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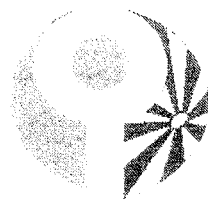
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Ixhet MEMETI

Ombudsman of the Republic of Macedonia

THE POSSIBLE CONTRIBUTION OF THE OMBUDSMAN IN THE PREVENTION AND AVOIDANCE OF RELIGIOUS, ETHNIC AND SOCIAL CONFLICTS

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***THE POSSIBLE CONTRIBUTION OF THE OMBUDSMAN IN THE
PREVENTION AND AVOIDANCE OF RELIGIOUS,
ETHNIC AND SOCIAL CONFLICTS***

**Presentation of the Ombudsman of the Republic of Macedonia-
Mr. Ixhet Memeti**

**Subject:
“Manifestation of ethnic, religious
and social conflicts/tensions”**

Kazan, 16 June 2005

In order to get a clearer image of the conditions in the sphere of multicultural relations in the Republic of Macedonia, it is necessary to make an adequate analysis of the historical aspect of this domain. It is a fact that in the previous socialist system, the Macedonian multicultural aspects had not been fully covered with adequate mechanisms and legal instruments that would create and regulate a multicultural natural entity corresponding with its multiethnic reality. What had been done in that period was administratively imposed by the political relations in service of the state's political infrastructure of the time.

That period has largely neglected the need for creating a natural connection between the present cultures, with all their characteristics, so that in real life the multicultural relations were based on unrealistic and artificial co relations.

It has been wrongly assumed that giving privilege to one cultural ethnocentrism on account of the other is needed in order to secure the political balance in the state, believing that with such a policy it is possible to maintain the state's vital interests. This approach had its support primarily in the logic of the state's existentialism.

The ethno-isolationist reactions on the part of the other cultures in the state were no less harmful, thus contributing to the development of a fruitful soil for cultural as well as national competition in society. Unfortunately, this approach was encouraged by the need of retaining so-called "higher interests" or as a self-defense from the frivolous cultural actions by the so-called "opposite" side, without taking into consideration the fact that where evil is present, there is no place for good.

Thus, wishing to create great history, certain people only proved that their brightest pages were those which they had left empty. This was done by the political elite of that period, who in lack of creative political offers had been forced to fill in the holes of their vain political offers with such retrograde politics by using the citizens' ethnic feelings as an instrument in their daily political aims.

This constellation of the problems in the multicultural sphere had continued even in the first years of the post socialist period. Part of those political structures are still convinced that this is the easiest way to come to power, continuing with their anachronistic political spectacles based on outdated ethno ideological positions, which stand no chance in enduring the objective tendencies of the present times.

Within the past 15 years, the Republic of Macedonia, as one of the countries with young democracies in South Eastern Europe, has been facing problems and tensions of various types. As a small country with two million citizens, the Republic of Macedonia is plural in its ethnic, political and social structure. With a brief democratic tradition, that is to say one and a half decade since the introduction of the poly-party system, during its development, the Republic of Macedonia, passed a rough road of changes, tensions and conflicts of different character.

Because the structure of the population is heterogeneous, the Republic of Macedonia was in every sense a fruitful soil for multiethnic distrust, doubts and emerging conflicts. The mixed ethnic structure in itself does not determine the interethnic conflicts, but it does represent a suitable field for them to emerge, unless there is desire, courage and vision for their solving. The modest democratic capacity of the governmental structures, the underdeveloped legal framework and the undesirable economic conditions are only a small part of the components that contributed for the Republic of Macedonia to face political as well as war conflicts in the past.

Our country, as one of the six republics of former SFRJ, after its collapse, has faced two grand challenges. The first one was to continue its way to gaining independence, strengthening its state and gaining world recognition. The second one was the change of the political and economic system. These two grand challenges, which without doubt were extremely difficult for every country in South Eastern Europe, were even more difficult for a country such as Macedonia.

