

Ethics and Equity in International Relations

Increasing the Capacity of Consular Services in the Republic of Macedonia in Order to Improve Services To Citizens

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Abstract: Consular offices as object have to protect the right and the interest of the citizens that stay out of their country for different reasons. Nevertheless, it should be mentioned that consular offices (consul) from their foundation until today have an important role and have the influences in diplomacy related improvement of the relations between the state on the economic and cultural plan, which also represents one of important functions that consular representative of the Republic of Macedonia has. The fact that should have in mind is that consular representations implement government policy commitment of which is the withdrawal of foreign investments.

Keywords: diplomacy; consular; relationships; services

1. Introduction

Consular institutions have longer and different history from other permanent diplomatic services¹. For their existence they own to some political, diplomatic, legal, trade and coastal origin - all they have left trace at the modern consul. Consul in ancient times was an instrument developed outside the needs of international trade. When it was emerged the need for security and defense necessary for trade,

¹ The most important announcement for historic development of the Consulate are: H.Bonfils, Manuel de droit International public (droit des gens) (3-ta ed.na Paul Fauchile,1901) Allexandre Johan de Clercq Henry de Vallet, Guide Pratique des consulats (1880); Baron Ferdinand de Cussy, Règlements consulaires des principaux États maritime de l'Europe et de l'Amérique (1851), Paul Fauschile, Traité de droit international public (8-ma ed. 2. Vol.vo 4, 1926).

travelling and living in foreign countries, today can be met consuls in almost all of biggest cities around/across the world.

Consular rights as well as diplomatic law are part of international law where it is contained international law policies with which are arranged settings of consular relations among the countries, manner, way, rank and area that regulates the establishment of the consular relations among states, the manner, type, rank and field of action of consular representative, as well as the status of their members and their duties and rights in performing their functions in reception country.

Besides diplomatic relations between states are established and maintained consular relations. Nowadays, states exchange consular missions on the basis of mutual agreements, whether they have established diplomatic relations or not. It should be mentioned the fact that the establishment of diplomatic relations automatically means establishment of consular relations among relevant states.

Break off diplomatic relations on its side, does not mean automatic interruption of consular relations. The logic of this kind of norm of international law should be sought in the next fact: while the diplomatic missions have general mandate in representation of states, were especially is emphasized the political dimension of international relations, consular missions are with limited functions and its activity they are accomplishing in pragmatic plan, it can be quite useful for the certain states in their mutual relations, even in time of crisis.

2. Development of Consular Service in the Republic of Macedonia

Consular and diplomatic rights are part of international law, which contains international legal policy with which are arranged establishment of consular relations among states.

Consular relations on many things vary from diplomatic relations, namely, according the historic development¹, but also on the bases of the functions consular officials perform. From here, consular relations in principle vary from diplomatic

¹ Institution Consul is appearing in earlz middle century, in trade cities, Italy, Spain and France, when traders seek one or more consul-judge or consul-trader, who in the role of arbiter judged trades disputes. That means that the institution Consul is appearing long time ago in the interest of trade and sailing, and protection of their own citizens abroad.

relations among states, which mainly, but not exclusively have political importance meaning.

Toward, diplomatic relations approaches them the meaning of maintaining international relationships among states under direct control of the ministries of external affairs of certain states. Consular relations do not have diplomatic meaning, and they can be maintained even in absence of diplomatic relations. But, considering their functions, privileges and immunities, constantly need to have in consideration essential difference among diplomatic and consular representatives, as well as among diplomatic and consular law.

As we have mentioned consulates in practice are appearing before permanent diplomatic missions. Managing with consular relations states undertook even in the twentieth century, when consuls stop to be only representatives of business circles interests. Today, the promotion of overall economic relations among states are more frequent confided to diplomatic missions, while to the consular representative are left more concrete economic and administrative affairs.

In any case consular relations remind to be very important institution in international relations and this matter is regulated with Vienna convention for consular relations since 1963¹.

Equally as in diplomatic relations for the states for there is no obligation for establishment and maintenance of consular relations with other states. The establishment of these relations is done on basis of mutual agreement. Unless otherwise is not agreed, accordance for establishing diplomatic relations includes the agreement for establishing consular relations. But, termination of diplomatic relations does not ipso facto cease and pulling back of Consular Relations².

Headquarters of the consulate, types, and his consular mission area is determined by the sender state with approval of the admission state³. Consular Office of sender state may care out his post/function in the country of admission in the name of third state, if that is agreed with the admission country. Also, with its agreement,

¹ From the European Council in 1967 is adopted the European Convention for the e consular functions.

