

The dimension of constitutional protection and the guarantee of citizen rights and freedoms-A comparative view of the Constitution of the Republic of Kosovo with the Constitutions of neighbouring countries: Albania, Macedonia, Serbia, Montenegro and Greece

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Abstract

In different historic periods of time and in various political regimes, people felt free and enjoyed their rights in different ways, but very little was said about individual freedoms, as it was said more about collective freedoms. The term freedom is an antique, historic term. The corpus of human rights and fundamental freedoms has been studied since the ancient times, including middle ages until modern times of human civilization. However, the origin for protection of these rights and freedoms was sanctioned in the constitutional aspect in Magna Charta issued on 15-th of June 1215, which comprises the milestone in the history of constitutional regimes on human rights and freedoms. The protection of human rights and fundamental freedoms is admitted by everyone. That is embedded in written constitutions worldwide, as well as in the United Nations Charter, final act of the Conference of the Organization for Security and Cooperation in Europe (OSBE) known as Helsinki Act. The majority of democratic constitutions adopted after the Second World War, and the latest constitutions of the countries of South-eastern Europe, give an important place to the evidencing and guaranteeing of human rights and fundamental freedoms.

Keywords: Constitution, Kosovo, Albania, Montenegro, Serbia, Greece.

Introduction

In the entire life of human society, the human rights concept, together with the ones of equality, autonomy and the concept of fundamental freedoms, was the most sensitive, the most complex, even the most challengeable one (Omari & Anastasi, 2010, 89). The ancient slave human was advanced into medieval slave human, and the last one fighting for his real being will come out the self-closing circuit and will progress into the real human: the modern slave (Statovci, 1999, 217). The corpus of fundamental freedoms and human rights has been studied since the ancient time, then in the middle ages until modern time of human civilisation. However, the first origin on protection of these rights and freedoms were sanctioned in constitutional terms in Magna Charta Libertatum– adopted on 15-th of June 1215, which comprises the cornerstone in the history of constitutional regimes on human rights and freedoms (Ismaili, 2001, 99). The concept of human rights has entered into the political vocabulary in 1679 and in 1776, by the English and American statements on the rights of the individual. There are two historical statements known on human rights signed in 1789: the first,

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the statement on human and citizens' rights, on 26 August, in France and the Rights Charter, on 25 September on America. Both these two documents were compiled on the grounds of various rights and other philosophical sources of illuminism. In 1948, United Nations Organization adopted the Universal Statement on Human Rights.

In this regard, it is worth emphasising that that it is obviously noticed a quite good coordination and harmonisation of constitutional norms of each specific country with the norms and requirements that contain the most important international agreements and acts in the field of human rights, drafted mainly under the attention of the UNO and the Council of Europe. Nevertheless, clear recording of human rights in the constitutions adopted in the past years in the countries of Central and Eastern Europe should not be overestimated (Zaganjori, 2002, 146).

The issue of meaning and definition of human rights and freedoms was widely handled in Europe, especially during 1970s and 1980s of the 20th century. Therefore, all of the rights that obtain constitutional and international protection are fundamental rights, regardless of their content (Omari & Anastasi, 2010, 87). In this regard, the human rights serve as a standard for the validity of positive law and limitations that put in place the legitimate power of the state, or they are transformed into fundamental rights and freedoms, when they are sanctioned by the constitution or by charters or statements on rights having constitutional powers (Anastasi, 2003, 56). The constitutional scheme of human rights and freedoms, according to the Constitution of the Republic of Kosovo and the constitutional norms protecting such rights comprise a catalogue of these human rights and freedoms: The Human Rights and Freedoms are included in the Chapter II of the Constitution of the Republic of Kosovo (from Article 22 to Article 56). This chapter is the most volumetric in the Constitution, based on the weight and the values that the human rights and freedoms have, and that includes the protection and guarantees provided by the Constitution of the Republic of Kosovo. The chapter included: Article 21, lit 1, 2, 3, and 4 –General Principles; Human Rights and fundamental freedoms are indivisible, inalienable and inviolable and are the basis of the legal order of the Republic of Kosovo; lit 2 –The Republic of Kosovo protects and guarantees Human Rights and fundamental freedoms as provided by this Constitution; whereas Article 22 envisages direct application of international agreements and instruments; it is determined that the human rights and fundamental freedoms guaranteed by this Constitution are directly applicable, and in case of conflict, they have priority over provisions, laws and other acts of public institutions (Omari, 2009, 12). Article 23 –Human Dignity; Article 24 –Equality before the law; Article 25 –Right to life; Article 26 –Right to personal integrity; Article 27 –Prohibition of torture, cruel, inhuman or degrading treatment; Article 28 –Prohibition of slavery and forced labour; Article 29 –Right to liberty and security; Article 30 – Rights of the accused; Article 31 –Right to a fair and impartial trial; Article 32 –Right to legal; remedies; Article 33 - The Principle of Legality and Proportionality in Criminal Cases; Article 34 - Right not to be Tried Twice for the Same Criminal Act; Article 35 -Freedom of Movement; Article 36 - Right to Privacy; Article 37 - Right to Marriage and Family; Article 38 - Freedom of Belief, Conscience and Religion; Article 39 - Religious Denominations; Article 40 - Freedom of Expression; Article 41 - Right