Apart from that, in the beginning of the nineties it had to find an adequate formula for building harmonious and long-lasting interethnic relations.

And while the first two challenges, or so to say, tests, were slowly but steadily passed, in a relatively short period of time Republic of Macedonia won the battle for its international recognition and its acceptance in the United Nations. Still, it cannot be said that enough had been done with the reforms in the political and economic system because there is still a lot of work to be done. With the change of the Constitution in 1991, the social and economic relations changed, pluralism of political organization was introduced, the system of the unity of government was abandoned and the model of separation of the legal, executive and the jurisdictional government was introduced. The pluralism of ownership relations was established and private and public ownership became equal.

Even though Macedonia "passed" these two actions, the third segment of the changes, that is to say, the building of harmonious and stable interethnic relations was not so successful. Perhaps, preoccupied with the attempts for international recognition and execution of the major reforms which it was facing, Macedonia neglected the problems in this area, some of which had been inherited from the former SFRJ, while the rest had emerged with its independence.

A key moment which widened the gap between the two larger communities, the Macedonian and the Albanian, was the recognition of the Constitution in 1991. The Albanian community, namely its representatives in the Parliament, did not agree with the contents of this act and voted against. According to them, the state of this community with the new Constitution was even worse than it had been in the time of SFRJ. Their impression was that with the new constitutional act, they were denied many rights regarding the official use of the language, the education, culture and so on. In their opinion, the new Constitution generated interethnic distrust and misunderstanding, that is, it generated crisis in the interethnic relations in the Republic of Macedonia. The constitution itself was too narrow a frame to absorb all the needs of the Albanian

community in Macedonia for its equal development and affirmation. At the same time, the fact that this community, according to the official information, represents 25%, or one quarter, of the total population should be taken into consideration.

The persistent demands of the Albanian community representatives for solving the problems that already existed or had emerged in the meantime were refused with the explanation that such demands were not in compliance with the Constitution. Such was the case with the demand to establish a Faculty of Pedagogy, the demand to establish a university, the use of symbols and language, and so on. On certain occasions there were attempts to suppress such initiatives by the use of force, when there were victims, as it was the case with the initiative to establish a university in Albanian language, the use of the symbols and similar cases where the instruments of law encountered citizens of Albanian nationality, which resulted in injured and beaten citizens, as well as victims.

All these events were a clear indicator that Macedonia would not suppress for a long time the initiatives of the Albanians only through the use of repressive means, but that it should use political methods and solutions. These actions of the governmental structures illegitimated the representatives of the Albanian community in the Government of the Republic of Macedonia in front of their own people. They were depicted as powerless or as sold to the Macedonian government. As a result, the political representatives of this community were alternated on each following election. As the governmental structures changed, the conviction grew stronger with the Albanian citizens that with political means a solution for their problems cannot be found and that the course of action should be changed as well as the means and the methods. The multitude of people who started thinking in this manner grew constantly, even with the most cooperative and the most convinced pacifists.

On the other hand, as a result of the rigid view of the governmental structures on the demands of the Albanians, the ordinary Macedonian citizen began to believe that the Albanians were not loyal to the country in which they

lived, that they always demanded something and that no matter how their needs were met they continued with new demands because their aim was not implementation of the human rights, freedom of the citizens and national equality, but to create an image of oppressed citizens, citizens discriminated by the state and treated as second rate people, and so on. These reasons cooled the interethnic relations; they created mistrust and a sense of fear between the two nationalities. In other words, in Macedonia, the mistrust and intolerance came to rule between people of different ethnic groups.

This situation culminated after 1998 when two parties, who represented fighters for the protection of human rights within their own communities, the Macedonian and the Albanian one, came to rule. After it became evident that these structures were not powerful enough to achieve more, on the contrary since they came into power they only shut problems without even trying to find a solution. With the Albanian citizens the conviction grew stronger that without a change in the constitution there is no other way out of the vicious circle. Unfortunately this was not taken seriously by the Macedonian part. This encouraged some forces to search for the solution through weapons. Thus, in the early spring in the year 2001, a war broke out in Macedonia.

