EUROPEANIZATION AND THE SETTLEMENT OF ETHNO-TERRITORIAL CROSS-

BORDER CONFLICTS

-THE CASE OF THE WESTERN BALKANS-

by

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ABSTRACT

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"Europeanization", the European Union, third-party intervention, Western Balkans, ethno-territorial cross-border conflicts, Framework Convention for the Protection of Minority Rights

The fundamental objective of this dissertation is to explore whether and how "Europeanization" is an effective Conflict Resolution mechanism to produce sustainable solutions to cross-border ethno-nationalist conflicts at the periphery of the European Union, namely the Western Balkans. Accepting "Europeanization" as "an analytical concept used to examine the changes in domestic structures and policies that occur in response to policies and practices institutionalized at the European level" three levels of analysis will be explored: (a) the protection of minorities in the domestic legislative level, and (b) the resolution of inter-ethnic conflicts as a result of this democratization; and (c) whether this "Europeanization" at domestic level, namely adopting the norms of minority protection in the domestic level fosters a cooperation between the host-state and the neighbouring kin state as the neo-functional theories on European integration proposed. In other words, would "internal Europeanization" foster "external Europeanization" in the Western Balkans?

In order to assess the impact of "Europeanization" and evaluate the efficiency of these policies on the resolution of ethno-territorial cross-border conflicts which lie at the core of the antagonisms in this region of Western Balkans, three cases will be analysed all of which are centered on the question of "external minority", that is "an ethnic group that, while residing in one state (the host-state) is related through shared cultural, religious or linguistic characteristics, which it wishes to preserve, and through kinship to

the titular nation of another, often neighbouring state (the kin-state). These are the Albanian question in Western Macedonia; the Serbian question in Eastern Slavonia, Croatia; and the Hungarian Question in Vojvodina, Serbia and Montenegro.

ÖZET

"AVRUPALILAŞMA" VE ETNO-TERRİTORYEL SINIR AŞIRI UYUŞMAZLIKLARIN ÇÖZÜMÜ -BATI BALKANLAR ÖRNEĞİ-

Önder Çetin

Uyuşmazlık Analizi ve Çözümü Yüksek Lisans Programı, 2005

Tez Danışmanı: Yrd. Doç. Dr. A.Betül Çelik

"Avrupalılaşma", Avrupa Birliği, üçüncü tarafların müdahalesi, Batı Balkanlar, etno-territoryel sınır aşırı uyuşmazlıklar, Azınlık Haklarının Korunmasına Dair Çerçeve Sözleşmesi

Bu tezin temel amacı "Avrupalılaşma"nın/AB perspektifinin Avrupa Birliği'nin çevre bölgelerinden olan Batı Balkanlardaki sınırlar-aşırı etno-territoryel uyuşmazlıklar için sürdürülebilir çözümler sunabilecek bir uyuşmazlık çözümü mekanizması olma imkanının araştırılmasıdır. "Avrupalılaşma"/AB perspektifi, "Avrupa düzleminde kurumsallaşmış siyasal tutum ve uygulamalara mukabil yerel yapı ve siyasal tutumlarda meydana gelen değişiklikleri incelemede kullanılan analitik bir kavram olarak kabul edilerek üç analiz düzlemi araştırılmaktadır. Bunlardan birincisi, yerel hukuksal düzlemde azınlıkların korunması, ikincisi bu demokratikleşmenin sonucu olarak etnik topluluklararası uyuşmazlıkların çözümü, üçüncüsü ise yerel düzlemdeki bu "Avrupalılaşma'nın , yani azınlık haklarının korunmasına dair normların adapte edilmesinin, Avrupa bütünleşmesi üzerine yürütülen neo-fonksiyonel teorilerin öngördüğü şekilde yerleşik olunan devletle, azınlığın anavatanı olan komşu devletin işbirliğini teşvik etme durumudur. Bir başka ifadeyle "içteki Avrupalılaşma" "dışarıya karşı Avrupalılaşma"nın önünü açmakta mıdır?

"Avrupalılaşma"nın tesirini değerlendirebilmek ve söz konusu siyasal tutumların sınır-aşırı etno-territoryel uyuşmazlıkların çözümü üzerindeki etkinliğini değerlendirebilmek amacıyla, Batı Balkanlar bölgesindeki husumetlerin odağında yer alan "dışsal azınlık" sorununun merkezinde yer aldığı üç örnek vaka incelenecektir.

"Dışsal azınlık" kavramıyla ifadelendirilen, "bir devletin toprakları içerisinde yerleşik haldeyken muhafaza etmek istediği kültürel, dini ya da dilsel özellikleri ve kan bağı vasıtasıyla bir başka, ki çoğu zaman komşu, devlet olan vasi bir ulusa bağlılık duyan etnik topluluk" kastedilmektedir. Bunlar, Batı Makedonya'daki Arnavut sorunu, Hırvatistan'ın Doğu Slavonya bölgesindeki Sırp sorunu, ve Sırbistan'ın Voyvodina bölgesindeki Macar azınlık sorunudur.

