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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

NORTH MACEDONIA

**DRAFT LAW ON
ADEQUATE AND FAIR REPRESENTATION**

PROPOSED LAW ON ADEQUATE AND FAIR REPRESENTATION

Subject of regulation

Article 1

- (1) This Law regulates the respect, affirmation, promotion and monitoring of the appropriate and fair representation of citizens belonging to all communities in state government bodies and other public institutions at all levels as a fundamental value of the constitutional order of the Republic of North Macedonia.

Definitions

Article 2

- (1) For the purposes of this Law, the following terms shall have the following meanings:
 - Adequate representation is the representation of citizens belonging to all communities in state government bodies and other public institutions at all levels that approximately reflects their participation in the population, according to data from the last census.
 - Fair representation is the representation of citizens belonging to all communities in state government bodies and other public institutions at all levels by ensuring fair treatment and opportunities for all citizens, while respecting the rules of competence and integrity that govern public administration.

Purposes

Article 3

- (1) The purpose of this law is to respect, affirm and promote the appropriate and fair representation of citizens belonging to all communities in state government bodies and other public institutions at all levels.
- (2) This Law ensures equal access to employment and job promotion, participation and representation of citizens in state government bodies and other public institutions at all levels, as well as encouraging inclusiveness and strengthening social cohesion by establishing institutional and procedural mechanisms.

Areas of application

Article 4

- (1) Respect, affirmation, promotion and monitoring of the appropriate and fair representation of citizens belonging to all communities in accordance with this law shall be implemented in state government bodies and other public institutions at all levels.

Principles

Article 5

- (1) Adequate and fair representation as a fundamental value of the constitutional order is achieved through respect for the principles of:
 - non-discrimination and equal opportunities;

- merit, professionalism, competence and integrity;
- transparency and accountability in the hiring and promotion processes;
- inclusiveness and social cohesion.

Free declaration of affiliation

Article 6

- (1) Every citizen has the right to freely declare his/her affiliation to any community in the state. This right is exercised individually or together with other citizens belonging to the same or another community, without any coercion.
- (2) Declaration of ethnicity is voluntary.
- (3) A citizen has the right not to declare his/her affiliation to any community. The citizen's failure to declare cannot affect the exercise of his/her rights and freedoms, or his/her position in the state.
- (4) The free declaration of citizens' affiliation may be conditioned by objective criteria in order to prevent abuse of arbitrary declaration.

Fundamentals for the implementation of adequate and fair representation

Article 7

- (1) Citizens belonging to all communities enjoy adequate and fair representation in state government bodies and other public institutions, at all levels.
- (2) The representation referred to in paragraph (1) shall be achieved on the basis of the results of the last population census conducted in the country, acquired rights and international agreements that are an integral part of the internal legal order, in accordance with the Constitution of the country.
- (3) Respect for adequate and fair representation must ensure equal treatment for all citizens, without discrimination, and be implemented in accordance with the principles of equality, merit and professional competence.
- (4) Preferential treatment for the achievement and promotion of the adequate and fair representation of underrepresented communities with the aim of ensuring effective equality shall not be considered discrimination.

Measures to ensure adequate and equitable representation

article 8

- (1) State authorities and other public institutions, at all levels, in accordance with the Constitution and the law, shall undertake measures to ensure full and effective equality of citizens, with the aim of respecting, affirming, promoting and protecting the appropriate and fair representation of citizens belonging to all communities.
- (2) Special attention shall be paid to measures to improve the representation of citizens belonging to communities that are underrepresented in state government bodies and other public sector institutions.

