

IS THE RULE OF LAW POSSIBLE WITH A COMMERCIAL OFFICIAL GAZETTE?

Aneta Ivanova-Stojanovski, Dimitar Vrglevski

INTRODUCTION

The principle of the rule of law is a fundamental principle of every democratic state, which is multifaceted, and one of its constituent elements is legal certainty, which implies that citizens will be familiar with the legal rules of the state, i.e. laws and other subordinate general legal acts (general legal regulations). According to the list of criteria for the rule of law (Rule of Law Checklist) of the Venice Commission¹, legal certainty, as an element of the rule of law, implies access to legislation and to assess the fulfillment of this criterion, it asks the following two questions: Are all legal acts published before they enter into force? Are they easily accessible, e.g. free of charge via the Internet and/or in an official bulletin?² This is in line with the generally accepted view that laws represent an expression of the general will of the people.³ and as such should be freely available to all citizens. But what is the situation in the Republic of North Macedonia with this element of the rule of law principle?

SITUATION IN THE REPUBLIC OF NORTH MACEDONIA

The rule of law is one of the fundamental values of the Macedonian constitutional order, in accordance with Article 8, paragraph 1, line 3 of the Constitution.⁴

According to Article 52, paragraphs 2 and 3 of the Constitution, "laws and other regulations shall be published in the Official Gazette of the Republic of Macedonia no later than seven days from the day of their adoption. Laws shall enter into force no earlier than the eighth day from the day of their publication, and, by exception, as determined by the Parliament, on the day of their publication."

The Official Gazette of the Republic of North Macedonia is published in printed and electronic form. Official Gazette website⁵ contains an overview of all editions by year, however, access is free

¹Rule of Law Checklist, European Commission for Democracy Through Law (Venice Commission), 2016 https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf; Rule of Law Checklist, CDL-AD(2025)002, European Commission for Democracy Through Law (Venice Commission), 2025, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)002-e)

²Rule of Law Checklist 2016, p. 25; Rule of Law Checklist 2025, p. 17-18.

³Declaration of Rights and Freedoms of 1789 https://avalon.law.yale.edu/18th_century/rightsof.asp

⁴Constitution of the Republic of North Macedonia <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

⁵Official Gazette of the Republic of North Macedonia website <https://www.slvesnik.com.mk/>

only for editions from past years, and access to editions for the current year requires a subscription, according to the following amounts:

- For the printed edition, the annual subscription is 16,650 denars, and the monthly installment is 1,650 denars.⁶
- For the electronic edition, the annual subscription is 7,000 denars per user.⁷

For more detailed regulation of the publication of general state regulations, the Parliament has adopted the Law on the Publication of Laws and Other Regulations and Acts in the Official Gazette of the Republic of North Macedonia.⁸ (Law on Publication of General Legal Regulations). According to Article 2 of this law, "the publication of laws and other regulations, acts and the issuance of the official gazette Official Gazette of the Republic of North Macedonia is of public interest", and this activity of public interest according to Article 11 of the same law is carried out by the Public Enterprise Official Gazette of the Republic of North Macedonia – Skopje (PE Official Gazette).

Article 11 of the Law expands the scope of the PE Official Gazette and stipulates that it "also carries out publishing activities (publishing books, collections of regulations, magazines and other types of publications), in printed or electronic form, publishes/maintains a database of regulations in the Republic of North Macedonia in electronic form, organizes and holds educational seminars (consultations), as well as other activities determined by the Statute of the enterprise, if the performance of such activities does not impede the publication of the official gazette "Official Gazette of the Republic of North Macedonia".

According to Article 14, paragraph 1 of the Law, the funds for the operation of a PE are provided from revenues from its operations, namely from:

- subscription, i.e. sale of the official gazette "Official Gazette of the Republic of North Macedonia" in printed and electronic form and of other publications published by the Public Enterprise, in printed and electronic form,
- the published acts, announcements, public calls, public competitions, invalid documents and other announcements specified in Article 10, paragraphs 2 and 3 of this law,
- fees for services rendered, revenues from the regulatory database in the Republic of North Macedonia in electronic form and
- income from other publishing activities in printed or electronic form, educational seminars and from other sources.

Article 14 paragraph 1 line 1 provides the basis for charging for access to the Official Gazette editions, but does not determine the amount of the subscription, nor does it indicate by what act this amount will be determined. Article 20 of the Law stipulates that "the powers, organization and operation of the bodies of the Public Enterprise, as well as other issues of importance for the operation of the Public Enterprise, are determined in more detail by the Statute". Hence, we assume that the price of the subscription is regulated by the Statute of the PE Official Gazette. However, the Statute of the PE Official Gazette is not published on their website, which speaks volumes about the lack of transparency of this public enterprise, although the main purpose of its existence and functioning is precisely for general legal regulations, such as their Statute, to be

⁶Subscription form for the printed edition of the Official Gazette

https://www.slvesnik.com.mk/content/pdf/Poracka_SLVesnik_Pecatena_Forma_2025.pdf

⁷Subscription form for the electronic edition of the Official Gazette

https://www.slvesnik.com.mk/content/pdf/Poracka_Elektronsko_izdanie_2025.pdf

⁸Law on the Publication of Laws and Other Regulations and Acts in the Official Gazette of the Republic of North Macedonia, Official Gazette of the Republic of Macedonia No. 56/99 and 43/02 and Official Gazette of the Republic of North Macedonia No. 21/21 https://www.slvesnik.com.mk/content/pdf/Zakon_za_SLVesnik_precisten.pdf

public. Nor are the subscription forms⁹, which are published on the website of the Official Gazette also do not contain the basis on which the subscription was determined.