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INTRODUCTION

Since the 1950s, the link between intergovernmental organizations and the settlement of sustainable peace has been one of the prominent themes in international politics, generating an array of theoretical approaches and relevant empirical research. In this context, since Haas' pioneering work on the European Coal and Steel Community (ECSC) in 1958, the European integration as a model of international cooperation and peace has been presented in a sizeable body of work, in the liberal tradition of International Relations at particular (Lindberg 1963; Lindenberg & Scheingold 1972; Hodges 1972; Harrison 1978; Adler and Barnett 1998; Waever 1998). Following this prevailing approach, up to date research in the European integration literature has been developed on two basic frameworks. While a "bottom-up perspective" focusing on the effects of the Member States on the formation and the outcomes of European integration was dominant until the 1990s (Börzel 2002, 2003; Caporaso and Keeler 1993; Hoffman 1982; Taylor 1991; Moravcsik 1991, 1998; Haas 1958; Sandholtz and Stone Sweet 1998; Hooghe and Marks 2001; Bomberg and Peterson 2000; Wallace 1971; Héritier et al. 1994; as cited in Börzel 2003), since then, particularly inspired by the enlargement processes, the literature has mainly adopted a "top-down" account of "Europeanization" focusing on how the European processes and institutions affected and responded by the Member States (Milward 1992; Moravcsik 1994; Marks 1993; Marks, Hooghe and Blank 1996; Kohler-Koch 1996; Rhodes 1996; Knill and Lehmkuhl 1999; Kohler-Koch 1999; Börzel and Risse 2000; Goetz and Hix 2000; Radaelli 2000; Cowles, Bulmer and Burch 2001; Caporaso, and Risse 2001; Héritier et. al. 2001; Héritier and Knill 2001; Featherstone and Radaelli 2003; as cited in Börzel 2003 and Harcourt 2002; Beyers, Delreux and Steensels 2004)

All of these theoretical approaches and the relevant empirical research, however, have not been applied to the specific role of the European Union as a third party actor in the resolution of the intra-state and/or inter-state conflicts. In this context, while one of the basic premises of the Conflict Resolution literature is the fact that a change in the intensity of the conflict requires a revision in third party roles and strategies (i.e. Kriesberg 1996; Susskind & Cruikshank, 1987), the European Studies literature has

been mainly drawn on the European Union's 'one-size-fits-all' approach within the framework of structural prevention[1].

At this point, while the Conflict Resolution literature provides valuable insights on the role of regional organizations as a third party actor on intra-state and inter-state conflicts (Aal, Miltenberg and Weiss 2000; Chayes and Chayes 1996; Fortna 1993, 2001; Peck 1998, 2001; Voronkov 1999; Wedgewood 1996), such as the works on the United Nations (i.e. Alden 1995; Anstee 1999; Bailey 1982; Berridge 1991; Bertram 1995; Biermann and Vadset 1999; De Soto 1999; Doyle 2001; Doyle, Johnstone and Orr 1997; Doyle and Sambanis 2004; Durch 1993, 1996; Ekeus 2001; Findlay 1996; Durch and Blechman 1992; Guilding 1993; Haas, Butterworth and Nye 1972; Haas 1986; Diehl, Reifschneider and Hensel 1996; Paris 2002; Parsons 1995; Ratner 1995; Roberts 1996; Sambanis 1999; Solomon 1999; Wedgewood 1996), OSCE (Hopmann 2000, 2002; Troebst 1998; van der Stoel; Zellner 2002) and Organization of African Unity (Amoo and Zartman 1992; Muyangwa and Vogt 2000), the conflict resolution potential of the European Union has not been yet sufficiently realized in the Conflict Resolution literature (Barnes 2002; Beriker and Eralp 2004, Debiel and Fischer 2000; Hill 2001; Jørgensen 1997; Kefford and Eavis 2002; Salmon 2002). However, synonymous to the EU's first systematic formulations and the relevant implementation of conflict prevention mechanisms in the mid-1990s, a literature focusing on the conflict resolution capacity of the EU from the European Studies perspective has emerged in the late 1990s and early 2000s (Barbé and Johansson 2001; Brewin 2000; Cottey 1998, 2000; Deus Pinheiro 1998; Dosenrode and Stubkjær 2002; Landgraf 2000; Leonhardt 2000; Piening 1997) Particularly with the debates on enlargement, these studies have been mainly represented in two main accounts. While the former mainly focuses on how the EU affects the transformation of border conflicts through its integration process (Diez 2002a, 2002b, Diez 2003; Diez, Stetter and Albert 2004; Pace 2004; Prozorov 2003), the latter focuses on the potential of the EU, through the use of Europeanization mechanisms of conditionality and socialization to bring about the settlement of secessionist conflicts in its periphery. (Emerson 2004; Noutcheva et al. 2004; Tocci 2004)

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[1] For a critics of this approach on the EU's Cyprus policy, see, Beriker and Eralp 2004.