of Access to Public Documents; Article 42 - Freedom of Media; Article 43 - Freedom of Gathering; Article 44 - Freedom of Association; Article 45 - Freedom of Election and Participation; Article 46 - Protection of Property; Article 47 - Right to Education; Article 48 - Freedom of Art and Science; Article 49 - Right to Work and Exercise Profession; Article 50 - Rights of Children; Article 51 - Health and Social Protection; Article 52 - Responsibility for the Environment; Article 53 - Interpretation of Human Rights Provisions; Article 54 - Judicial Protection of Rights; Article 55 - Limitations on Fundamental Rights and Freedoms and Article 56 - Fundamental Rights and Freedoms During a State of Emergency.²

Constitution of Albania, fundamental human rights and freedoms

Sanctioning of these rights begins from part two of the Constitution, respectively on general principles from Article 15, where, among others, it is stated: "The fundamental human rights and freedoms are indivisible, inalienable, and inviolable and stand at the base of the entire juridical order". Then Article 16 describes the rights and freedoms of Albanian citizens are also valid for stateless persons. Article 17, limitation of human rights and freedoms is determined by law. Article 18: "All are equal before the law". Article 19 administers Albanian citizenship. Article 20: Persons who belong to national minorities exercise the human rights and freedoms in full equality before the law. Article 21 –Personal rights and freedoms; Article 21 –The life of the person is protected by law; Article 22 - Freedom of expression is guaranteed; Article 23 - Freedom of the press, radio and television is guaranteed; Article 24 - Freedom of conscience and of religion is guaranteed. Article 25 "No one may be subjected to torture, cruel, inhuman or degrading punishment or treatment". Article 26 "No one may be required to perform forced labor, except in cases of the execution of a judicial decision". Article 27 "No one's liberty may be taken away except in the cases and according to the procedures provided by law". Article 28 "Everyone whose liberty has been taken away has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as the accusation made against him; No one may be accused or declared guilty of a criminal offense that was not provided for by law at the time of its commission, with the exception of offenses, which at the time of their commission constituted war crimes or crimes against humanity according to international law". Article 30 – "Everyone is deemed innocent so long as his guilt is not proven by final judicial decision". Article 31 "In a criminal proceeding, everyone has the right to be notified immediately and in detail of the charges against him, of his rights, and to have the possibility created to notify his family or relatives". Article 32 "No one may be compelled to testify against himself or his family or to confess his guilt". Article 33 "Everyone has the right to be heard before being sentenced". Article 34 "No one may be sentenced more than once for the same criminal offense or be tried again, except for cases when the re-adjudication of the case is ordered by a higher court, in the manner specified by law". Article 35 "No one may be compelled, except when the law requires it, to make public data related to his person"; Article 36 "The freedom and secrecy of correspondence or

² *Constitution of the Republic of Kosovo* (2008). Pristina.

