



International Journal of Sciences: Basic and Applied Research (IJSBAR)

ISSN 2307-4531
(Print & Online)

<http://gssrr.org/index.php?journal=JournalOfBasicAndApplied>



Theoretical and Legal Framework of Foreign Policy the Example of the Republic of Macedonia - Official EU Candidate Country

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Abstract

The independent Macedonian foreign policy has its roots in the collapse of Yugoslavia and the creation of an independent Republic of Macedonia. Before the independence, Macedonia's foreign policy was part of the Yugoslav foreign policy. If the period from independence until today is observed, it can be noticed that the Macedonian foreign policy can be divided into at least two periods. In general regarding the legal framework, it can be said that the overall structure of the foreign policy of the Republic of Macedonia was established with the Constitution and the Law of Foreign Affairs of the Republic of Macedonia.

Keywords: foreign policy; legal framework.

1. Introduction

Before the period of the AVNOJ Yugoslavia, Macedonia's foreign policy in general did not exist in any form, for the simple reason that Macedonia was not an independent state, nor a constituent part of the Federation, nor had any autonomous status. The position of Macedonia as part of the Federation later on did not open great opportunity for a bigger autonomy of the Macedonian foreign policy.

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As for the foreign policy of the independent Republic of Macedonia it could be said that a good part of the main and strategic interests have not changed much over the past 20 years nearly, for the simple reason that some of them have not been realized in this past period.

This paper is treating the Macedonian foreign policy legal framework and analyzing different periods of the Macedonian foreign policy especially the periods of "active equidistance" and "positive energy".

2. Materials and methods

We use qualitative methods and descriptive research.

3. Historical and theoretical background

The independent Macedonian foreign policy has its roots in the collapse of Yugoslavia and the creation of an independent Republic of Macedonia. Before the independence, Macedonia's foreign policy was part of the Yugoslav foreign policy. On 29 April 1969, with an edict signed by the President of the Assembly of the Socialist Republic Macedonia a new authority was established within the then Executive Council, under the title "Office for Foreign Relations". This body had further transformations undergoing, changing its name and was extending and deepening the scope of its activity. After independence in 1991, under the name Secretariat for Foreign Relations, this authority became the basis of today's Ministry of Foreign Affairs of the Republic of Macedonia. The position of Macedonia as part of the Federation did not open great opportunity for a bigger autonomy of the Macedonian foreign policy. Before the period of the AVNOJ Yugoslavia, however, Macedonia's foreign policy in general did not exist in any form, for the simple reason that Macedonia was not an independent state, nor a constituent part of the Federation, nor had any autonomous status. During the whole this period just the foreign policies of the major powers and the neighboring countries toward Macedonia can be analyzed. This is especially important because in the case of Macedonia it must be taken into consideration that [1] "*Macedonian international position and modern foreign policy rely upon an unfavorable historical legacy.*" In general, the two decades lasting Macedonian foreign policy has been generally treated in accordance with the approach of optimization(which is policy of compromises) of national interests rather the maximization conception (which is achieving the interests of the state at any cost). This foreign policy was the result of multiple objective and subjective factors, ratings, and historical experiences and so on.

Regarding the behavior of diplomats [2] but also regarding the politicians in general, the appropriate conclusion can be drawn only if the musing of any of the existing models is explained. One of the most popular models - the rational actor model starts from the assumption that every single political representative of the state works to achieve national goals and interests of the state. However, in almost two decades existing of independent Macedonia, the number of critics toward politicians / diplomats in terms of their behavior is not small, which is exactly opposite to the assumptions of this model. In fact it is about the existence of a tendency among politicians to give priority to their personal interests over state interests. Malevski speaks about this dilemma in the field of external relations [3] "*The personal interest - state interest dilemma is also manifested in the foreign policy sphere, in the behavior of the politician and the diplomat. It can be explained with the help of the dramatic actor model, pointing to the dangers that originate from the understanding of the foreign policy sphere*

as a scene for public performance. The decisions made in that sphere, according to this model, are not made primarily to achieve something, but to improve the image of the actor in front of his audience. This model questions the validity of the concept of rational actor in foreign policy, understood as an effort for the real results in favor of the state."

The purpose of the existence of any foreign policy is the achievement of certain interests, promoted as state interests. Generally, we can say that foreign policy goals are security, protection of national interests, welfare and achieving its strategic interests through cooperation, competition or conflict. On the making and implementation of foreign policy the influence comes from several factors such as: public opinion, values, history, current relations with another state and so on.