Both of the two approaches offer valuable insight in the conflict resolution capability of the European Union. While the former proposes a theoretical framework of four paths of influence on the conflicting parties by the EU through its power of attraction, the latter offers a two-fold strategy, namely EU as an 'actor' directly intervening the conflicts as a mediator and indirectly by supporting these initiatives or by providing a 'framework' to be adopted for resolving these conflicts. However, while the former limits itself with inter-state border conflicts, the latter focuses only on secessionist conflicts. Furthermore, except the Serbia and Montenegro case (Noutcheva and Husseune 2004), these works do not include the cases in the Western Balkans, where the EU initiated various key post-conflict reconstruction and conflict prevention mechanisms since the Dayton Accord, namely the Royaumont Process (December 1996), Regional Approach towards the Western Balkans (April 1997), the Stabilisation and Association Process (SAP) (May 1999) and the adoption of the Stability Pact for Southeastern Europe (June 1999).

In addition, this dissertation is based on the premise that the protection of minority rights is a test-case of the transformation of identity-based ethno-political conflicts of the past, including not only the resolution of domestic inter-ethnic conflicts but also improvement of the relations between the kin-states and the host-states. In this context, the current literature on the impact of Europeanization also lacks that crucial aspect by focusing only on how the Europeanization process influenced domestic policy making by framing minority rights regimes in Central Europe and the Baltics (Brusis 2001; Dobre 2003; Galbreath 2003; Judith 2003; Morris 2003; Pentassuglia 2001; Ram 2003; Smith 2003; Vermeersch 2003).

In light of these accounts, by accepting "Europeanization" as "an analytical concept used to examine the changes in domestic structures and policies that occur in response to policies and practices institutionalized at the European level" (Noutcheva et. al, 2004: 6), the fundamental objective of this dissertation is to explore whether and how "Europeanization" both at the domestic[2] and regional level[3] could lead sustainable

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[2] In the Copenhagen EC Presidency Conclusions, of June 21-22, 1993, it was stated that "membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the

solutions to ethno-territorial cross-border conflicts in Western Balkans as a conflict prevention strategy proposed by the EU. In this context, drawing on the necessity of building trust among all the parties to the conflict for a sustainable peace[4], in order to be successful in its objective of conflict prevention and peacebuilding, the Europeanization policy should address three specific levels of these conflicts, namely the conflict between the host-state and the external minority,[5] the conflict between host-nation and the external minority, and the conflict between the host-state and the kin-state. In this context, I accept the conceptual framework offered by Wolff, who defines the external minority as "an ethnic group that while residing in one state (the host-state) is related through shared cultural, religious or linguistic characteristics, which it wishes to preserve, and through kinship to the titular nation of another, often neighbouring state (the kin-state)" (2003: 3) Taking these into consideration, fundamental research questions of this dissertation can be listed as follows:

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capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union." See, part 7 on "Relations with the Countries of Central and Eastern Europe", A. iii., p. 13.

[3] In the same Report, in p. 11, it was stated that these countries should "demonstrate that they are willing and able to interact with their neigbours as EU Member States do."

[4] Stedman (1997) and Stern and Druckman (2000: 44) for instance conceives success of third party intervention as "the weakening of actors opposed to the peace process vis-à-vis those engaged in it". In this context, Väyrynen (2000:165-166) underlines that either drawing on a constructivist approch, emphasizing the role of common values, identities and meanings in forming a collective identity that would be kept alive in the mutual responsiveness of the members, or a rationalist approach grounding the definition of community on the concept of interest leading transactions that would eventually create a community, what could integrate values, meanings and interests is to rely on the concept of "trust", and which could provide predictability of mutual behaviour and assurance to reduce the possibility of an unexpected action. Although Deutsch (1957) does not explicitly use the concept of trust in his construction of "security community", but as an aspect of predictability of behaviour, for Adler and Barnett (1998b, 38) mutual trust and collective identity are regarded as necessary conditions of dependable expectations of peaceful change, and, thus, of security community. Cited in Väyrynen (2000: 167); for a detailed assessment of the relation between trust and community, see, Väyrynen (2000: 164-169).

