DELIBERATIVE DEMOCRACY AND QUOTA SYSTEM-A KEY TO INCREASED GENDER PARTICIPATION IN POLITICS IN NORTH MACEDONIA

Biljana Chavkoska,

Faculty of Law, International Balkan University, bcavkoska@yahoo.com

Sergej Pazdrijan,

Oklahoma State University, Stillwater, Oklahoma, USA, sergej.pazdrijan@gmail.com

Abstract

For many years gender equality was not high on the agenda of the Government of Republic of North Macedonia. When the country signed the Stabilization and Association Agreement with European Union and became a candidate country for membership it meant that legal changes are inevitable and raised the question of gender equality in practice. The author of this article aims to analyze the benefits of legal changes in increasing the women participation particularly the introducing of quota system in political elections. The author will analyze the results of the past parliamentary elections to prove that quota system increased the gender equality in political representation. The major question is to analyze how the gender equality was changed with the implementing of the quota system in political life and recent achievements. The author of this paper will conclude that without deliberation and introduction of quotas as equality tool the women will still face gender discrimination and marginalization in political representation in North Macedonia.

Key words: *deliberative democracy, quotas, gender equality, politics, North Macedonia*

1. EU GENDER EQUALITY AND POLITICAL REPRESENTATION

The European Union since the beginning adopted important primary and secondary law for gender equality. The European Court of Justice played very important role for promoting gender equality and equal opportunities among all EU citizens. In recent years European Court of Justice has issued over 50 judgments further consolidating the legal framework on equal opportunities of women and men. At the beginning, the European Union aimed at implementing gender equality in the economic area, but later on broadened to all activities known as gender mainstreaming. It started with the EU legislation on equal payment for equal work no meter the gender. For implementation of the principle of equality and non discrimination, special article was adopted with the Amsterdam

treaty. This article is also known as non discrimination clause and it is one of the best developed non discrimination models. Amsterdam treaty also regulates the right of the Member States to implement affirmative action in the legal system for less represented gender.

Regarding the report of the equality between women and men issued by the European Commission for 2019[1] the composition of political assemblies and executives at all territorial levels still too often fails to reflect the gender diversity of the population they represent, with women significantly under-represented in many Member States. States and political parties in the EU have introduced a wide array of instruments, **including legislative and voluntary quotas and other measures, to promote equal opportunities for women and men in politics. However, the general lack of long-term strategies and the lack of push for change from political parties and governments in many countries undoubtedly explain the slow progress on women's representation.** In November 2018, only 6 of the 28 national parliaments across the EU were led by a woman (21.4 %). On average, parliament members in the EU comprised 69.8 % men and 30.2 % women. Although the proportion of women is at an all-time high, still seven out of ten members of national parliaments in the EU are men. At the same time, there is considerable variation between countries. Parliaments in Sweden, Finland and Spain have at least 40 % of each gender, while women account for less than 1 in 5 members. The proportion of female members of the single/lower houses of EU national parliaments increased by 8.1 percentage points between 2004 and 2018 at an average rate of just 0.58 percentage point per year.[2] A number of countries have launched initiatives to improve the gender balance in their parliaments. **Legislative candidate quotas are currently in place in nine Member States: Belgium, Ireland, Greece, Spain, France, Croatia, Poland, Portugal, and Slovenia.** With the exception of Croatia, the representation of women has improved when comparing the situation before and after application of the quota. However, only Portugal and Spain have seen the quota target translated into an equivalent (or almost) proportion of elected members. In all other cases, the quota are still to be reached: the proportion of women among elected members is still below the candidate quota.

Promoting equality in decision-making is necessary to translate candidate quota into election outcomes, for example ensuring that sanctions for noncompliance with quota are strong enough and enforceable, that women are placed fairly in lists (e.g. using the zipper system), and that they are represented equally in winnable seats.

To improve transparency and democratic accountability, **Regulation 2018/673[3]** amending the Regulation on the statute and funding of European political parties and European political foundations encourages (recital 6 of the preamble) the inclusion of information on gender balance in relation to each of the member parties of each European political party. In November 2018, 25 out of 28 EU Member States had a male prime minister, the exceptions being Germany, Romania and the UK. Moreover, men accounted for the large majority (69.5 %) of senior ministers with women holding only 30.5 % of these positions. Governments were gender balanced (at least 40 % of each gender) in Sweden, France, Germany, and Denmark. In Spain, there was a clear majority of women in government (61.1 %). However, in all other countries, most senior ministers (more

[1] European Commission, 2019 Report on gender equality between women and men in EU, European Union 2019
[2] EIGE Gender Statistics Database
[3] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R0673, approached 20 May, 2020

than 60 %) are men. Most strikingly, women accounted for just 7.1 % of cabinet members in Hungary. Political parties are seen as the gatekeepers of the equal representation of women and men on the political scene since they set party policy and select the candidates for election. In 2018, fewer than one in five (18.4 %) leaders of major political parties across the EU were women and only one in three deputy leaders (33.8 %) was female.