any other means of communication are guaranteed". Article 37: "The inviolability of the residence is guaranteed". Article 38 "Everyone has the right to choose his/her place of residence and to move freely to any part of the territory of the state". Article 39: "No Albanian citizen may be expelled from the territory of the state". Article: 40 "Foreigners have the right of asylum in the Republic of Albania according to law". Article 41: "The right of private property is guaranteed". Article 42: "The liberty, property, and rights recognized in the Constitution and by law may not be infringed without due process". Article 43 "Everyone has the right to appeal a judicial decision to a higher court, except when the Constitution provides otherwise". Article 44: "Everyone has the right to be rehabilitated and/or indemnified in compliance with law if he has been damaged because of an unlawful act, action or failure to act of the state organs". Article 45: "Every citizen who has reached the age of 18, even on the date of the elections, has the right to vote and be elected". Article 46: "Everyone has the right to organize collectively for any lawful purpose". Article 47: "The freedom to have peaceful meetings, without arms, and to participate in them is guaranteed". Article 48: "Everyone, by himself or together with others, may address requests, complaints or comments to the public organs, which are obliged to answer within the time periods and under the conditions set by law". Article 49: "Everyone has the right to earn the means of living by lawful work that he has chosen or accepted himself". Article 50: "Employees have the right to unite freely in labour organizations for the defense of their work related interests". Article 51: "The right of an employee to strike in connection with labor relations is guaranteed". Article 52: "Everyone has the right to social security in the old age or when he/she is unable to work, according to a system set by law. Article 53: "Everyone has the right to marry and have a family". Article 54: "Children, the young, pregnant women and new mothers have the right to special protection by the state". Article 55: "Citizens enjoy in an equal manner the right to health care from the state". Article 56: "Everyone has the right to be informed about the status of the environment and its protection". Article 57: "Everyone has the right to education". Article 58: "The freedom of artistic creation and scientific research, their application, and the benefits from their achievements are guaranteed for all".³

Constitution of Macedonia, basic freedoms and rights of the individual and citizen

Freedoms and rights of the citizen are sanctioned from Article 9, wherein, among others, it is stated that "All citizens are equal before the Constitution and the Law". Afterwards, Article 10 - The human right to life is irrevocable and the death penalty shall not be imposed; Article 11 - The human right to physical and moral dignity is irrevocable; Article 12 - The human right to freedom is irrevocable. Article 13 "A person indicted for an offence shall be considered innocent until his/her guilt is established by a legally valid court verdict". Article 14 "No person may be punished for an offence which had not been declared an offence punishable by law, prior to its being committed". By Article 15, the right to appeal against individual legal acts

³ Constitution of the Republic of Albania, 28 November 1998.

issued in first instance proceedings by a court, administrative body, organization or other institution carrying out public mandates is guaranteed. By Article 16, the freedom of personal conviction, conscience, thought and public expression of thought is guaranteed. By Article 17, the freedom and confidentiality of correspondence and other forms of communication is guaranteed. Article 18 - The security and confidentiality of personal information are guaranteed. Article 19 - The freedom of religious confession is guaranteed. Article 20 – “Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions”. Article 21 - Citizens have the right to assemble peacefully. Article 22 “Every citizen on reaching 18 years of age acquires the right to vote”. Article 23 “Every citizen has the right to take part in the performance of public office”. Article 24 “Every citizen has a right to petition state and other public bodies, as well as receive an answer. Article 25 “Each citizen is guaranteed the respect and protection of the privacy of his/her personal and family life and of his/her dignity and repute”. By Article 26, the inviolability of the home is guaranteed. Article 27 “Every citizen of the Republic of Macedonia has the right of free movement on the territory of the Republic and freely to choose his/her place of residence”. Article 28 “The defence of the Republic of Macedonia is the right and duty of every citizen.” Article 29 “Foreign subjects enjoy freedoms and rights guaranteed by the Constitution in the Republic of Macedonia, under conditions regulated by law and international agreements”. Article 30: The right to ownership of property and the right of inheritance are guaranteed. Article 31 “Foreign subjects in the Republic of Macedonia may acquire the right of ownership of property under conditions determined by law”. Article 32 “Everyone has the right to work, to free choice of employment, protection at work and material assistance during temporary unemployment”. Article 33 “Everyone is obliged to pay tax and other public contributions, as well as to share in the discharge of public expenditure in a manner determined by law”. Article 34 “Citizens have a right to social security and social insurance, determined by law and collective agreement”. Article 35: “The Republic provides for the social protection and social security of citizens in accordance with the principle of social justice”. Article 36: “The Republic guarantees particular social security rights to veterans of the Anti-Fascist War and of all Macedonian national liberation wars”. Article 37 - In order to exercise their economic and social rights, citizens have the right to establish trade unions. Article 38 guarantees the right to strike. Article 39 - Every citizen is guaranteed the right to health care. Article 40: “The Republic provides particular care and protection for the family”. Article 41 - It is a human right freely to decide on the procreation of children. Article 42: “The Republic particularly protects mothers, children and minors”. Article 34 “Everyone has the right to live in a healthy environment”. Article 44: Everyone has the right to education. Article 45 “Citizens have the right to establish private at schools at all levels of education, with the exception of primary education, under conditions determined by law. Article 46 - The autonomy of universities is guaranteed. By Article 47, the freedom of scholarly, artistic and other forms of creative work is guaranteed.⁴

⁴ Constitution of the Republic of Macedonia, 17 November 1991.