[5] Wolff defines external minority as "an ethnic group that, while residing in one state (the host-state) is related through shared cultural, religious or linguistic characteristics, which it wishes to preserve, and through kinship to the titular nation of another, often neighbouring state (the kin-state)" (2003: 3).

1. How does the "Europeanization" of the domestic policy-making in the Western Balkan   countries, proposed as a form of structural prevention, affect the relevant state policies towards national minorities, external minorities at particular?

2. How does it help the resolution of the conflict between the host-nation and the external minority?

3. How does adopting the norms of minority protection in the domestic level foster cooperation between the kin-state and the host-state within the broader framework of regional cooperation? In other words, does "internal Europeanization" foster "external Europeanization" in the Western Balkans?

Within this framework, three cases, all centered on the question of "external minority", will be analyzed. These are the Albanian question in Macedonia, the Serbian Question in Croatia, and the Hungarian question in Serbia, SaM.

After a relatively peaceful era since the independence of Macedonia, although Kosovo[6] crisis in 1999 and the subsequent riots of ethnic Albanians in 2001 placed considerable strain on relations between the Macedonian government and Macedonia's Albanian minority, the democratization process after Ohrid Agreement (2001) has brought some improvements regarding the conditions of ethnic Albanians. However, the resentments of ethnic Macedonians stand as a threat to the resolution of inter-ethnic conflicts and make it as a test-case for the model offered by the EU to the Western Balkans.

In the second case, the *Blitzkrieg* of the Croatian Army in 1995 to recapture the Serb-populated "UN Protected Areas" under the authority of self-proclaimed "Republic of Serbian *Krajina*", produced Serbian refugees whose member range between 300.000-350.000. Subsequent to the signing of the Erdut Agreement in November 1995, the Croatian Government regained the control of Eastern Slavonia after the expiration of the

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[6] There is an ongoing dispute between the Serbs and the Albanians on the spelling of the name "Kosovo'. While the Albanians use Kosova, the Serbs prefer Kosovo, or Kosovo and Metohija or Kosmet. In this dissertation, Kosovo will be used, just for the fact that it is the most common spelling used in the English-speaking world.

UNTAES mandate in the region in January 1998, in accordance with this Agreement. However, today beside the issue of the return of the refugees, the discriminatory processes encountered by the ethnic Serbs like property repossession, reconstruction of damaged houses or re-holding tenancy rights is not just as a problem for the resolution of inter-ethnic conflicts, but also determines the settlement of good-neighbourly relations, which affects the Croatia's pace on EU membership.

Different from the previous issues, Vojvodina achieved the status of an autonomous region in 1974. However, although the SaM government claims that the general conditions are satisfying, particularly due to the influx of Serbian refugees in the region, majority-minority relations have changed in many areas of the region to the disadvantage of the Hungarian minority. Furthermore incidents against the ethnic minorities, ethnic Hungarians at particular, have not only violate the relatively peaceful inter-ethnic accommodation in this northern part of Serbia but also led tensions in the traditional good-neighbourhood relations between Serbia and Hungary.

What is common to all three cases is that all these countries are on different points of the general pace to the EU membership, thus subjected to the criteria of conditionality which requires the adoption of the recognized and required norms of the EU. Thus, they are expected to be "Europeanized" in domestic affairs, namely "guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities".[7] Furthermore, the cases are not just a reflection of the issue of democratization but by the fact that the aforementioned minority groups are linked to a kin-state which is the neigbouring state in all cases, they are good cases for an analysis of whether democratization in the sense of the protection of minorities as a presented value of Europeanization will lead another value, namely regional governance in the form of good neighbourhood. This is especially important when it is considered that the sustainable settlement of an ethno-political conflict with four actors, namely the host- and kin-states and the host-nation and the external minority, could only be achieved by building 'trust' among all of the parties. In this context, taking the minorities and the relaxation of their position in host-states in the form of democratization as a reference

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[7] See, part 7 on "Relations with the Countries of Central and Eastern Europe" in the Copenhagen EC Presidency Conclusions, of June 21-22, 1993, the, A. iii., p. 13.

point for the intensification of good-neighbourhood will be a real assurance for it by addressing directly to the potential root causes a conflict in the future.[8]

Within this framework, for the first part, I will make use of an archival and documentary research under two categories: for the analysis of the legal situation I will draw mainly on the provisions of the Framework Convention for the Protection of National Minorities, the Constitution of the Republic of Macedonia, the Constitution of Croatia, the Federal Constitution of Serbia-and-Montenegro and the Constitution of Serbia and the relevant laws of these states on national minority rights.

