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**APPLICATION OF REGULATIONS FOR THE PROTECTION OF CULTURAL
AND NATURAL GOODS IN THE EVENT OF NATURAL AND MAN-MADE
DISASTERS –POSITION OF THE LOCAL GOVERNMENT, PROTECTIVE
AWARENESS AND PROFESSIONAL ETHICS¹**

Abstract: This article presents the position of the local government in the Republic of Macedonia and its role in the practical realization of the protection of the natural and cultural heritage in the event of man-made and natural disasters, with special emphasis on the coherence of the existing protection systems and the problems related to their functioning.

Key words: local self - government, protection, rescue, nature, cultural heritage.

Today's forum is dedicated to the three *fundamental values of the national legal order*, interconnected in one specific context. Namely, on the one hand is the *local self-government*, and on the other hand are the *cultural heritage* and the *protection of nature*, described together due to the possible threats and consequences of disasters caused by man and nature. In other words, this occasion focuses on the position of the local government in the *system of humanitarian protection*, that is, *civil protection*, officially called - *a system for protection and rescue*, which, in terms of cultural and natural heritage, respects the rules of the two systems - *the system for protection of the cultural heritage* and *the system for protection of nature*. Each of these systems has its own *normative and institutional framework*, as well as *principles, instruments and measures of protection*, which are effected and implemented in a manner and in procedures envisaged with the positive regulations. In that

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sense, the position of any *subject of protection*, and even of the **local self-government**, in each of the three protection systems mentioned above, could not or should not be viewed in isolation and beyond what has been encompassed in each of them, in particular when assessing the quality of existing legal norms and their application, or when initiating changes in a particular direction, without taking into account the coherence of the respective systems and their interconnectedness.

In this case, the position of the *local self-government* in each of the *protection systems* in question is such that it requires wider elaboration and significantly more time than it is available in such an occasion, as it is today. Therefore, on this occasion, the topic is primarily addressed through the prism of several relevant indicators, which present the current situation and the possible directions for its improvement.

Namely, when it comes to the **local self-government** as **fourth power** in the State, it should be noted that it is a known and relatively constant *legal category*, which in the Macedonian society is quantified through the current **80 municipalities** with the status of **Units of local self-government (LSGU)** and **the City of Skopje** as a separate LSGU. All of them, as such, function without exception not only in normal, peace-time conditions, but also in the events of **armed conflict, and other man-made and natural disasters**. Consequently, they have a position of *active entities* in the **comprehensive system for protection and rescue**. Their competences in this system, contrary to the competences of the **central authorities** (*legislative, executive, judicial*), are determined by the Constitution, the respective *laws* and *bylaws* (a total of 52 regulations). In an organizational sense, each LSGU forms the so-called **spatial protection and rescue forces**, consisting of **headquarters and protection and rescue units** (specialized or universal, of appropriate ranks – squad, platoon, company, according to the prescribed standards). The entire system functions in accordance with the *National Strategy for Protection and Rescue* and the other *operational instruments* at the *national and local level*. Thus, at the local level, each *LSGU* adopts: (a) *Annual Action Plan for Protection and Rescue*; (b) *Assessment of the threat of natural disasters and other accidents*; and (c) *Plan for protection and rescue against natural disasters and other accidents*. These instruments and the other preparatory activities, but also the operational activities during and after the disaster, deal with the **cultural and natural goods** as well. However, this system does not interfere with the other aspects of **humanitarian protection**, which are relevant to the other two systems. Hence, from the standpoint of the *local government*, the **identification of protected goods** in its vicinity, within its competence for protection and rescue, is of paramount importance.

On the other hand, in the system of **nature protection**, the position of the *local self-government* is rather marginalized and flexible. In fact, with regard