³ In special circumstances, consular representative in accordance with reciver/admission state, their/its function could be carre out of its consular jurisdiction, even in third countries, if third country does not oppose that.

two or more states may appoint same person as their consular representative in that state.

In a state in which sender state have not diplomatic mission and which is not represented by a diplomatic mission of a third state, consular representative in accordance of admission country, can be authorized to carry out diplomatic functions. But performance of these functions do not entitled him to carry out diplomatic immunities and privileges. Vice versa, consular functions may carry out diplomatic mission of the admission state which, as part of the mission establish consular department. But in this case the diplomatic agents and personnel in consular division keep diplomatic privileges and immunities.

In accordance with the Vienna convention Consular Relations, consular functions, among the rest cover protection of the interests of the admission state and its citizens, (natural persons and legal persons), help in development of business, economic, cultural and other relations in both state, including information in relation to these working areas and reporting to their government on that, control over ships and aircrafts at their government (including their crew); performing administrative matters (issuing travel documents and visas, documents validation) and provide legal assistance (inheritance, representation of the citizen at the sender state in front of courts and other bodies of the admission state submitting to the court acts in the procedure by request). Vienna convention also plans a possibility for performing all other functions, which sender state will trust to admission consul, which are not forbidden by law and policies of the state and to which they do not oppose/object. In any case, consular representative has the right to carry out other consular functions provided in the bilateral or multilateral agreements that commits the sender state and the admission state¹.

In the consular personnel/staff, before it enters Head of the mission who is set by sender state/country, and his function should be approve by admission/reception state/country². The sender country/state to the head of consulate issues a document

¹Except thorough provisions in relation to privileges and immunities, the remaining provisions of the 1963 Vienna convention are of dispositive character. Namely, in article 73 (1) imposed it is foreseen that "the provisions of this Convention shall not enter in other international agreements which are in force among both sides of these agreements. On the other side, paragraph 2 of the same provision states that the convention does not obstruct states to conduct agreements with which they would confirm, supplement or develop provisions of this Convention or would disseminate its implementation.

² Article 10 from Vienna convention for consular relations.

in the form of a letter or a patent as it is stated in the Convention or similar act¹, if the state/country of admission/acceptance accepts that, patent letter can be replaced with a notification containing necessary data as well.

Another document which is necessary for the head of consular mission to start his work is *exequatur*, which represents approval of receiver state for starting to perform the function of relevant person on its territory. If the country refuses to give *exequatur* it is not obliged to give any explanation. As in diplomatic relations, the receiving state at any time, may inform the sender state that some of the consular function is *persona non grata*.

Heads of consular missions are divided into four categories:

- Consul general;
- Consul;
- Vice – consul;
- Consular Agents.

Consular officers, in general, have to be citizens of the sender country/state. They can be citizens of the admission/receive country state, but only with country agreement.

Usually right/law has created two different categories of consular representatives, confirmed with Vienna Convention since 1963. According the function consuls (consuls of careers or career consuls), regardless whether it is about the head of consular missions or other consular officials, presents persons with exclusive professional profiles.

The sender country is sending out in the receiving country to execute consular functions for determined period of time. Namely, it is clical consular right to consular missions. Vienna Convention of 1963 years it recognizes the category honorary consul, however is giving optional meaning.

Namely, each state is free to decide whether will appoint honorary consul or not, and whether will receive honorary consul or will not do so. At this function, are placed distinguished citizens of admission/receiving country/state. Placing of some distinguished citizen/personality of the admission/receiving country/state at its

¹ Article 11.

consular missions sender state/country gets double¹. Honorary consul has important information and it is involved/included in diplomatic-consular circles. For placing honorary consul it is required imposed/issued/ agreement from the receiving country/state.

The practice of naming honorary consuls it is not still accepted by all the countries and the main reason is that the honorary consul remains the citizen of the receiving country, so it is more under jurisdictions of the country that receives then of the state where he was named.

With decisions of the second session of ASNOM, in 1944, it was constitute of National Republic of Macedonia, 'Narodna Republika Makedonija' as part of that times SFR Yugoslavia. On 29 of April 1969, by a special decree signed by the president of assembly of Socialist Republic of Macedonia has been established new body within the composition of referred Executive Council, named Bureau of Foreign Relations.

This body farther experiences transformations, which changes its name, and widen and continues its domain of activity. From this body, after the independence in 1991, the Ministry of Foreign Relations, will represents basis of nowadays Ministry of external affairs of the Republic of Macedonia.