When assessing the issue of the protection of minorities in the candidate countries, the European Commission's Opinions contained in Agenda 2000 often refers to the European Convention on Human Rights (ECHR), the Framework Convention for the Protection of National Minorities, Recommendation 1201 (1993) of the Parliamentary Assembly of the Council of Europe, and, occasionally, to some relevant bilateral treaties (e.g. the 1995 and 1996 good-neighbourliness treaties of Hungary between Slovakia and Romania respectively). However, ECHR does not include specific minority provisions and a bilateral treaty is not a common future for all the cases. Thus, although it may be criticized as having vague and weak provisions or lack of hard enforcement mechanisms, for the first part of the dissertation, the Council of Europe's Framework Convention for the Protection of National Minorities[9] will be drawn on as the basis for the assessment of the legal structure for the protection of national minorities.[10] In this context, as Hofmann and Friberg pointed out, "the explicit references to the FCNM that the European Commission has made in its *Regular Reports*, including quotes from the Advisory Committee opinions, demonstrate that the EU considered candidate countries' implementation of the FCNM an important element in the accession criteria of minority protection" (2004: 139). In this context, I will analyze each case in the light of nine main categories provisioned in the Framework Convention. These are

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[8] See, Kleiboer (1996: 382)

[9] Which is the first legally binding international instrument devoted to minority protection in general.

[10] For the assessment of the FCNM see, Weller (ed.) (2005), Estébanez and Gál (1999), Gál (2000), Philips (2002).

1.   International cooperation in the context of human rights protection (Art.1): The main purpose of Article 1 is to specify that the protection of national minorities is the reserved domain of the whole internationally community.

2.   Recognition of a definition of minority and the respect for individual's right to be treated as a member of minority or not (Art.3): This article guarantees every person belonging to a national minority[11] the freedom to choose to be treated as a member of national minority, thus to come under the provisions, or not to be treated as such. Furthermore it recognizes that these rights may be exercised individually or in community with the other members.

3.   General Provisions on the rights to non-discrimination, to equality and to cultural identity (Art. 4-6): The purpose of these articles is to ensure the applicability of the general principles of equality and non-discrimination for persons belonging to national minorities.

4.   Territorial Provisions such as the prohibition of altering the proportions of the population (Art. 16). This article aims to protect the members of national minorities against measures aimed to change the proportion of the population in areas inhabited by them.

5.   Political Participation such as the rights to assembly and association (Art. 7) and rights to cross-border contact (Art. 17): The purpose of the Article 7 is to guarantee the right of every person belonging to a national minority the basic freedoms of assembly and association; expression, thought, conscience and religion. Furthermore, Article 17 recognizes their right to establish and maintain free and peaceful contacts across frontiers; and participate in the activities of the NGOs.

6.   Linguistic Rights (Art. 10-11): These articles set down the provisions to recognize the rights of every person belonging to national minority to use his/her language freely and without interference, both in private and in public, including communication with administrative authorities. Furthermore, these rights are specified in usage regarding use of names and surnames, language signs and inscriptions, local names, street names and other topographical indications where national minority holds a substantial number in an area.

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[11] The FCNM -and its signatories- does not recognise collective rights of national minorities, but the protection of rights of individuals belonging to a group of national minority.

7.   Educational Rights (Art.12-14): Article 12 seeks the signatory States to promote knowledge regarding the culture, history, language and religion of both national minorities and the majority in an intercultural perspective and to promote equal opportunities for access to education. To specify, Article 13 obliges the signatories to recognize the right of persons belonging to national minorities to set up and manage their own private educational and training establishment, and Article 14 requires the parties to create the conditions for the learning of minority language.

8.   Rights to participation in cultural life (Art. 15) and the rights to access and use of media (Art. 9): Article 15 requires the signatory states to create the conditions necessary for the effective participation of every person belonging to a national minority in cultural, social and economic life and in public affairs, in particular those affecting them. Article 9 specifies this to the freedom of expression with reference to access to the media.

9.   Freedom of Religion (Art. 8): This article ensures the rights of persons belonging to national minorities to manifest his/her religion or belief, and to establish religious institutions, organizations and associations.[12]

After analyzing the *de jure* situation of minorities in light of the framework determined by the FCNM, by pointing on the role of the EU on state policies' towards national, particularly, external minorities where appropriate, I will elucidate the *de facto* situation and provide an assessment of whether and how it helped the resolution of the conflict between the host-nation and the external minority. To this end, I will review two categories of reports: the former will be composed of mainly the documents of the monitoring process of the Framework Convention, namely the Opinions of the Advisory Committee, the reports of the visits of the AC to these countries, State Comments on Opinions and Committee of Ministers' Resolution; the reports of the Special Rapporteurs/Reporters of the UN Commissions; the relevant statements and the reports the European Commission (Commission Reports), the European Parliament and the Council of the European Union (Council Presidency Conclusions), the General Annual Reports of the Stabilisation and Association Process Reports and the Annual SAP Report for each countries, the European Partnership documents for each state and the

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[12] The explanations have been mainly derived from the original document of the Council of Europe. For a detailed account, see, Framework Convention for the Protection of National Minorities and Explanatory Report, H(1995)010, Strasbourg, February 1995.