to the *protection of the natural heritage*, in principle, the *local authority* only has the *mandate to initiate and propose*, and exceptionally, *mandate to manage the protected areas* and / or *protected and endangered species*, if that right is given by the law. Today, there are 77 *protected natural goods* in the country, of which 69 are *protected areas*, covering 7,15% of the country's territory. Most of the protected areas have not yet been *revalued* nor subject to *re-declaration*, so it is not clear who holds the *right to their management*. Of those that have been re-declared, the *right to their management* is entrusted to the respective *municipalities* in only a few cases (Vevcani, Resen, Dojran, Kratovo, etc.). According to the *National Strategy on Biodiversity*, 116 *natural goods* should be protected, of which 107 as *protected areas*, which would occupy 18% of the national territory, while the *Spatial Plan of the Republic of Macedonia* envisages a total of 265 *localities* that should be protected by 2020. Moreover, in the current situation and in the stated projections, a large number of municipalities (about 32%) are beyond the scope of the *system for protection of nature* on the basis of *protected area management*, given that their area does not or does not envisage the proclamation of *natural goods* as ***natural heritage***. Additionally, it should be added that the *system for protection of nature* is not *normatively completed*, given that more than 15 key *bylaws* have not yet been adopted. Moreover, key deficiency of the existing *normative framework* is the disregard of the ***ex situ protection***, in particular the issue of *collection of samples of the nature*, while the issue of *protection of natural heritage* in the event of an *armed conflict and natural or other disasters* is not envisaged by the current law at all, nor a legal basis for its closer regulation with bylaws is provided. In short, in the system of ***protection of nature*** there are certain *legal gaps* that are reflected in the ***system for protection and rescue***, and with the inconsistent application of the ***Law on Protection of Nature*** and the existing ***special laws*** in that area, the position of the *local self-government* is significantly shifted.

The ***system for protection of cultural heritage***, however, has other features, partly identical to those of the ***system for protection of nature***. Namely, it is profiled in accordance with the ratified 14 *international conventions and protocols*, based on 53 of the envisaged 70 monumetary regulations, which will say - it is normatively not completed to the scale of nearly 1/4 (24%). Some of the missing regulations refer, however, to issues that are also relevant to the ***system for protection and rescue***. In the so-called ***humanitarian protection*** segment, the Regulations regulate the issues of: (a) *National inventory of protected goods in the event of armed conflict*; (b) *Identification of staff for control and protection of cultural heritage in the event of armed conflict*; (c) *Designation of the recognition sign provided with in the Hague Convention*. However, in practice, none of this has been implemented. *The special methodology for damage assessment to the cultural heritage* has not yet been adopted, and so far none of the envisaged 10 *expert guidelines for conducting the*

preparatory measures for protection in case of armed conflict and natural disasters has been adopted. The new model of **protection records** has not yet been established, so today neither the *central* nor the *local government* has available relevant data on the number of *recorded cultural goods* and their *typological, chronological and spatial identification and belonging*. This also applies to the *private property*, including *private collections of cultural goods*. The process of *valorization* is in stagnation; so far only 1 *private collection* and 1217 *real estate*, mostly individual objects, are protected, representing only approximately 10% of the *potential immovable cultural heritage*. With regards to the *archaeological sites*, however, the percentage of *valorized goods* is worrying: only 2% of the recorded sites. Also, the process of *reevaluation* is in even greater danger, given that it was due to be completed by the end of 2007. Such a situation has direct effect on the role of the *local self-government*, which is unable to fulfill its part of the obligations for *protection and rescue*. More recently, with the *special laws for proclamation of monumental units*, a *model of joint management of the monumental units* has been established in the so-called **system of protection of cultural heritage**, where the respective municipalities appear in the role of *managing partner* (Chair, Centar, Ohrid, Krushevo, Kratovo). However, in practice, that model still does not work, even in terms of developing and adopting *plans for management of monumental units*. Observed as a whole, the *local government* remains in a subordinate position, considering that its **protection and rescue** activity is directly dependant on the operations of the **state authorities**, as well as the work of the **professional institutions for protection** of monuments, including the *local ones*.

Having in mind the above described situation, the question “What are the ground reasons?” is completely justified. In this regard, most often, the culprits are being located in someone else or in something that is outside the profession itself, that is, the protection institutes, especially in terms of *cultural heritage*. However, an objective analysis suggests that the problem lies in the *institutions* themselves and the *professionals* in those institutions. From year to year, the problem of incompetence and lack of knowledge grows, but also the awareness for the need of protection gets problematic, and behavior of the professional staff contrary to professional ethics gets more frequent. Such examples can be noted in almost all segments of the **cultural heritage protection system**.

Therefore, it would be beneficial that the professions and institutions responsible for protection perform self-evaluation, and look for solutions to overcome the individual weaknesses within their scope of activities and responsibilities. This will significantly contribute to strengthening of the role of other *subjects for protection*, including the *local self-government*.

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