Ministry of Foreign Affairs performs activities without adoption of special law for external affairs respectively same are performed based on internal policies and instructions for work, as well as with the application of international right or diplomatic and consular rights.

It should not be left behind the fact that after 15 years of independence the Republic of Macedonia, on the proposal of the Ministry of external affairs on March 2006, the Assembly adopted the Law for external affairs² and the finally approached towards setting of the manner and procedure for performing the external affairs of the organs of power.

On 29th of April 2007, it was proclaimed day of the Ministry of External Affairs.

¹ Decreases of the outcomes and it is gained persolnality to whom all doors are open in receiving country.

² Law for external affairs – 2006.

3. Function of the Ministry of External Affairs of the Republic of Macedonia with the Special Accent on Consular Affairs

All issues which are within the jurisdiction of the Government in the field of the International Relations and Foreign Policy operatively are handled by the Minister for External Affairs who is representing the country abroad at Ministerial level. International right in the role definition of the Minister of External Affairs starts with the fact that he as a member of the Government, and resort for external affairs as competent authority in the Government, they are considered as authorized representatives, through which it is expressed the will of countries/states in the International Relations.

Ministry of External Affairs of the Republic of Macedonia in the past years experienced several changes in its organizational structure. These same frequent changes in the organizational structure are showing that the changes did not have positive role in the service of external affairs.

Adoption of the Law for external affairs for External Affairs (LFA) defines the rights, duties and responsibilities of the diplomatic - consular officials in the Ministry of External Affairs and diplomatic - consular representations/offices.

Organizational units of the Ministry of Interior are: Directorates, Sectors, Departments for which the Minister Issues organizational act/law and scope of activities and systematization with that appoints director among diplomatic - consular officials, which simultaneously manage and lead with Directorates Ministry's.

In accordance with the policy of internal organization of the Ministry of External Affairs (MEA/MNR)¹ Central Consular Service it is organized in the Directorate of Consular Affairs, Ministry of External Affairs of the Republic of Macedonia via Direktoratot for consular and visa passport-work as well as in cooperation with the Diplomatic and consular missions abroad, is in favor of providing expertise, quality, timely assistance and services to all of the citizens of the Republic of Macedonia, which at various grounds travel and stay abroad, as well as their needs for assistance and services abroad, and who are resident of Macedonia.

¹Policy for the internal organization - December 2009.

When citizens of the Republic of Macedonia travel and stay abroad, should have basic information of the country they stay, to be careful on the specifics of its laws and customs and that bear the responsibility for their own proceedings.

Also, they must have understanding for practical legal limitations what can they expect at that from consular officials as help and service, especially in the case of dual citizenship. During travelling or stay abroad, citizens of the Republic of Macedonia shall be subject of laws and regulation of the country in which they stay. Consular officers cannot avoid either local policy, in which certain countries can be much different from customary standards.

In case of need for any assistance and service, Macedonian citizens abroad should address to the nearest diplomatic consular missions of the Republic of Macedonia. For achieving better and consular assistance and in time, as much as possible information, data and documents should be presented. Certain issues can be solved immediately, while for some it is needed certain time or long time to finish.

Ministry of External Affairs will do everything that is possible and within the framework of its domain and competence to enable them to receive appropriate expert assistance and services to the citizens of the Republic of Macedonia who are staying abroad, as well as assistance and services of various issues related to their residence abroad¹.

Consular help/assistance is given, and the services are performed in accordance with the positive policies of the Republic of Macedonia, as well as international and bilateral agreements. In addition, the MNR cannot establish rights, relation and standards for help and services of their citizens staying abroad out of these international and bilateral legal acts.

Basic functions and competencies of consular representations of the Republic of Macedonia abroad are:

- obliged with attention towards Vienna consular convention will try for appropriately affirmation of the reform process and activities of the Government, Parliament and other institutions of the Republic of Macedonia, in the direction of construction of democratic institutions, governing of the law, fight against organized crime and corruption, for

¹ www.mfa.gov.mk.

which are obtained positive international assessments, mainly from EU and NATO,

- the recognition of the efforts of the Government of the Republic of Macedonia for coping with the poverty, unemployment, and the finalization of the privatization process and to achieve a favorable ambience/environment/settings for foreign investments and providing sustainable economic growth;
- affirmation of the position of the Republic of Macedonia for issuing a legal framework for successful cooperation of bilateral and multilateral plan;
- further intensification of the cultural cooperation through the presence of majority of our cultural representatives from all areas on the cultural manifestations;

4. Practical Examples for Handling Consular Cases

In the farther text will give couple concrete examples for the area of consular cases into which most often handle consular representative of the Republic of Macedonia abroad, as follows:

Issuing Travel List

In the Republic of Macedonia, according the Law for travel documents for citizens of the Republic of Macedonia¹, following travel documents are requires, as follows: passport, diplomatic passport, Official passport and travel form/list, as well as travel documents issued on basis of international agreements.