CARDS Regional and Country Strategy Reports. The second category will be the Annual Reports of the three eminent international NGOs, namely Amnesty International, Helsinki Committee, and Human Rights Watch. These will be supported by secondary data on the situation of external minorities and the course of ethnopolitical conflict in our cases including statements of the state officials and a number polls and surveys.

Having analyzed the effectiveness of 'internal Europeanisation' as a form of structural prevention within the broader conflict prevention strategy of the EU with the aim of improving the status of external minorities and the resolution of the conflicts with the host-nation, the second part will be on an analysis of whether this will lead to the intensification of cooperation with the host-state and the kin-state of the external minority. Drawing on the fact that bilateral and regional cooperation is conditionality for further integration with the EU, a particular emphasis will be given on clarifying the reference points of cooperation between the two countries. This will provide whether there is a correlation between the two levels of Europeanization and it would offer the resolution of these ethno-territorial cross-border conflicts. To this end, besides reviewing the aforementioned documents to specify the provisions of the EU on the settlement of bilateral and regional cooperation as a part of its conditionality, I will conduct a secondary data analysis through the statements of top-officials of these countries on the enhancement of bilateral and regional cooperation. This analysis will be conducted through the media coverage from local news agencies, TV and radio stations, daily newspapers and weekly magazines provided by the BBC monitoring in the website of the Center for South East European Studies.[13]

Finally, the cases will be evaluated in the light of the underlying problems and possible solutions by drawing on the conflict resolution strategies and mechanisms proposed in the Conflict Resolution literature.

Within this framework, this dissertation will be composed of three chapters. The first chapter will be devoted to the clarification of conceptual and analytical framework. Having clarified the characteristics and the dynamics of ethno-territorial cross-border conflicts, I will review the theoretical approaches on the third party intervention in

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[13] http://www.csees.net/index.php.

Conflict Resolution literature. This will be followed by a second body of literature focusing on the role of the European Union as a third party intervener and its capacity on conflict resolution under two basic models, namely either as an actor intervening the resolution processes of these conflicts or standing as a model, namely a framework to be adopted for their resolution.

Drawing on this body of literature on third party intervention, the second chapter will be devoted to the analysis of the three cases under four parts: the historical process, the evaluation of the normative framework and factual situation of national minorities from the perspective of the Framework Convention, the evaluation of the inter-ethnic relations and the relations between the kin-states and the host-states and the assessment of the EU impact on the course and the resolution processes of these conflicts.

Finally, the last, concluding chapter will be devoted to a comparative analysis of "Europeanization" as a conflict resolution mechanism in the Western Balkans in the light of Conflict Resolution literature.

To sum up, this dissertation will not just provide an assessment of the theoretical approaches proposing EU integration as a conflict prevention and peacebuilding 'framework', in the form of a 'security community', but also provide up-to date empirical data to assess the impact of this process on minority rights policies in the Western Balkans as a form of conflict prevention strategy which has been neglected in European integration studies[14]. Furthermore, by adding the dimension of the relationship between the kin-state and the host-state, it will also provide an analysis of whether the aforementioned domestic level could facilitate bilateral cooperation and regional governance, which is an important factor for the realization of the integration and the prospect for a sustainable peace. In this context, by bridging the two fields of European Studies and Conflict Resolution through the analysis of the effects and the underlying problems of this policy and proposing strategies derived from the Conflict Resolution

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[14] König wrote on the situation of minorities in FRY in light of the implementation of the FCNM. However, it lacks the two fundamental developments in the process, namely the formation of the State Union of Serbia and Montenegro (SAM) and the relevant legal modifications, particularly the adoption of the Law on Rights and Freedoms of National Minorities (February 2002) and the Charter on Human and Minority Rights and Civil Liberties (February 2003). Furhermore, it excludes the impact of European integration. See, König (2001).

literature to overcome these deficiencies, it will also contribute to the Conflict Resolution literature for structuring the EU as a successful third party actor in the resolution of intra-state and inter-state conflicts in particular, and strengthening the role of intergovernmental and regional organizations in intra-state conflicts through their strategy of norm diffusion in general.[15]

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[15] For the analysisof EU enlargement from a Conflict Resolution perspective, see, Celik and Rumelili (2004)