In the beginning, many factors from the international community did not take a proper standpoint in the new situation and had negative opinions towards the structures that were leaders of the armed operations and towards what was happening in our country. However, in the course of time, with constructive attitude towards many questions, such as the indisputability of the present borders of the Republic of Macedonia, the adherence to the international conventions on war and protection of the civilians, these structures gained the courtesy of the world centers of decisions. The world was slowly convinced that something must be done so as not to let the war expand into the inner parts of the country. Thus, a meeting was held by the two sides. With the aid of the representatives of the USA and the European Union, they achieved a peace agreement known as the Ohrid Framework Agreement.

According to this agreement consisted of two parts, political and normative, in which there are three annexes, the constitutional and legal condition of this and other ethnic communities, which do not represent the majority in the Republic of Macedonia, was considerably improved. The Annex A contains the changes in the constitution, the Annex B states the laws which should undergo changes and which should be in compliance with the Ohrid Agreement and finally, there are measures that should be undertaken for building and retrieving trust. With the changes of the constitution, the position of the Albanian citizens, their language, culture, education and their part in the public administration was considerably improved, and the Ombudsman gained a special position and more significant tasks.

Until 2001, although a constitutional category, the Ombudsman did not have significant tasks and his influence was hardly felt. Thus, he did not try to incorporate himself in the surpassing of the misunderstandings between the two larger communities, because the Ombudsman, in a certain way felt as unauthorized.

Convinced in the greater need of the role of the Ombudsman, both the international representatives and the negotiating parties of the Macedonian and the Albanian community, strived for a larger role of the Ombudsman in the following and accomplishment of equality of all citizens regardless of their ethnic origin, taking care of the legal incorporation of the smaller communities in public life and in public administration.

This situation of the Ombudsman in the Constitution of Republic of Macedonia creates formal predispositions for a greater role of this institution not only in the contribution in the harmonization of the relations among the nationalities in this country and a greater role in the solving of problems of this nature, but as well as in the strengthening of the legal and constitutional state of this institution in the political system of the Republic of Macedonia. Although in terms of the dynamics of the development of multicultural friendship in the

Republic of Macedonia lately, considerable results have been achieved, still we cannot say that we are on the right road. Therefore, the conclusions of certain inner and international institutions that the cultures of the ethnic communities in the Republic of Macedonia continue to live within their closed worlds are true. Because of this reality, inevitably, the need for more intense incorporation for more effective and more efficient communication is imposed.

With the coming closer of the cultures of our ethnic communities, with the help of specific short-term and long-term projects, in all fields, based on well analyzed strategies, the positive effects will quickly show. It is illogical and anachronous for our ethnic communities to have greater knowledge of other distant cultures rather than of the culture of the ethnic community with which they share their life and future.

In order to create more effective communication and binding of the already existing cultures in Republic of Macedonia, greater institutionalization of the multicultural reality is necessary with forms and mechanisms of more effective functionalism, development and cooperation. It is wrong to assume that with such actions one of the existing cultures could be marginalized or could lose its meaning. Because of these cohesive cultural connections, it is particularly impossible to marginalize the culture of the ethnic community that represents the majority.

It is also unrealistic to think that those possible projects would be of great financial cost to the state. On the contrary, with an egalitarian approach, all our cultures would be richer. It has already been proven across in the world that the most expensive separations are those based on culture and ethnicity.

A multicultural in the Republic of Macedonia is also characterized by religious differences in many ethnic communities. The multireligious content of the state represents an important segment in the organization and function of the social life in our country. In this domain the relations are traditionally tolerant, in the first place between the two larger religions (the Orthodox and the Muslim), as

well as among the other smaller religious communities and groups. Therefore, in regards to religion, the ethnic communities in Republic of Macedonia have a longer tradition in coexistence and toleration.