The statements above certainly applied in the case of the Macedonian foreign policy. In the case of the foreign policy of the Republic of Macedonia it could be said that a good part of the main and strategic interests have not changed much over the past 20 years nearly, for the simple reason that some of them have not been realized in this past period. In January 1993, at the beginning of the second independent year of the Republic of Macedonia the highest foreign policy goals were: [1] *"a) obtaining UN membership at whatever price; b) settling the dispute with Greece on an equal footing or discussing them as equal partners, not as a member of the UN or NATO and non-member of UN, NATO etc."* The objectives defined in this way were complemented with the struggle to provide international recognition of Macedonia as much as possible. Such goals were quite understandable. The Republic was internationally unrecognized, did not have its traditional allies and practically had to rely on the safety that offered the UN. It can be concluded that as written, Macedonia became a member of the UN and this aim became fulfilled. Regarding the other goal - overcoming the differences with Greece on an equal level, avoiding situation on a discussion from the position of a non-member of the UN and NATO against a member state, we can say that, not only this target was not fully met in the past, but it remains the same even today. Thus Greece today leads the negotiations with Macedonia from position as a member state against Macedonia, which is not yet member of NATO and the EU. So in this initial period, one of the goals - membership in the UN was accomplished. These greatly facilitated the struggle for international recognition. After that it was struggling for recognition of the Republic under its constitutional name, instead of temporary reference, and lasts until today. After joining the UN and getting wider international recognition, the Macedonian foreign policy could logically identify other goals and work on achieving them. According to Ministry of Foreign Affairs, [4] *"Republic of Macedonia with its foreign policy is promoting its national values and interests at bilateral and multilateral level. European and transatlantic integration is a vital interest for the long-term stability, security and prosperity of the country."* (Translation by D.M.) Accordingly, the European and transatlantic integration of the Republic became aim of the foreign policy of Macedonia and one of the rare issues on which there is consent of all political parties inside, from the early years of its existence till today. Above all, the EU and NATO membership of Macedonia promoted and is still a top priority and goal of the foreign policy goal of Macedonia. Exactly this commitment of Macedonia generated building foreign policy views largely compatible with the foreign policy positions of USA and EU.

If the period from independence until today is observe, it can be noticed that the Macedonian foreign policy can be divided in several periods. As first period in the Macedonian foreign policy is the period of active equidistance. This policy was initiated at the time of the first President Gligorov. The idea behind this approach in the Macedonian foreign policy is consisted of an attempt to build up good relations with all neighbors and to

avoid privileged relationship with any of them. This policy was an expression of the realities that existed in the Balkan neighborhood of the Republic of Macedonia, and was based on negative experiences from the past. Basically, the idea of a sort of neutrality of Macedonia was not new. It was launched nearly a century ago by various Macedonian activists and thinkers. The goal was clear; the repeating of the history when Macedonia was the arena in which various propagandas and interests of the neighbors collided should be avoided. The active policy of equidistance sent a signal to all the neighbors that Macedonia tends to act independently and has no intention to submit to any of its neighbors or to be adapted by them. This approach to foreign policy definitely ended with the new government of Macedonia in 1998. The approach of active equidistance was replaced with the approach of positive energy in foreign policy toward neighbors. Changing the approach of foreign policy towards its neighbors was a result of assessment of altered circumstances when it was time for one more positive approach, i.e. for closer cooperation with the neighbors. The result was improvement of the relations with Bulgaria and Greece in terms of economic cooperation. Already in 1999, in less than a year after the new government, the joint declaration by the Prime ministers (Ljubco Georgievski and Iva Kostov) of Macedonia and Bulgaria was signed. This declaration meant a kind of normalization of relations between the both countries and an opened way for future conclusion of bilateral agreements by accepting the previously prepared compromise clause- signed in the official languages of both countries, Bulgarian - according to the Constitution of the Republic of Bulgaria and Macedonian - according to the Constitution of the Republic of Macedonia. In this way the problem was solved at official level, which imposed Republic of Bulgaria regarding the non-recognition of the Macedonian language. The policy of "positive energy" was interrupted by the start of military conflict in 2001 after which a broad governing coalition was formed and the whole concentration was on the coping with the crisis. After the regularly held elections in 2002 a new governing coalition was formed, that was also primarily concentrated on dealing with the consequences from 2001. Although a new government was formed, in the period between 2002 until today, after the regular elections in 2006 and the early elections in 2008, there was a lack of a new, publicly promoted approach in the Macedonian foreign policy towards its neighbors.

4. Legal framework

Regarding the legal framework, it can be said that the overall structure of the foreign policy of the Republic of Macedonia was established with the Constitution and the Law of Foreign Affairs (It entered into force in 2006 and was amended in 2008) of the Republic of Macedonia [5,6].