2. GENDER EQUALITY IN REPUBLIC OF NORTH MACEDONIA

Republic of North Macedonia is a multi-ethnic country, became an independent republic in 1991 following the dissolution of Yugoslavia.[4] The Constitution of the Republic of Macedonia[5] is a written Constitution and the country's highest legal Act. It accepts international law as part of domestic law, making international law higher than domestic laws and bylaws. Article 118 of the Macedonian Constitution regulates that the international agreements ratified in compliance with the Constitution and the national laws are part of the internal legal order and thus could not be subject of amendments. The Constitution provides for protection against discrimination. It upholds equality of the citizens before the Constitution and before law, stating that citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of gender, race, colour, national and social origin, political and religious conviction, property and social status. It foresees a protection mechanism for all who find their Human Rights and freedoms breached, in front of the Constitutional court. Upholding the monism principle on application of international law,[6] the Constitution provides for the domestic use of these documents, thus also for those providing for protection against non-discrimination and upholding the principle of equality.

In April 2010, the Anti-Discrimination Law[7] as first comprehensive legislation on anti-discrimination was adopted in the process of approximation of the domestic legislation with the EU *acquis*. This law was not compatible with the EU Directives regarding minimum protected grounds, definitions and forms of discrimination, victimization, effective, proportionate and dissuasive sanctions, use of statistical data, dialogue with the NGO sector.

The Anti-Discrimination Law provided for the establishment of the first equality body in the country, a Commission on Protection against Discrimination. Its members were elected in December 2010, and it started functioning in 2011. The Commission works on cases of discrimination covered by the Anti-Discrimination Law. These grounds are sex, race, colour of skin, gender, belonging to a marginalized group, ethnicity, language, citizenship, social origin, religion or religious belief, other sorts of belief, education, political affiliation, personal or social status, mental or physical disability, age, family or marital status, property ownership, health condition, or any other ground stipulated in law or a ratified national treaty. The Commission received 77 cases in 2012 (compared to 60 cases in 2011). Most of the cases were on grounds of

[4] Macedonia joined the UN in 1993 and the Council of Europe and OSCE in 1995. Macedonia is a candidate country for EU since 2005 and officially became member of NATO in 2020. The Commission made recommendations to the Council to open negotiations with the country and to move to the second phase of the Stabilization and Association Agreement (SAA) implementation. Macedonia is starting the negotiation process with European Union and will have the access to the EU funds after long years of EU candidacy.

[5] http://sobranie.mk/en/default-en.asp?ItemID=9F7452BF44EE814B8DB897C1858B71FF/

[6] Brindusa Marian, The dualist and monist theories. International laws comprehension of these theories, available at http://revcurentjur.ro/arhiva/attachments_200712/recjurid071_22F.pdf/

[7] Official Gazette No. 50/2010

ethnicity, health status, belonging to a marginalized group, personal or social status, mental or physical disability, education, and social origin. The majority of the cases were in the areas of employment and labour relations, social security, access to goods and services, and judiciary and administration. The body does not provide statistics as to how many of these cases were processed and/or were closed in 2012.[8] The new antidiscrimination legislation was adopted in 2019. The adopted law prohibits any discrimination based on race, origin, nationality or ethnicity, sexual orientation, gender identity, religion, political beliefs, or any other grounds. Civil society representatives rallied in Skopje in front of the parliament during the plenary session to ask for the lawmakers to adopt the law. Later that day, the Parliament of the country finally adopted the new national Law on prohibition and prevention from discrimination which was in parliamentary procedure since July last year. By this step, the law truly protects all the citizens in the country on equal basis.[9]