Considering the standards of the Venice Commission and the constitutional provisions, this situation is completely contrary to the principle of the rule of law and the constitution. Citizens (natural and legal persons) should not pay a single denar to become familiar with the general legal regulations of the state, and thus with their rights and obligations, because the state has an obligation to familiarize citizens with these regulations!

HOW HAS THE PRINCIPLE VIOLATED THE RULE OF LAW?

The Law on the Publication of General Legal Regulations was adopted with the aim of operationalizing Article 52 of the Constitution, which stipulates an obligation for state bodies to publish general regulations. Although this article does not contain an explicit prohibition on charging for access to the Official Gazette, it cannot be interpreted as allowing this¹⁰. This is because Article 52 cannot be interpreted in isolation from the other constitutional provisions, but on the contrary, it should be interpreted in light of all constitutional provisions and the goal to be achieved, and in particular Article 8 which prescribes the fundamental values of the constitutional order. Specifically, Article 8 paragraph 1 line 3 establishes the rule of law as one of the fundamental values of the constitutional order. The rule of law is a broad principle which, among other things, implies legal certainty and predictability for citizens which presuppose free access to the regulations of the state so that citizens can be familiar with their content, i.e. the rights, obligations and prohibitions they prescribe and adjust their behavior accordingly. Hence, the purpose of Article 52 of the Constitution is for the regulations to be publicly available so that citizens can become familiar with their content and consequently any act, law or by-law that restricts access to the official gazette is unconstitutional.

We should not forget that Article 52 is stipulated in Chapter II "Fundamental Freedoms and Rights of Man and Citizen", Title 3 "Guarantees for Fundamental Freedoms and Rights" of the Constitution. This should be taken into account when interpreting the provision, because if the Constitution categorizes this provision as a guarantee for the protection of freedoms and rights, it must be fully and unhindered accessible to citizens, in order to fulfill its function as a guarantee for freedoms and rights. Hence, the question of the efficiency of this guarantee if it is conditioned by a subscription is justifiably raised.

Additionally, the Law on Free Access to Public Information (LFAPI) in Article 3 defines public information as "information in any form created or held by the holder of the information in accordance with his or her competences", and defines the holders of public information as state

⁹Subscription form for the printed edition of the Official Gazette

https://www.slvesnik.com.mk/content/pdf/Poracka_SLVesnik_Pecatena_Forma_2025.pdf, Subscription form for the electronic edition of the Official

Gazette https://www.slvesnik.com.mk/content/pdf/Poracka_Elektronsko_izdanie_2025.pdf

¹⁰This dilemma opens up a broader challenge for our system. Specifically, Article 8, paragraph 2 of the Constitution stipulates that "In the Republic of Macedonia, everything that is not prohibited by the Constitution and law is free." Constitutional and legal literature indicates that this constitutional provision should be interpreted only towards citizens, and in no way in the direction of expanding the powers of public institutions in a situation of legal vacuum or express prohibition of a certain action. (S. Škarić, G. Siljanovska-Davkova, "Constitutional Law – Second Amended and Revised Edition", Kultura, Skopje, 2009; S. Škarić, "Scientific Interpretation: Constitution of the Republic of Macedonia", Culture Skopje, 2014). Hence, regardless of the broad discretion of the Parliament in the legal regulation of various areas by law, which it draws from the general/framework character of the constitutional provisions, it still does not have absolute freedom and is particularly limited by the freedoms and rights of citizens. In this case, the absence of an explicit constitutional prohibition on charging for access to the Official Gazette should not be interpreted as allowing it, since access to the Official Gazette is a right of citizens and a guarantee for the protection of freedoms and rights and as such must not be limited by a subscription. This is a positive obligation of the state, which arises from the positive right of citizens.

government bodies, state administration bodies, municipalities and all other entities exercising public authority. According to these provisions, the general regulations (laws and by-laws) that the listed entities, including the Parliament and the Government, adopt in their work, are obliged to make them publicly and free of charge available through their website.