Namely, in this part of the Balkan the Christian and the Muslim religion tolerantly coexisted for almost five centuries, respecting each other's traditions and specifics.

Although, out of marketing reasons, certain political structures started building grand symbols so as to identify the state with one religion, this step did not cause strong reactions with the other religions in the country.

It must also be mentioned that the interreligious tolerance also emerges from the reality that the Albanian community as second largest nationality in the country in its religious entity is characterized by multireligion, since within the framework of the Albanian community in the Balkans itself exist the three more important religions – the Muslim, the Orthodox and the Catholic religion.

Lately, the demands to include religious instruction in the school syllabus have intensified. The supporters of this idea think that through the study of religious instruction in the schools, the misuse of learning will be eliminated, and that uncontrolled religious instruction in religious schools is more adverse. They believe that by introducing religious instruction in the primary and secondary schools, the possibility of inserting elements of religious extremism or fanaticism will be eliminated.

In my opinion, religion should not interfere with the educational process, because it could bring additional factors that would cause ethnic and religious distancing and separation among the children and the youth. Therefore, instead of introducing religious instruction in the schools, I believe it is better to introduce a study of the history and sociology of religions, so as to get to know other cultures.

All the analysis show that in within the past fifteen years the Republic of Macedonia a lot of energy has been spent on finding solutions and on the misuse of the intercultural sphere. This exhaustiveness has consequences in the economic and social development. In the past years the constant problems in the sphere of intercultural relations were marked by putting a great stress on the cultural differences, with ethnic distancing, frustrations, prejudices and stereotypes, fear and a sense of danger from the other ethnic communities.

As a result, there was a danger of the ethnization of social life, with a clear line of separation on a cultural basis, even though this region has seen the coexistence of several cultural communities for centuries. However, particularly in the first years after the introduction of the plural life in the state, there was a serious instrumentalization of the of the citizens' cultural particularities for daily political aims.

Although the cultural communities have coexisted with centuries in these regions, still they do not know each other well enough, especially in reference to the collective conscience, manner of thought and cultural characteristics. This is a result of the past, which had little respect for the multicultural structure of the state.

Namely, for a long time the cultures and the characteristics of the ethnic communities in Republic of Macedonia had developed independently, which was often collided with the necessary cohesive processes. This independent development, without sufficient inter communication created, in a way, a closed cultural identity that, a priori, did not prefer another culture.

It is a fact that their relations are burdened with stereotypes which are a result of poor communication. Each of these communities thinks that it is not the one that hates, but that it is hated by the other ethnic community. Therefore, there is a need to establish communication that will prove that there is no hatred, only misunderstanding.

As opposed to the positive direction in the development of intercultural relations, unfortunately, in the rhetoric of part of the political elite this reality is still exploited as an instrument of political manipulation of citizens, which without any doubt reflects negatively on life in the country overall. Even though all the problems in this sphere have not been solved, it is doubtless that the process has its positive direction and that no indicator show that the situation has worsened in comparison to past years.

The question of multicultural relations still demands more adequate elaboration in order to build a long-term strategy in this area. Such a strategy should be built in an integral form, only to be applied in all social segments. It is of great importance that the educational process in the country is suited to the multicultural context, asserting multiethnic tolerance and coexistence.

It is necessary to carry out a positive youth campaign through the media, in connection with the multicultural relations, based on previously prepared professional analysis. The active participation of the students in the sports and cultural activities organized in different backgrounds should be encouraged. This strategy would assume the following steps: firstly - collecting all the research on the problem within the frameworks of the scientific and nongovernmental sector and comparatively analyzing it; secondly - working out a strategy for the development of intercultural relations with clearly determined aims, manners and dynamics for solving each problem based on valid international standards; thirdly - establishing a defined body or sector in which all the activities for improving the situation in the multicultural sphere would be coordinated.

