 - Freedom of movement

Article 3- Prohibition of expulsion of own citizens

Article 4- Prohibition for collective expulsion of foreigners

Protocol No. 6:

Article 1- Prohibition of the death penalty

Protocol No. 7:

Article 1- Expulsion of foreigners

Article 2- The right to two levels in the criminal procedure

Article 3- Right to compensation in case of judicial error

Article 4- The right not to be convicted or punished twice for the same crime

Article 5- Equality between spouses

Protocol No.12

General prohibition of discrimination

Of particular importance for our elaboration is Article 9 - Freedom of thought, conscience and religion, which underlines:

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

2. The freedom to express one's religion or beliefs may be subject only to such limitations as are prescribed by law and which constitute measures necessary in the interests of public safety, order, health and morals or the protection of the rights and freedoms of others, as necessary. in a democratic society.[[7]](#footnote-7)

In that context is Article 2 of the First Additional Protocol to the Convention, which prescribes the right to education, and consequently the right of parents to religious education of their children. The article entitled Right to Education underlines: No one can be deprived of the right to education. In its activities in the field of education and teaching, the state respects the rights of parents to provide education and teaching in accordance with their religious and philosophical beliefs. [[8]](#footnote-8)

Freedom of thought, conscience and religion, as well as the right of parents to educate their children religiously, is also enshrined in Article 18 of the International Covenant on Civil and Political Rights, which underlines:

1. Everyone has the right to freedom of opinion, conscience and religion. This right includes freedom to hold his or her religion or belief in worship and belief, of alone and in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. services and teaching.

2. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation.

3. The freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental freedoms and rights of others.

4. The States Parties to the present Covenant undertake to respect the freedom of parents and, in the event of a need for legal guardians, to provide religious and moral upbringing for their children in accordance with their own convictions.[[9]](#footnote-9)

In addition, European countries are members of the Organization for Security and Co-operation in Europe, and consequently accept the document on basic human rights, ie the Final Document of the Second OSCE Meeting (CSCE) held in Vienna in 1986 and which is why it is popularly called the Vienna Document.

European countries must respect and enforce the fundamental human right to religious freedom through their constitutions and legal systems.

**2.Legal regulation of the freedom of conscience and religion in the Republic of Northern Macedonia**

According to some legal theorists, the right to freedom of religion or belief is perhaps the most essential, on which the individual and collective philosophy of living is based. Content The right to freedom of religion or belief is governed by the Universal Declaration of Human Rights of the United Nations adopted in 1948, the International Covenant on Civil and Human Rights adopted in 1966 and of course the European Convention for the Protection of Human Rights and Fundamental Freedoms .

The initial determination of the framework parameters of national legislation is based on:

Articles 18 and 29 of the Universal Declaration of Human Rights;[[10]](#footnote-10)

Articles 4, 18 and 27 of the International Covenant on Civil and Political Rights; [[11]](#footnote-11) Article 1 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief;[[12]](#footnote-12)

Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;[[13]](#footnote-13)

All these conventions and declarations, as well as a number of others have been ratified by the Assembly of the Republic of Northern Macedonia, and thus have become an integral part of national legislation.

Among the international documents related to the legal regulation of freedom of religion is of course the Report of the Special Rapporteur on Freedom of Religion or Belief Asma Jahangir presented at the thirteenth session of the UN Human Rights Council on December 28, 2009, submitted to the General Assembly.

Although in general the freedom of religion is positively assessed in the Conclusions and Recommendations of this Report, especially in point 58 it is specified: “Regarding the intra-religious tensions within both the Orthodox Church and the Islamic community, the Special Rapporteur would like to to remind the Government of its obligations to remain neutral and non-discriminatory, especially with regard to the registration procedure ”. [[14]](#footnote-14) Relations between the state and religious communities and religious groups are regulated by the Constitution of the Republic of Macedonia, the Law on State Administration Bodies and the Law on Church, Religious Community and Religious Group.

In general, religious freedoms in the Republic of Macedonia after its legal independence from the former Yugoslav federation are regulated by the Constitution of the Republic of Macedonia, namely Article 19, which is supplemented by Amendment 7 of the Constitution of the Republic of Northern Macedonia which states that: Freedom of religion is guaranteed. Expressing one's faith freely and publicly, individually or in community with others, is guaranteed.

The Macedonian Orthodox Church, other religious communities and groups are separate from the state and equal before the law.