CHAPTER 1: REVIEW OF LITERATURE

A. Conceptual and Analytic Framework

A. 1. Ethno-Territorial Cross-Border Conflicts: Peoples Against States?

Bosnia. Rwanda. Nagorno-Karabakh. Chechnya. In contrast to the optimism initially followed by the fall of the Berlin Wall, events of the early 1990's have presented a far more fragmented order than the Cold War era. In this "new world disorder" (Lake & Rothchild 1998: 3), ethno-nationalisms sweeping across the world from Yugoslavia to Africa, constitute a dominant and increasing threat not just to the political stability of states but also to the international system. Taking it into consideration that conflicts over 'identity' led to the outburst of more than 70% of the civil wars in the last four decades of the 20th century (Sambanis 2001), ethnic identities are to a great extent perceived either accounting for or furthering violent conflicts. The empirical data also support these arguments. The Minorities at Risk Project (2002) reveals that between 1955 and 1996, there were 239 wars, regime transitions, and genocides in which inter-ethnic conflicts were the determinant factors. (Harff and Gurr 1997: 5) Furthermore, by one account, The United Nations delineated ethnic conflicts within and between neigbouring countries as the predominant form of warfare that will occur in the 21th century. (UNHCR 2002, cited in Dunaway 2003:4)

Ethnicity and the characteristics of an ethnic group *per se* are not the essential concern of this dissertation, but what is sought is to clarify the *ethno-territorial cross-border conflicts* in which these groups are a stakeholder in conflicts either against the state/s, or against other political actors, which are mostly the host-nation. However, such an analysis requires the clarification of the essence of ethnicity and how it leads to a conflict.

Within such a broad spectrum of the theories of ethnicity[16], what is common to all is that each ethnicity/ethnic group has distinguishing aspects, which are tangible and intangible. As a "self-defined" community, Anthony Smith indicates these distinguishing factors as a collective proper name, a myth of common ancestry, shared historical memories, one or more differentiating elements of common culture, the association with a specific homeland, and a sense of solidarity for significant sectors of the population." (Smith 1991: 21; cited in Wolff 2003: 4) Formulating these characteristics under the framework of a common, corporate identity, these bodies "manifest themselves as barricaded (social) entities whose primary imperative is 'absolute' separation from what are seen as contaminating others." (Douglas 1966; cited in Jowitt 2002: 28).[17] This links ethnicity to the phenomenon of power. That is to say, in their actions to "preserve, express, and develop their respective ethnic identities, all (...) groups perceive threats and opportunities." (Wolff 2003: 6) As Wolff identified,

"the political implication of this connection between ethnicity/nation and power is that any ethno-national group that is consciousness of its uniqueness and wishes to preserve it is involved in a struggle for political power -either retaining the measure of political power it possesses or striving to acquire the amount of power that it deems necessary to preserve its uniqueness as a distinct ethno-national group, that is, to defeat the threats and seize the opportunities it faces." (Wolff 2003: 6)

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[16] There are three mainstream approaches on ethnicity, namely (1)primordialist approach which perceive ethnicity as fixed, determined characteristics of individuals and groups, (2) instrumentalist approach which understands ethnicity as not a given but a constructed phenomenon that can be manipulated by individuals, groups or elites; and (3) constructivist approach which argues an interplay between primordialist features and the contribution of ethnic groups on creating and shaping their own identities. For detailed accounts of these fundamental approaches, see e.g. (1) Shills (1957, 1995), Geertz (1963), Kuper (1969), Smith (1974), Isaacs (1975), Van der Berghe (1978, 1981, 1995), Horowitz (1985), Smith (1986), Kaplan (1993), Kaplan and Connor (1993, 1994), Allahar (1996), (2) Bell (1975), Glazer and Moynihan (1975), Steinberg (1981), Banton (1983), Brass (1985), and Rothchild (1986b), and (3) Anderson (1993), Dominguez (1989), James (1989), Vail (1993), Young (1993), and Brubaker (1995).

[17] In this sense, it would not be an overstatement to argue that, for an ethnic group, to know what they are not should take precedence of knowing what they are. (Connor 1994: 103)

Whereas many ethnic groups live within the borders of a common state, such conceptualizations of ethno-national accounts motivated by threats and opportunities may direct itself toward the other ethnic groups or the state itself[18]. Generally built on an internationally legitimized basis, that is the right to national self-determination, these communal and/or intra-state tensions might be formulated as a state-minority conflict where the majority group holds the state apparatus and the minority group party to the conflict which is represented as the "national minority" in the sense of modern politics.[19]

From this core understanding of "national minorities", *external minorities* constitute the core of the debate in this dissertation. By external minority, I accept the conceptualization of Wolff, that is "an ethnic group that, while residing in one state (the host state) is related through shared cultural, religious, or linguistic characteristics, which it wishes to preserve, and through kinship to the titular nation of another, often neigbouring, state (kin-state)" (Wolff, 2003: 3) According to Wolff, in its relationship with the host state, the external minority can have a broad range of opportunities from self-government to independent statehood or unification with the kin-state, but also it is under threat that could be manifested in various ways which could at its most extreme form an ethnic cleansing and genocide (Wolff, 2003: 7-8). It is frequent that whenever

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[18] Wollf identifies these opportunuties and threats "positively and negatively related to the preservation, expression and development of a group's ethnic identity and to the ability of the host state to preserve the integrity of the territorial or civic nation". See, Wolff (2003: 6-11).