Coordinating body for monitoring adequate and equitable representation

Article 9

- (1) In order to monitor the situation and promote adequate and fair representation, a Coordination Body for the Implementation of Adequate and Fair Representation of the Government (hereinafter referred to as: Coordination Body) shall be established.
- (2) The Coordination Body shall function in cooperation with the Agency for Administrative Servants (hereinafter referred to as: the Agency).
- (3) The composition of the Coordinating Body shall be determined by the Government. The body shall be headed by one of the Deputy Prime Ministers of the Government, and shall include ministers, one representative of the Agency, one representative of the Ombudsman, one representative of the Commission for Prevention and Protection against Discrimination, and one representative of the academic community.
- (4) The organization and operation of the Coordination Body shall be regulated by an act proposed by the Coordination Body and adopted by the Government.
- (5) The Coordination Body may, on its own initiative or upon a proposal from a competent institution, propose a revision of policies, programs and plans for employment and promotion in the public sector, with the aim of improving representation.
- (6) The Coordination Body shall monitor and assess the implementation of the rights of citizens belonging to all communities, as well as the state of interethnic relations in the public sector. On this basis, it shall propose measures to promote equality, inclusiveness and efficiency of public administration.

Monitoring and analysis of the situation regarding adequate and fair representation

Article 10

- (1) The Coordination Body, in cooperation with the Agency, shall regularly monitor and analyze the implementation of measures and activities to ensure adequate and fair representation. For this purpose, it shall prepare a report at least once a year, which shall be submitted to the Government.
- (2) Upon request of the Coordination Body, all competent authorities are obliged, within 30 days of receipt of the request, to submit data and information related to the situation with the representation of citizens belonging to all communities.
- (3) The data and information referred to in paragraph (2) shall in particular include:
 - statistical data on representation;
 - data from the register of public sector employees (name and surname recorded in an identity card or other public document issued by a competent authority in accordance with the law).
 - data on the implemented measures and the degree of their implementation;
 - information about problems in implementing representation;
 - annual financial expenditures incurred for law enforcement;
 - measures and expenditures planned for the next fiscal year;
 - and other information.
- (4) When processing and submitting personal data, the provisions of the Law on Personal Data Protection shall be respected.
- (5) If the competent authorities do not submit the requested data within the deadline referred to in paragraph (2), the Coordination Body shall notify the Government with a special report.

Recruitment planning

Article 11

- (1) The Agency shall adopt a methodology for planning employment in the public sector in accordance with the principle of adequate and fair representation (hereinafter referred to as: Methodology) in cooperation with the Coordination Body.
- (2) In the annual planning of employment, public sector institutions are obliged to take into account the plan for the distribution of new employment, prepared according to the Methodology.
- (3) The distribution referred to in paragraph (2) shall be based on the percentage representation of employees in the institution at the beginning of the calendar year, taking into account the population data from the last census and the representation of citizens at the central and/or local level.
- (4) If, based on data and analysis, an overrepresentation of members of a particular community is determined in any of the institutions covered by Article 4 of this Law, the Coordination Body shall be obliged to propose measures for the redistribution of new employment, in accordance with the Methodology. In institutions where the appropriate representation has been achieved or exceeded, no new employments should be planned on the basis of representation while such a situation persists.

Raising public awareness

Article 12

- (1) Public sector institutions shall undertake activities to strengthen public awareness, promote education and professional development related to the application of the principle of adequate and fair representation.
- (2) The activities referred to in paragraph (1) may include training, public campaigns, seminars, consultations, support for the preparation of internal acts, guidelines and other forms of education and information.
- (3) The Coordination Body, through the annual report to the Government, shall also submit information on the activities undertaken under this Article, as well as recommendations for their improvement.
- (4) The funds for the implementation of the activities referred to in this Article shall be provided from the budgets of the competent institutions and from other sources in accordance with the law.

Promotion and education

Article 13

- (1) Public sector institutions, within their capabilities and competencies, shall encourage the participation of employees belonging to all communities in education, training and professional development programs, with the aim of improving competencies and achieving the principle of adequate and fair representation.

Transitional and final provisions

Article 14

- (1) The by-laws provided for by this Law shall be adopted within six months from the date of entry into force of this Law.

- (2) The Government, within six months from the date of entry into force of this Law, shall prepare a review of all laws containing provisions related to issues of adequate and fair representation and shall prepare proposals for their harmonization.

Entry into force

Article 15

- (1) This law shall enter into force on the eighth day from the date of its publication in the "Official Gazette of the Republic of North Macedonia".