In comparison to other states in the region, the Republic of Macedonia does not show clear indications that the process of economic healing has started. Some of the nearer or more distant neighboring states have surpassed Macedonia on an economic level, although in the beginning of the nineties Macedonia was in a more favorable position. Today's situation in the Republic of Macedonia is a result of the counterproductive economic policy, the inadequate

economic reforms, the lack of strategy for economic development and the unsuitable privatization.

There was also a lack of the required political capacity to engage available potentials (human resources as well as material resources) for faster economic healing. The country has a small market, weak foreign direct investments, it does not have strategic resources, and it has an underdeveloped banking system and weak investments in research companies.

As a result of this situation, the number of unemployed has rapidly grown, which in its own logic represents an additional complication for the political situation in the country. It is indispensable to undertake measures and activities with which the investment climate will be encouraged, particularly the domestic investments, because they are condition for attracting foreign investments.

The Republic of Macedonia has an attractive geostrategic position on the Balkan Peninsula. It represents a crossroad between the corridors 8 and 10, but for improvement of the perspectives in the fulfillment of these projects there is lack of initiative and persistence in finding investment partners for promoting and building the needed infrastructure. The media are hardly focused on the crucial economic problems.

The positive examples are neglected and it seems that only bad news is appealing. The media often presents sensational stories with criminal contents. The state should undertake activities for establishing a customs union on the Balkans, having in consideration the fact that Macedonia is conditioned by the European Union on regional cooperation.

One social issue what is particularly worrying is the enormous percentage of unemployed citizens in the vital layer of the population. The big percentage of unemployment in itself creates political tensions. The feeling of no perspective dominates particularly in the youth population, which in itself generates aggression. That is the reason why the economic development is above all the main post for integration of the ethnic communities, bringing down all the existing

prejudices and stereotypes because it reduces the frustrations, and it establishes communication and bonding based on common interest.

World experience shows that multicultural problems are more effectively solved within the frameworks of the local communities. In that way, we expect many of the mentioned problems on the multicultural field to be solved more efficiently, particularly with decentralization and the strengthening of local government. An effective process of decentralization as well effective local governments is an important segment in the development of democracy. It is absolutely logical that these questions cannot be treated separately from the overall processes in the country.

Within the last fifteen years, the Republic of Macedonia has made exceptional developments in the process of decentralization and function of the local government. However, a distinction has to be made in the quality of change according to the government transfer on a local level, on the one hand, and the territorial organization on the other.

Namely, while there is considerable development in the field of government transfer, by transferring important competences from the central government on local scale, in the sphere of local unit organization additional analysis will be needed so as to create more efficient municipalities, which will serve the citizens according to conditions and relations.

Additional political efforts are needed in order to give support to the rural municipalities which are in a far more unsuitable situation in comparison to the urban ones, and that is reflected in the sphere of interethnic and interreligious and intercultural relations in the state. Also, the further changes in the laws on decentralization must include the needed mechanisms which will oblige the municipalities to function according to the multiethnic structure of the citizens, thus eliminating the possibility of ethnic majorization and outvoting. In the already

existing legal regulative there is a mechanism of protection, however it is limited to only few areas.

In most states it has been proven that the solving of the existing multicultural and multiethnic problems is more efficient on a local scale. In the following reforms in this field it is very important that the extension of the legal matter is done in accordance to the European conditions and standards, both in the formation of municipalities and in their functioning.

At the moment it is very important, in order to inform the municipality officials of the manner of transfer of the new competences, that each ministry whose department will undergo changes because of the new concept of decentralization, organizes a discussion and a campaign in order to explain the new concept in the particular sphere, without which a successful implementation will not be possible.

Having in mind the fact that the Ombudsman as institution acts from position of authority and in accordance with the principles of objectivity and independents with instruments that are defined in the Constitution and the Law, it turns out that in the frame of the society that is multicultural, he has large space for action not only to solve but also to prevent the eventual conflicts between the diverse communities.