The Macedonian Orthodox Church, other religious communities and groups are free to establish religious schools and social and charitable institutions in accordance with the law.[[15]](#footnote-15) But this article undergoes some redefinition with Constitutional Amendment VII, which was adopted after the well-known events of 2001.

It determines that:

1. The Macedonian Orthodox Church, as well as the Islamic religious community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish community and other religious communities and groups are separated from the state and are equal before the law.

2. The Macedonian Orthodox Church, as well as the Islamic religious community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish community and other religious communities and groups are free to establish religious schools and social and charitable institutions in a procedure provided by law.

3. Item 1 of this amendment replaces paragraph 3 of Article 19, and item 2 replaces paragraph 4 of Article 19 of the Constitution of the Republic of Macedonia. [[16]](#footnote-16)

Due to such changes in the Constitution, the then valid law that regulated the law of religious communities in the Republic of Northern Macedonia had to be changed, so in 2007 the now valid Law on the Legal Status of a Church, Religious Community and Religious Group was adopted.[[17]](#footnote-17)

This Law, more precisely in its Article 2, defines: “Church, religious community and religious group, in the sense of this law, is a voluntary community of natural persons who with their religious conviction and the sources of their teaching achieve the freedom of religion united by faith and identity expressed by the equal performance of worship, prayer, rites and other expressions of faith. "

Article 4 of the existing legal text states: "Religious discrimination is not allowed."

Religious conviction does not release the citizen from the obligations he has as a citizen under the Constitution, laws and other regulations, unless otherwise regulated by law or other regulation.

The Constitutional Court of the Republic of Northern Macedonia in a procedure upon a submitted initiative with a Decision repealed the articles: 27, 28 and 29 of the existing Law, in which the part for religious education, ie the possibility to organize religious education as an elective subject in accordance with the law in the educational institutions.[[18]](#footnote-18) Particularly important for the definition of the legal regulation that covers the regulation of the right to freedom of religion is the Law on Organization and Work of the State Administration Bodies, which established the Commission for Relations with Religious Communities and Groups as a separate state administration body. , with the status of a legal entity.

Article 29 of the Law on Organization and Work of the State Administration Bodies stipulates that:

(1) The Commission for Relations with Religious Communities and Religious Groups performs the activities related to the legal status of the religious communities and religious groups, as well as the matters related to the relations between the state, religious communities and religious groups.

(2) The Commission for Relations with Religious Communities and Religious Groups has the capacity of a legal entity. Therefore, this commission takes care of the legal status of religious communities and religious groups and the relations between the state, religious communities and religious groups.[[19]](#footnote-19)

For the first time as a service established for religious affairs, the Commission appeared in the period from 1944 to 1945 as a Religious Commission. Then, from 1945 to 1951, this body was part of the then Secretariat of Internal Affairs. The Commission is then transformed into an independent body which in different periods, although having an identical role, is named differently. Thus, from 1951-62 it existed as the Commission for Religious Affairs, from 1963-76 as the Republic Commission for Religious Affairs, from 1977-2000 as the Republic Commission for Relations with Religious Communities, and since 2000, as the Commission for Relations with Religious Communities and Groups.[[20]](#footnote-20)

The Commission has: Sector for Relations with Religious Communities and Religious Groups with two departments: - Unit for determining the legal status of religious communities and religious groups; - Unit for determining the relations between the state, religious communities and religious groups; The celebration of religious holidays should be considered as a kind of proclaimed principle of religious freedoms, part of which are: State holidays, and the other Holidays of the Republic of Northern Macedonia. Of course in this context are the so-called: Non-working days for believers.

**3.Conclusion**

The Republic of Northern Macedonia is a multiethnic, multicultural and multi-religious country in which from a normative-legal aspect the religious differences and the freedom of religion or belief are respected.

Although dominant in their capacity and influence both in the field of religious teachings and in overall life, are members of the Orthodox faith, embodied in the Macedonian Orthodox Church - Ohrid Archbishopric and the Islamic religious community, still in the country more or less successfully and unhindered still live : 14 Churches, 6 Religious Communities and 7 Religious Groups.

Basically, the religious freedoms in the Republic of Northern Macedonia at this moment, but still will be in correlation with the overall relations of the community, more precisely the interaction of the relation: people - people, Christianity - Islam, of course burdened with everything after the expressed fear of religious extremism, embodied in radical Islam.

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