Travel list presents travel documents for repatriation, which the DCM of RM (including the office for consular, economic and trade relations/links with the Republic of Macedonia in Thessaloniki) it is issued to our citizens in exceptional cases, for example: the damage, lost or stolen passport.

Travel list as travel document serves for person's return in the country; it is issued and is valid as much as it is necessary to get back to the Republics of Macedonia, but not more than 30 days. Before the travel form is issued it is required to carry

¹ Official Gazette of the Republic of Macedonia No. 46/2004

out the procedure for determining the identity of the requester of acquiring the travel form¹.

Procedure for Transfer of Deceased Person

For a citizen of the Republic of Macedonia, who will pass away in jurisdiction area covered by Consulate, in agreement competent institutions of the Republic of Macedonia, by whom are determined the circumstances of death it is issue passport for a corpse travel document, where are entered all the necessary data for the deceased person.

Except for the Macedonian citizens Publishing Office issues passport for a corpse and for foreign citizens (bigger number Serbian citizens during summer time) which are defiance of the jurisdiction area of the Office and transiting through the Republic of Macedonia.

Presence on Trial

The presence on trial is one of the basic consular functions. Consul has the right to follow the judicial procedure that is carried out against a citizen of the Republic of Macedonia, who is in detention or imprisoned under different term basis, but without the right to interfere or any kind of influence on judicial proceedings.

For the flow of the procedure are regularly informed competent institutions of the Republic of Macedonia.

Visit the Detained Citizens

Citizen of the Republic of Macedonia, who at any sort of appeal is in detention or is already convicted for the designated prison sentence abroad, a representative from the Consulate with prior request by the client has the right to visit the detained or convicted person.

¹ In relation with practical examples (treatment) by the office, consultations are realized through Ambassador L. Arsovski and Former Vice - Consul of Yugoslavia in Thessaloniki.

During the visit of detained or convicted Macedonian citizen who, for any sort of appeal is in prison abroad, the Consul realizes meeting with him, after he is informed of his treatment and conditions in the prison.

The consul during the visit of the Macedonian citizen, to be briefed about his situation he realizes meeting with the management of the prison.

Issuing Authorization

The issuance of authorization represents one of the notary functions of Macedonian Consular Service, which are prescribed in the Law for international private law since 2007.¹

Citizens of the Republic of Macedonia who are staying abroad have need to be represented by the third party in front of organs or courts in Macedonia. For that purpose, they issue authorization to the lawyers, members of their families, or to third parties who are capable to represent.

In the most frequent cases authorization is compiled by clients or authorization applicants, but there are cases when the client may require authorization to be made up by the Consul. If the authorization is compiled by the authorizer, the office will make verification of the signature, with putting a proper seal on the authorization. In the authorization should be exactly listed for what the authorizer is authorized.

Kinds of Visa

Visa regime of the Republic of Macedonia relies on basis of the Law for foreigners², the Regulation for manner of issuing visas to foreigners, continuation and shortening of their validity, visa's revoke and decline, as well as on the visa format and keeping records, as well as other legislative acts.

Our visa regime implies the issuance of 4 kinds of visas as follows: A airport transit visas, Visa B - transit visa, Visa C - for short-term visas and Visa D for long term stay/residence.

¹ Official Gazette of the R.M br.87/07

² Official Gazette of the R.M br.35 years from 23.03.2006

5. Conclusion

From classical diplomacy to great proliferation of the new democratic participants, it shows that diplomacy always was constituent part of international relations and shows that while countries want internationally to communicate, diplomacy have his own place. All evolutions and revolutions that took place in international relations, as well as the importance innovations in the sphere of communication, led to certain changes, certain new questions were raised and for sure are given opportunities diplomacy to be valued in new light as government activity. Essential is the need for modernization of the Consular Service of the Republic of Macedonia, in the sense to be fulfilled several modern standards for the creation of real service to the citizens. Special review on the provision of consular representatives except consular services also represents attraction of foreign investments in the country in mean time conducting recommendations and policies of the Government of Republic of Macedonia. Considering the fact that the Republic of Macedonia aspire to become part of the large European family and in mean time a member of NATO, we believe that the diplomatic and consular representative and permanent missions within the international organizations have to be appropriately staffed to be able to appropriately respond to the challenges deriving from the international politics.

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