The Law on equal opportunities between men and women regulates adopting of general and special measures for ensuring equality. Special measures are measures directed toward establishing equal opportunities, as well as promotion and promotion of equal opportunities in the special areas of the society. Regarding article 6 paragraph 3 the special measures include: - positive measures that give priority, in case of unequal participation of women and men in the governing institutions on all levels, including the judicial, legislative and executive branch of Government, the local government, as well as all other public institutions and services, the political functions, commissions and boards, including participation in the bodies that represent the state on international level, while the equal participation is achieved. Unequal participation of women and men exists when the women and men represented in the governing institutions on all levels, including the judicial, legislative and executive branch of Government, the local governments, as well as all other public institutions and services, the political functions, commissions and boards, including participation in the bodies that represent the state on international level, is lower than 40%. Article 18 regulates that the political parties in the framework of their program policies adopt a plan on equal opportunities every two years in which they set the methods and the measures for the promotion of the equal participation of women and men in the institutions of the parties, on the candidate lists for the local elections, parliamentary elections and presidential elections. The political parties submit the proposal of the plan for equal opportunities before its adoption to the Ministry of Labour and Social Policy in order to obtain an opinion. After the plan for equal opportunities is adopted, the political parties submit it to the Ministry of Labour and Social Policy for follow up and analyses purposes.[10] The Law also regulates all the relevant institutions and their obligations for implementing the equal opportunities measures. In order to achieve a standardized reporting model for the implementation of the Law on Equal Opportunities for Women and Men, several rulebooks have also been adopted relating to the form and content of annual reports of institutions and local self-governments, as well as rulebooks on the work of coordinators for equal opportunities in state and local self-government bodies. Moreover, a rulebook on the analysis of contents of syllabuses, curricula and textbooks for the purposes of promoting equal opportunities

[8] Biljana Kotevska, Executive Summary Country Report Macedonia (FYR) 2012 on measures to combat discrimination, European network of legal experts in non-discrimination

[9] https://ecom.ngo/en/the-new-antidiscrimination-law-in-north-macedonia/

[10] Law on equal opportunities between men and women, Official Gazette No.66/06

for women and men has been adopted, which should lead to elimination of prejudice and stereotypes in education. The Law on Equal Opportunities for Women and Men is a systemic law that regulates the equal opportunities of women and men, while also prohibiting discrimination on grounds of gender in the fields of employment and labor, education, science and sports, social security, including the area of social protection, pension and disability insurance, health insurance and healthcare, judiciary and administration, housing, public informing and media, information and communication technologies, defence and security, membership and affiliation in trade unions, political parties, associations and foundations, and other membership-based organizations, culture, and other fields.[11]

2.1 POLITICAL REPRESENTATION BACKGROUND

In the first post-transition general election of 1990, five women (four percent) were elected to parliament (out of 120 representatives). For many this was not unusual; few were surprised by the fact that 95 percent of the candidates were men and, therefore, that only five percent were women. In the second democratic parliamentary elections, in 1994, four women were elected to parliament (out of 120 representatives). With three percent female representation in parliament, Macedonia was placed at the bottom of the list of European countries in terms of women's participation in politics. Women stressed that they wanted to be treated the same as men – without special measures – and started to think more seriously about what they could do to change the situation. For the first time in 1998, parliament adopted a Declaration aimed at increasing the participation of women and supporting special measures. The declaration resulted from the shameful participation of women in the Parliament at less than 5%, which put Macedonia at the bottom of the list in Europe at that time. Following the declaration, special measures were adopted, first with the introduction of 30% quota for members of parliament in 2002. The introduction of the quota for women was clearly a sign and a consequence of women's growing political influence.[12]

A vigorous campaign to support quotas in the election law focused on political party leaders and was strengthened by the participation of women within political parties. The law was approved by the Parliament, governed by a conservative majority, on 25 June, 2002. The law is very clear: those political parties that do not meet the 30 percent criterion will not be registered for elections. The penalty, therefore, is that the party will not have an opportunity to take any seats in parliament.[13] As a result, 18.3 percent of women were elected to parliament in 2002. By contrast, in 1990, 1994 and 1998, 4.1 percent, 3.3 percent and 6.6 percent of women, respectively, were elected. The increase can be attributed to use of the proportional electoral system, the introduction of the law on quotas and the enormous amount of work done by the women's movement.

With the amendments to the Electoral Code, a legal provision was adopted for securing at least one seat of every three on the candidate electoral lists to belong to the less represented sex. Thus, in 2006, 37 parliament delegates were women elected in the Assembly of the Republic of

[11] https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_STA_MKD_32920_E.pdf
[12] https://civicamobilitas.mk/wp-content/uploads/2018/03/ZHenite-vo-politikata_EN2.pdf
[13] https://www.legislationline.org/download/id/2877/file/Quotas_The%20Case%20of%20Macedonia.pdf

Macedonia or 30, 8%. This statistics shows that with the introducing of the quota system the number of women deputies in the parliament increased from 4% up to 30%.