Namely, his role in the society it 's not only to act upon individual complaints of the citizens but in the same time is to monitor in general the conditions of human rights and in that direction to raise the consciousness among the citizens and in the public administration for the need of respecting the laws and the rule of law in whole.

In other words, in this sphere in the first place his role is to pursuit the domain legislative, having in mind that the ombudsman has competence to propose changes and amendments in the legal acts, which contain provisions

that may become potential source of conflicts and elements of discrimination for the representatives of certain ethnic community.

Also in his public appearance he can promote the need of respecting the equality between the diverse ethnic, cultural, confesional and social communities, which is his contribution in the development, and strengthening the confidence between the diverse entities in the state. Speaking about this sphere of acting I must mentioned some concrete activities that are undertaken in the Ombudsman institution in Republic of Macedonia for informing the citizens with the role of the Ombudsman. For this purpose the promotional material brochures that were prepared, were printed in the maternal languages of all ethnic communities that exist in the Republic of Macedonia.

The written communication with the citizen in the everyday work with regard to complaints is also on their maternal language, which is in accordance with the Law on the Ombudsman.

This kind of projects is not undertaken only for promoting the Institution but also for informing the citizens about their rights and especially for the right of equal treatment despite their ethnical, cultural or religious believe.

This activity shows the educative role of the Ombudsman in the society, which highly contributes in the process of raising the consciences of the citizens, which is foundation for building stable relations in the society because without knowing their rights the citizens cannot know that they have obligation to respect the rights of others.

Equality despite the ethnical or other belonging has solid ground in the Constitution of the Republic of Macedonia and in the Law on the Ombudsman where clearly is defined that the citizens are equal with no exemptions before the Constitution and the legislative in the Republic of Macedonia.

Further on, the Law on the Ombudsman in 2003 was amended in accordance with the Ohrid framework agreement and step ahead was made with widening the Ombudsman competence to protect not only the constitutional and legal rights but also to undertake measures for protection of discrimination and measures for respecting the principle of proper and equitable presentation of the citizens of diverse ethnic communities in the process of employment in the public administration.

This legal provisions shows that the Ombudsman in a multicultural, multiethnic and multiconfessional society as Republic of Macedonia, can use his authority in a way to promote the tolerance between the diverse ethnic communities raise their consciences with regard to this question which is the proactive method in solving the eventual conflicts.

However, despite his legal position in the society he cannot act in solving the conflicts automatically but he must fight to have real effect in the system.

In this context I must mentioned that there were and there are situations that have serious impact on the confidence between the diverse ethnic communities and the Ombudsman didn't undertook activities and didn't even indicate that some actions of certain state organs were damaging the relations in the country.

For example in 2000 the Government of the Republic of Macedonia has made decision to build a cross in the capital of the state, with financial means from the state budget. This act estranges the relations in the confessional sphere because the building of the Christian religious symbol was understood by the others religious communities as direct provocation and even more because it was build with financial means of the state budget, which is against the Constitution of the Republic of Macedonia.

In the present days there is ongoing process of denationalization in which the Islamic community haven't received back the right of ownership on some

property that in the past in was her belonging even though evidential proof are standing in her side. In the same time the Macedonian church was given back all the property with out any problem.

The Ombudsman still hasn't come out with his opinion about this matter.

This is a typical example when the Ombudsman without any doubt should act to prevent and solve the negative outcome of some actions that have serious impact on the inter-ethnic relations. In other word, I want to emphasize that the Ombudsman role in preventing and solving the conflicts in the society doesn't depend only of his legal position in the system but also of many other factors.

- The present democratic developments in the society;
- The authority of the Ombudsman institution that has to be build slowly but shortly and with long-term effects
- The regular and prompt monitor of the conditions of human rights and freedoms which has to result with prevention of discrimination on any ground
- Prompt and objective reaction in situations when the state is the one that is violating the human rights and freedoms and
- The Ombudsman educational role in this sphere and the persistent respect of his actions by the state organs.

Ixhet MEMETI