According to the law of Foreign Affairs (Article 2, i.e. article 1 from amendments to the Act of 2008) the term "foreign affairs" refers to "*actions performed by the competent state organs and organs of the state administration in the realization and protection of the rights and interests of the Republic of Macedonia in international relations with countries, international bodies, organizations and communities.*" [6] (Translation by D.M.). In the same article the law complements the definition with diplomatic actions aimed at preserving and protecting the territorial integrity and sovereignty, protection of the rights and interests of the Macedonian citizens and legal persons, furthermore, establishment, maintenance and suspension or breaking of relations with states or international organizations, negotiations, contracting, suspension or cancellation of international agreements, joining or withdrawal of the RM in the international organizations, finally gives a general

formulation “*other actions of the competent authorities of the Republic of Macedonia outside the borders of the country, assigned by law or international agreements that obligate the Republic of Macedonia, its citizens and legal persons registered in the Republic of Macedonia*”. [6] (Translation by D.M.) Law of Foreign Affairs makes difference between the terms “foreign policy” and “foreign affairs”. Thus the term “foreign policy” means “*political goals and activities for Macedonia's relations with countries and international bodies, organizations and communities, which help to meet the interests of the Republic of Macedonia in international relations and protecting the interests of its citizens and registered legal persons...*” [6] (Article 2, i.e. article 1 according to the amendments of 2008) (Translation by D.M.)

The Law of Foreign Affairs as organs for Foreign Affairs defines in Article 3: the President, the Parliament, the Government and the Foreign Ministry, including the Minister of Foreign Affairs. Off course, like any other country, Republic of Macedonia has its own diplomatic network and diplomatic representations. The law defines the terms “diplomatic-consular representation”, “Diplomatic representation” and “Permanent representation” which defines them as “*offices of the Republic of Macedonia in other countries and international organizations that perform works mentioned in the Vienna Convention of Diplomatic Relations, the Vienna Convention of Consular Affairs, other international agreements and this law...*” (Article 4, i.e. article 5 according the amendments of 2008) [6] (Translation by D.M.)

According the Law of Foreign affairs, the President of the Republic of Macedonia has following jurisdictions in the sphere of foreign policy:

- Presentation of the state in international relations, according to international law and its jurisdictions; Generally, in practice it happens although not very often, that the President may be “over shadowed” by the Prime Minister. However this may be more a matter of personality of the President than a legal issue.
- Participation in the creation of foreign policy in cooperation with the Government, by establishing the general guidelines of foreign policy, including issues of international relations with implications on the security and the defense of the country; In practice the creation of foreign policy in cooperation with the Government is particularly troublesome, especially because of the problem of cohabitation, if the political affiliation of the Prime Minister differs from the political affiliation of the President (As the example with the Prime Minister Gruevski and the President Cvenskovski), before taking office (According to Macedonian legal system, The president must not be active in any political party during his mandate) or because of not having good relations between the President of the state and the President of the Government, despite same political affiliation (As the example with the Prime Minister Georgievski and the President Trajkovski).
- Monitoring the implementation of foreign policy and the results and possible disagreements with other bodies for performing foreign affairs, he may also inform the Parliament;
- Making proposals and participating in giving opinions on certain foreign policy matters within its jurisdiction, including security and defense aspects arising from international relations;
- Appointing and dismissing ambassadors and representatives of the Republic of Macedonia abroad;
- Acceptance of credentials and letters of recall of foreign diplomatic representatives in procedure, determined by this law.

The list of Presidents of the independent Republic of Macedonia is not long and it appears as it follows:

1. Kiro Gligorov, two terms from 18 September 1991 till 19 November 1999;

2. Boris Trajkovski, a not completely term from 15 December 1999 till 26 February 2004;
3. Branko Crvenkovski, one term from 12 May 2004 till 12 May 2009;
4. Gorge Ivanov from 12 May 2009 till today.

The first President was target of an assassination, which he managed to survive, but was injured and consequently the temporary presidency held the second man after the President, that is the President of the Parliament (According the Constitution of Macedonia, the successor to the President, if the case of the president's inability to serve is the President of the Parliament). In that moment it was Stojan Andov in the period from 4 of October till 17 November 1995.

The Parliament President Savo Klimovski temporary held the presidency in the period from 19 November till 15 December 1999 because of re-election process.

Finally, the Assembly President Ljupco Jordanovski temporary performed the presidential function in the period from 26 February 2004 till 12 May, after the tragic death of the previous President Trajkovski.