Constitution of the Republic of Serbia, human rights and freedoms

In the Constitution of the Republic of Serbia, human rights and freedoms are included from Article 23, which begins with human dignity, in which it is stated that "Human dignity is inviolable and everyone shall be obliged to respect and protect it". Then Article 24 provides that "Human life is inviolable, there shall be not death penalty in the Republic of Serbia, and that cloning of human beings shall be prohibited." Article 25: "Physical and mental integrity is inviolable". Article 26 - No person may be kept in slavery or servitude. Furthermore: Article 27 guarantees the right to personal freedom and security; Article 28 handles the persons deprived of liberty; Article 29 deals with special rights in case of arrest and detention without decision of the court; Article 30 describes the manner of detention; Article 31 –duration of detention; Article 32 –right for a fair trial; Article 33 - Special rights of persons charged with criminal offense; Article 34 –legal certainty in criminal law; Article 35 –Right to rehabilitation and compensation; Article 36 –Right to equal protection of rights and legal remedy; Article 37 –Right to legal person; (Article 38) –Right to citizenship; Article 39 –freedom of movement; Article 40 –Inviolability of home; Article 41 – Confidentiality of letters and other means of communication; Article 42 –Protection of personal data; Article 43 –Freedom of thoughts, conscience and religion; Article 44 –Churches and religious communities; Article 45 – Conscientious objection; Article 46 –Freedom of thought and expression; Article 47 –Freedom of expressing national affiliation; Article 48 –Promotion of respect for diversity; Article 49 –Prohibition of inciting racial, ethnic and religious hatred; Article 50 –Freedom of media; Article 51 –Right to information; Article 52 –Electoral right; Article 53 –Right to participate in management of public affairs; Article 54 –Freedom of assembly; Article 55 –Freedom of association; Article 56 –Right to petition; Article 57 –Right to asylum; Article 58 – Right to property; Article 59 - e Right to inheritance; Article 60 –Right to work; Article 61 –Right to strike; Article 62 –Right to enter into marriage and equality of souses; Article 63 –Freedom to procreate; Article 64 –Rights of a child; Article 65 –Rights and duties of parents; Article 66 –Protection of mother and child; Article 67 –Right to legal assistance; Article 68 –Healthcare; Article 69 –Social protection; Article 70 –Pension insurance; Article 71 –Right to education; Article 72 –Autonomy of university; Article 73 – Freedom of scientific and artistic creativity; Article 74 – Healthy environment.⁵

Constitution of Montenegro, inclusion of human rights and freedoms

Human rights and freedoms are established from Article 26 of the Constitution of Montenegro, in which it is explicitly expressed that there is no death penalty in Montenegro. By Article 27, the human dignity is guaranteed as human beings and it is prohibited to perform medical and other experiments on human beings without their permission. Article 28 - The inviolability of the physical and mental integrity of a man, and privacy and individual rights thereof shall be guaranteed. Article 29: "Everyone shall have the right to personal liberty. Deprivation of liberty is allowed only for reasons and in the procedure provided for by law". Article 30: "Person suspected