Pursuant to the Electoral Code, a quota of 40% participation in the candidate lists of the less represented sex was introduced, for candidates for Members of Parliament and for members of councils of the municipalities and the City of Skopje. This means that for every three positions, at least one must be for the under-represented sex and at least one additional position for every ten. The number of women in the political and public life has increased during the reporting period. Specifically, in the 2014 parliamentary elections, 43 female members of Parliament were elected. In the Government of the Republic of Macedonia, there were two female ministers, five female state secretaries, and five female presidents of parliamentary commissions. Furthermore, in the parliamentary elections in 2016 there were 41 women MPs elected, out of 120 MPs in total. In this MP mandate, the deputy Speaker of Parliament is a woman, five women are presidents of parliamentary commissions and seven are deputy presidents of parliamentary commissions. There are four female ministers in the Government of the Republic of Macedonia. In the local elections in 2017, out of 260 candidates for mayors, only 15 were women candidates, of whom 6 were elected mayors (Tetovo, Bitola, Staro Nagorichane, Mogila, Makedonska Kamenica, and Arachinovo). Out of 1388 councillors in local self-government units, 415 women were elected councillors. In the personnel structure of the Ministry of Defense, the percentage of employed women – administrative clerks is 40%. There are 8.85% women in the staffing structure of the Army of the Republic of Macedonia, of whom: 13.73% are officers, 11.13% are non-commissioned officers, 3.60 % are professional soldiers and 52.8% are civil staff. [14]

The Commission for Equal Opportunities for women and men, in cooperation with the Parliamentary Club and the OSCE Mission in Skopje, held a public debate on the Draft Plan of activities for promoting gender sensitivity in the work of the Assembly of Republic of North Macedonia 2020-2021, which was unanimously adopted. This plan will put on paper the activities that need to be done, in five priority areas. It emphasizes the need for gender-sensitive employment processes, recommendations for changes of the Rules of Procedure, the Law and the Code of ethics of the Assembly, which are now not gender sensitive, developing a new gender sensitive Strategic Plan, gender equality counsellor in the Secretar's Sector, establishing working group for implementation of the plan. New quotas rules were put in the Plan promoting for 50/50 participation in the lists for deputies and local councillors.

Quotas have been proven to be efficient. The Institute for Democracy and Electoral Assistance notes that most of the countries that have achieved the critical mass have an electoral system based on proportional representation and some form of quota system to proactively reduce the obstacles to women entering politics at the national level. Namely 32 of the 39 nations that have achieved 30% women's' representation in national parliaments have some kind of quota measures in place. On the other hand, 38 countries that are at the bottom of the list (with less than 10% participation of women in national parliaments) do not have any kind of special measures to support women participation. It should be noted, that even when they exist, special measures are limited to national

[14] https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_STA_MKD_32920_E.pdf

parliaments and it has also been pointed out that it is very difficult to apply quotas in systems where parties nominate one candidate (so called single winner systems).[15]

3. CONCLUSIONS:

In the last report on gender equality published by the European Commission it is concluded that the States and political parties in the EU have introduced a wide array of instruments, including legislative and voluntary quotas and other measures, to promote equal opportunities for women and men in politics. However, the general lack of long-term strategies and the lack of push for change from political parties and governments in many countries undoubtedly explain the slow progress on women's representation. The European Commission, working towards achieving the sustainable development goals, has been prominently including gender equality in EU political positions and dialogues with partner countries. A number of countries have launched initiatives to improve the gender balance in their parliaments. Legislative candidate quotas are currently in place in nine Member States: Belgium, Ireland, Greece, Spain, France, Croatia, Poland, Portugal, and Slovenia. With the exception of Croatia, the representation of women has improved when comparing the situation before and after application of the quota. In our country the participation of women in politics was very low in the first years after the independence. A vigorous campaign to support quotas in the election law focused on political party leaders and was strengthened by the participation of women within political parties. The law was approved by the Parliament, governed by a conservative majority, on 25 June, 2002. The law is very clear: those political parties that do not meet the 30 percent criterion will not be registered for elections. The penalty, therefore, is that the party will not have an opportunity to take any seats in parliament.[16]

The using of the quota in the case of Republic of North Macedonia proved that the quotas are very important tool of deliberation for achieving factual equality. Therefore, the quotas need to be obligatory and enforceable to generate tangible results. Quotas have resulted in political parties paying more attention to their women members. Even women from rural areas are being listed as candidates. All of this would not have possible, though, if women from political parties, from NGOs, from trade unions, from the media and elsewhere had not worked together to exert pressure to adopt quotas to ensure women's rightful place in decision-making. Still, for full gender equality in political representation additional measures are needed in the future. New quotas rules were put in the Plan for equal opportunities promoting for 50/50 participation in the lists for deputies and local councillors.

[15] https://www.idea.int/data-tools/data/gender-quotas/quotas
[16] https://www.legislationline.org/download/id/2877/file/Quotas_The%20Case%20of%20Macedonia.pdf

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