Regarding the role of Parliament in foreign affairs, according to the Law of Foreign Affairs, the Parliament has following jurisdictions:

- Determines the foreign policy of the Republic of Macedonia, including issues of international relations with implications on security and defense of the country;
- At own request or at the request of the Government, considers reports of realization of foreign policy and of international position of Macedonia, including security and defense issues at international level;
- Takes positions on issues, proposed by the Government, including the foreign - policy issues related to security and defense if there are different positions on issues of foreign affairs, proposed by the Ministry, on behalf of the Government or proposed by the President, the Parliament debates on these questions and then makes the appropriate conclusions;
- The Parliaments Committee, responsible for foreign policy reviews at least twice a year a report of the Minister about the implementation of foreign policy;
- Realizes international cooperation within their jurisdictions.

The responsibilities of the Government are defined as:

- Participation in the creation of foreign policy by establishing general guidelines for foreign policy in cooperation with the President, including issues of international relations with implications on security and defense of the country;
- Monitoring the implementation of foreign policy and can report the Parliament about the results and the possible disagreements with other bodies which perform foreign issues;
- Submitting opinions and proposals on international issues to The President;
- Establishing, developing and promoting political, economic or financial relations with one or more states or international organizations;
- Making decisions about interruption or reduction, in part or wholly, of political, economic or financial relations with one or more states or international governmental or nongovernmental organizations, and informs the Assembly of that;
- Making proposal about appointment and dismissal of ambassadors, members and appoint and dismissing heads of consular offices of the Republic of Macedonia abroad;

- Issuing Agreement or Exequatur for heads of foreign diplomatic - consular offices;
- Making decision to open diplomatic - consular and other offices of the Republic of Macedonia and foreign diplomatic offices of international organizations in Macedonia
- Reporting to the Parliament.

As for the Foreign Ministry headed by Minister of Foreign Affairs:

- Representing and affirming the Republic of Macedonia and develop and coordinate bilateral and multilateral relations and cooperation with other countries and international organizations;
- Implementing the foreign policy;
- Providing coordination between the authorities responsible for conducting foreign affairs in the conduction of foreign affairs;
- Communicating with foreign diplomatic-consular offices and coordinate the cooperation with them, as well as with the international organizations in Macedonia;
- Informing the President about the most important issues in accomplishing foreign policy of the state and provide opinions and suggestions on foreign-policy issues within its jurisdiction, including security and defense aspects arising from international relations;

The list of foreign ministers:

Denko Maleski	20/03/1991-	09.02.1993
Stevo Crvenkovski	09/02/1993-	23.02.1996
Ljubomir Frckovski	23/02/1996-	29.05.1997
Blagoja Handziski	29/05/1997-	11.30.1998
Alexander Dimitrov	30.11.1998-	30.11.2000
Srdjan Kerim	30/11/2000-	13.05.2001
Ilinka Mitreva	13.05.2001-	30.11.2001
Slobodan Casule	30.11.2001-	01.11.2002
Ilinka Mitreva	01/11/2002-26.08.2006	
Antonio Milososki	26/08/2006 -	28.07.2011
Nikola Poposki	28.07.2011-	

In terms of diplomatic - consular offices of the Republic of Macedonia the Law of Foreign Affairs is clear, as such are defined:

1. Diplomatic offices

- Embassies;
- Permanent missions in international organizations;
- Liaison offices and special missions;

2. Consular offices

- General Consulate;
- Consulate;
- Consular Office;

There are cultural-informative centers, economic and other agencies of the Republic of Macedonia abroad but they work within the existing diplomatic and consular missions.

Macedonia has 39 embassies, 8 general consulates and 8 permanent missions. The 39 embassies of the Republic of Macedonia worldwide are mostly concentrated in Europe, primarily in neighboring states and states of former Yugoslavia, but also in Italy, France, Great Britain, Turkey, Russia and countries outside Europe such as USA, Canada and India, Qatar, Australia ... The 8 general consular offices are located in USA (three of them) and one in Australia, Germany, Turkey, Canada and Greece. From the eight permanent missions of the Republic of Macedonia more important are those in EU, NATO, Council of Europe, and United Nations in Geneva and New York and so on.

5. Conclusion and discussion

For the foreign policy of the Republic of Macedonia it could be conclude that a good part of the main and strategic interests have not changed much over the past 20 years nearly, for the simple reason that some of them have not been realized in this past period. As for the legal framework, it can be conclude that the overall structure of the foreign policy of the Republic of Macedonia was established with the Constitution and the Law of Foreign Affairs of the Republic of Macedonia. The existing legal form is satisfactory but improvements are always welcome in order to be able to provide sustainable and successful foreign policy.

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