⁵ *Constitution of the Republic of Serbia, 1995, amended on 30 September 2006.*

with reasonable doubt to have committed a crime may, on the basis of the decision of the competent court, be detained and kept in confinement only if this is necessary for the pre-trial procedure". Article 31: "The respect of human rights shall be guaranteed also to the convicted". Article 32: "Everyone shall have the right to fair and public trial". Article 33: "No one may be punished for an act that, prior to being committed, was not stipulated by the law". Article 34 "Criminal and other punishable acts are stipulated and the punishments for them are pronounced in accordance with the law in force at the time when the act was committed, unless the new law is more favorable for the perpetrator." Article 35: "Every one shall be deemed innocent until the guilt thereof has been established". Article 36: "No one may be tried or convicted twice for one and the same punishable act." Article 37: "Every one shall be guaranteed the right to defense." Article 38: "Person deprived of liberty in an illegal or ungrounded manner or convicted without grounds shall have the right to the compensation of damage from the state". Article 39 - The right to freedom of movement and residence shall be guaranteed, as well as the right to leave Montenegro. Article 40: "Everybody shall have the right to respect for his/her private and family life". Article 41 - Home shall be inviolable. Article 42 - Confidentiality of letters, telephone conversations and other means of communication shall be inviolable. Article 43 - The protection of personal data shall be guaranteed. Article 44 guarantees the right to asylum. Article 45 - The right to elect and stand for elections shall be granted to every citizen of Montenegro of 18 years of age. Article 46: "Everyone shall be guaranteed the right to freedom of thought, conscience and religion, as well as the right to change the religion or belief and the freedom to". Article 47: "Everyone shall have the right to freedom of expression by speech or writing". Article 48: "No one shall be obliged, contrary to own religion or conviction, to fulfill a military or other duty involving the use of arms". Article 49 - Freedom of press and other forms of public information shall be guaranteed. Article 50 - Censorship shall be prohibited. Article 51 - Everyone shall have the right to access information held by the state authorities and organizations exercising public authority. Article 52 - Freedom of peaceful assembly. Article 53 - The freedom of political, trade union and other association shall be guaranteed. Article 54 prohibits some state authorities from participating in social and political organization: judges, prosecutors, police, military, etc. Article 55 prohibits the establishment of political organization acting against the state of Montenegro. Article 57: "Everyone shall have the right of recourse, individually or collectively with others, to the state authority or the organization exercising public powers and receive a response. Article 58 - Property rights shall be guaranteed. Article 59 - Entrepreneurship shall be guaranteed. Article 60 - The right to succession shall be guaranteed. Article 61 - A foreign national may be the holder of property rights in accordance with the law. Article 62, the right to work shall be guaranteed. Article 63 - forced labour shall be prohibited. Article 64 - Employees shall have the right to adequate salary. Article 65 - Social council. Article 66, employees shall have the right to strike. Article 67 - Social security to persons that are unable to work shall be guaranteed. Article 68 - protection of people with disabilities. Article 69 - health protection is guaranteed. Article 70 - the constitution shall guarantee the protection of customer. Article 71 - the right to marriage. Article 72 - protection of the mother and the child, the rights of the child.

Article 75 –the right to education shall be guaranteed. 76 –Freedom of creation. Article 77 –The guarantee for development of science, culture and art. Article 78 –protection of natural and cultural heritage.⁶

Fundamental human rights and freedoms in the Constitution of Greece

The fundamental rights and freedoms in the Constitution of Greece dated 11 June 1975, amended in March 1986 and in spring 2001 include specific guarantees on civil rights (Puto, 2008, 145). such as an affluent catalogue of these fundamental rights and freedoms by 25 articles, starting from Article 4, lit 1 where it is stated “All Greeks are equal before the law”, then Article 5 “All persons shall have the right to develop freely their personality and to participate in the social, economic and political life of the country” and Article 6 “No person shall be arrested or imprisoned without a reasoned judicial warrant”. Furthermore, Article 7: “There shall be no crime, nor shall punishment be inflicted unless specified by law in force”. Article 8: “No person shall be deprived of the judge assigned to him by law against his/her will”. Article 9: “Every person’s home is a sanctuary. The private and family life of the individual is inviolable”. Article 10, lit 1: “Each person, acting on his own or together with others, shall have the right, observing the laws of the State, to petition in writing public authorities, who shall be obliged to take prompt action in accordance with provisions in force, and to give a written and reasoned reply to the petitioner as provided by law.” Article 11, lit 1: “Greeks shall have the right to assemble peaceably and unarmed”. Article 12, lit 1 “Greeks shall have the right to form non-profit associations and unions, in compliance with the law, which, however, may never subject the exercise of this right to prior permission”. Article 13: “Freedom of religious conscience is inviolable. The enjoyment of civil rights and liberties does not depend on the individual’s religious beliefs”. Article 14: “Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State”. Article 15: “Radio and television shall be under the direct control of the State and shall aim at the objective and on equal terms transmission of information and news reports, as well as of works of literature and art, at ensuring the quality level of programs mandated by the social mission of radio and television and by the cultural development of the Country”. Article 16: “Art and science, research and teaching shall be free and their development and promotion shall be an obligation of the State. Academic freedom and freedom of teaching shall not exempt anyone from his duty of allegiance to the Constitution”. Article 17: “Property is under the protection of the State; rights deriving there from, however, may not be exercised contrary to the public interest”. Article 18: “The ownership and disposal of mines, quarries, caves, archaeological sites and treasures, mineral, running and underground waters and underground resources in general, shall be regulated by special laws.” Article 19: “Secrecy of letters and all other forms of free correspondence or communication shall be absolutely inviolable”. Article 20: “Every person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law”. Article 21: “The family, being the cornerstone of the preservation