The comparative analysis showed that the Constitution of the Republic of Croatia in Article 90 contains almost identical provisions to those in Article 52 of the Constitution of the RNM regarding the publication of the general legal regulations of the state. However, access to the Official Gazette of the Republic of Croatia (the equivalent of the Official Gazette in the RNM) is free of charge and easily accessible electronically.¹¹ The same is the case with the Official Gazette of the Republic of Slovenia¹². Official Gazette of the Federal Republic of Germany¹³ and the Republic of France¹⁴ are free of charge, and only additional services are charged. Of course, there are more countries that provide free and open access to the Official Gazettes, especially in conditions of intensive digitalization. Below is a list of several countries that have provided free access to the Official Gazettes:

State	Link to the Official Gazette website
Croatia	https://www.nn.hr/
Slovenia	https://www.uradni-list.si/glasilo-uradni-list-rs
Germany	https://www.bundesanzeiger.de/pub/en/start?9
France	https://www.legifrance.gouv.fr/
Bulgaria	https://dv.parliament.bg/DVWeb/broeveList.faces
Italy	https://www.gazzettaufficiale.it/
Austria	https://www.ris.bka.gv.at/
Belgium	https://www.ejustice.just.fgov.be/cgi/welcome.pl
Estonia	https://www.riigiteataja.ee/en
Poland	https://dziennikustaw.gov.pl/DU
Spain	https://www.boe.es/diario_boe/
United Kingdom	https://www.thegazette.co.uk/
Sweden	https://svenskförfattningssamling.se/
Portugal	https://diariodarepublica.pt/dr/home

¹¹Website of the Official Gazette of the Republic of Croatia <https://narodne-novine.nn.hr/search.aspx>

¹²Website of the Uredni List of the Republic of Slovenia <https://www.uradni-list.si/glasilo-uradni-list-rs>

¹³Website of the Official Gazette of the Federal Republic of Germany <https://www.bundesanzeiger.de/pub/en/start?9>

¹⁴Website of the Official Journal of the French Republic <https://www.legifrance.gouv.fr/>

We cannot talk about the rule of law when citizens have limited access to the general legal regulations of the state, and this absurd situation is an indicator of the low legal and political culture in the state. Hence, the Parliament and the Government have an obligation to remove this systemic anomaly and ensure free and free access to the state's legislation.

RECOMMENDATIONS

This absurd situation can be corrected in several ways:

1) Amendment to the Law on Publication of Regulations. The Law on the Publication of General Legal Regulations could include a provision that would explicitly prohibit charging for access to the Official Gazette regarding general legal regulations. This initiative could be launched by members of parliament or the Government.

On 23.12.2025, a Draft Law on Amendments to the Law on the Publication of General Legal Regulations was published on the ENER platform. An amendment to the law is envisaged that stipulates that an electronic edition of the Official Gazette is mandatory, while the printed edition can be published as needed. Once the process of amending the Law has begun, a much more substantial amendment would be to stipulate that "access to laws, other general regulations and public announcements cannot be subject to a fee and must be freely publicly available". Furthermore, it will be up to the PE Official Gazette to operationalize this provision.

2) Amendment to the Bylaws of the PE Official Gazette. If the PE Official Gazette amends its own by-laws that determine the subscription amounts, so that they stipulate that access to the general legal acts of the state will be free of charge, while other services prescribed by Article 14 of the Law on Publication of General Legal Regulations (publication of commercial publications, holding trainings, consultations, etc.) may be subject to a subscription.

3) The Agency for the Protection of the Right to Free Access to Public Information, as an independent and autonomous state body, it can respond to the Parliament, the Government and the Public Gazette to ensure free and unhindered access to laws as public information.

4) Repeal of a provision of the Law or a by-law of a PE Official Gazette. If the Constitutional Court initiates a procedure and determines the unconstitutionality of Article 14, paragraph 1, line 1 of the Law on the Publication of Regulations, it may repeal the same provision and, in the explanation of the decision, point out how the Assembly would have been desirable to act in order to protect the constitutionality. The Constitutional Court may also repeal the general by-law of the Public Enterprise Official Gazette which determines the fee for access to the current edition of the Official Gazette. In both cases, the Constitutional Court may initiate a procedure for assessing the constitutionality and legality on its own initiative or upon a submitted initiative.

DISCLAIMER

This text was prepared within the framework of the project "Fostering Good Governance and Public Administration Reform – Phase Three", which is implemented by the Center for Change Management (CCM) and is supported by the National Endowment for Democracy (NED). The content of this text is the sole responsibility of CCM and can in no way be considered to reflect the views of NED. Read more about the project at the following link: <https://cup.org.mk/proekti>



The Center for Change Management (CCM) is a non-governmental, independent and non-profit think tank organization, founded in 2009, headquartered in Skopje and working in the following areas: good governance, public administration reform, European integration and socio-economic development. Read more about the organization at the following link: <https://cup.org.mk/about-us>

CUP profiles on social networks:

- Facebook: <https://www.facebook.com/centarzaupravuvanjesopromeni>
- LinkedIn: <https://www.linkedin.com/company/80944789/admin/dashboard/>
- Instagram: https://www.instagram.com/cup_skopje?igsh=MXVjaiFlYnZqbnJ4bQ==