⁶ Constitution of the Republic of Montenegro, 22 October 2007.

and the advancement of the Nation, as well as marriage, motherhood and childhood, shall be under the protection of the State. Families with many children, disabled war and peace-time veterans, war victims, widows and orphans, as well as persons suffering from incurable bodily or mental ailments are entitled to the special care of the State". Article 22: "Work constitutes a right and shall enjoy the protection of the State, which shall care for the creation of conditions of employment for all citizens and shall pursue the moral and material advancement of the rural and urban working population". Article 23: "The State shall adopt due measures safeguarding the freedom to unionise and the unhindered exercise of related rights against any infringement thereon within the limits of the law". Article 24: "The protection of the natural and cultural environment constitutes a duty of the State." This ends with Article 25, in which it is stated: "The rights of the human being as an individual and as a member of the society are guaranteed by the State. All agents of the State shall be obliged to ensure the unhindered and effective exercise thereof."⁷

Conclusions

Wishing to provide a final observation, it can be said that the Constitution of Kosovo is very similar to the constitution of neighbouring countries. The points of distinction are about cataloguing human rights and freedoms, their protection and guarantee through the above-mentioned constitutions. Therefore, constitutions could be categorised according to their seniority, such as the Constitution of Greece. While in the second category, there are constitutions that have assumed additional obligations from the international community, through international conventions on complying with and guaranteeing human rights and fundamental freedoms, and such are: the Constitution of Kosovo, the Constitution of Serbia, the Constitution of Albania, the Constitution of Macedonia and the Constitution of Montenegro. All of these constitutions, based on the structure and content sanctioning human rights and freedoms along with the Constitution of Kosovo, are considered to enter into the rank of modern constitutions of South East Europe. In this way, the fundamental rights in the Constitution of Kosovo are a step further from the national one and they exceed the one of the nationality, considering it as part of humankind culture and they are human attribute and simply of a citizen.

If referring to the content and the structure of the Constitution of Greece, public individual freedoms and social rights are included in the second part of the constitution text. It is understood that Greece has an ancient constitutional tradition, as of the epoch of Plato, but it could not overcome the citizenship or citizen or national dimensions, but it further strengthened the religion, nationality with a special focus on the Hellenic people. In Article 4, paragraph 4, of the Constitution of Greece it is stated "Only Greek citizens shall be eligible for public service, except as otherwise provided by special laws. However, the Constitution of Kosovo upraises the individual as a human being above the citizen and the nation, as part of mankind culture.

On the other hand, the Constitution of Bosnia and Hercegovina has a different approach, with its democratic creation tendency as a result of the influence of

⁷ *Constitution of the Republic of Greece*, 11 June 1975.

democratic world states and their experts that participate actively in drafting the constitutional text, addressing human rights and freedoms in a special chapter, in full compliance with all international conventions for protection of human rights and freedoms. This constitution of citizens provides powerful guarantees on their protection, regardless of the nation, language, religion and race.

The Constitution of Serbia includes a great part of articles (from Article 23 to Article 74), covering human rights and freedoms. Based on the study carried out, there is a realistic and an unrealistic approach and it is not considered to be with the world trends according to modern rules of constitutionalism, negative determinations were emphasised from the political and ideological provincialism and it considers the constitutional patriotism as the only affirmative result for the Serbian state. From the scientific aspect, in the Constitution of Serbia, with regards to rights and freedoms that it has sanctioned, based on the above-mentioned articles, there is a discrepancy between what was indicated on the paper and the existing reality and it falls in the group of fictitious constitutions covered by ideological raiment. It also lacks supranational European patriotism and as conclusion, this constitution does not have European approach towards fundamental human rights and freedoms of citizen.

The Constitution of Macedonia falls into the group of democratic constitutions, which recognised all the international conventions to be incorporated in its constitution. This constitution includes a lot of Articles (from Article 9 to Article 47), which guarantee the rights of the individual and their collective rights.

The constitution of Montenegro, is a constitution that tried to adjust to the existing reality. As far as human rights and freedoms are concerned, they are sanctioned from Article 27 to Article 78.

In conclusion, the Constitution of Kosovo with its structure moves ahead from other constitutions in European aspirations and with the assumptions to further improve the constitution in a bright future.

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