[19] The Parliament Assembly of the Council of Europe in its Recommendation 1201 (1993) proposes the following definition of "national minority": "... the expression "national minority" refers to a group of persons in a State who: a) reside in the territory of that State and are citizens thereof, b) maintain long-standing, firm and lasting ties with that state, c) display distinctive ethnic, cultural, religious or linguistic characteristics, d) are sufficiently representative, although smaller in number than the rest of population of the State or of a region of that State, and e) are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language. However, in its basic form, similar to theoretical vagueness on a clear definition of 'ethnicity', there is not an all-agreed on definition of a minority; though, the well-known proposition of Capotorri is probably the most frequently cited one: "A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members -being nationals of the State- possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language." (Capotorti 2001: 96; cited in Malanczuk 1997: 108).

the ethnic minority in a state makes political claims, it establishes a patron-client relationship with the kin-state. In contrast, the accommodation of the demands and thus, the interests of the minority group could lead to various kinds of conflict[20]. These may be in the form of:

- Inter-ethnic conflict between (a) the host-nation and (b) the external minority where there is a resource competition between the two groups. (Wollf 2003: 9; Lake & Rotchild 1998: 9-11)
- (a) Inter-ethnic or (b) state-group conflict where security dilemma is the main motivation for one of the parties. This is often the case where the so-called imperial regimes collapse. (Posen 1993: 103-124; Lake&Rotchild 1998: 17-18; Ayoub 1996: 37-51; Katz 1996: 25-35.)
- State-group conflict between (a) the host-state and (b) the host-nation where the host-nation is dissatisfied in terms of the accommodation of the interests of the minority and regards the politics toward accommodation as detrimental both to its own interests and the integrity of the state. (Wolff, 2003: 9)
- Inter-state conflict, between (a) the host-state and (b) the kin-state where the secessionist movements of the external minority may be perceived as a threat to the security of the kin-state (Wollf, 2003: 11)
- State-group conflict is also likely to develop between (a) the external minority and (b) the kin-state wherever the interests and thus the political agenda of the two parties do not coincide. (Wolff, 2003: 11)

Regardless of the type of the conflict between the stakeholders, the existence of an external minority sets up a crucial relationship between the kin-state and the host-state. Furthermore, this relationship is one of a distinct conflict, not just determined by *ethnicity*, but also the notion of *territory*. Despite the deterritorialization process of globalization, territory still plays a crucial role in many contemporary conflicts. That is to say, the boundaries separating the state actors of the international system are still

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[20] In its basic form we accept the definition of conflict as "a situation of social tension in which two or more actors who interact with each other pursue incompatible goals, are aware of this incompatibility, and claim to be justified in the pursuit of their particular course of action to realise their goals. See, Wolff (2003: 8).

crucial signifiers of power and thus, sovereignty in the contemporary world[21]. In his innovative work on the politics of territorial organization, Soja determined three functional spheres of territorial organization: the control over the distribution of resources, the maintenance of order and authority, and the legitimization of order through societal integration (Soja 1971: 7). This theoretical discussion was further elaborated by the succeeding works such as the ones of Gottman (1973) and Sack (1986). What they elaborated was to broaden the theory of the territory beyond the significance of the tangible aspects such as size, shape or existing resources to the intangible or symbolic level in which a crucial relation between national identity and territory is established.[22] As Newman pointed out (2004: 14), despite the deterministic account of the previous approach that "ignored the essential symbolic dimensions of territorial attachment experienced by the residents of specific territories", the territorial claims of the parties "are rooted in their perceptions of exclusive ancestral homelands, filled with sites, locations and myths which form an integral part of their national identity formation." As territory becomes the focus of conflicting and thus competing claims by the majority and minority groups[23], it also reflects power relations, indeed power hegemonies between majority and minority groups both in the sense of material and symbolic encounter over the disputed territory.[24] Furthermore, aforementioned symbolic attachment to territory is not just a signifier of the conflict but also a determinant of the resolution. Literature on conflict resolution indicates that intangible factors are more difficult to resolve than material resources. Thus, as Wolff pointed out (2003: 12), "it requires specific conditions and/or mechanisms to detach conflicts involving external minorities from territorial dimension". But, moreover, such a solution must go beyond the dimension of intra-territoriality and reframe the characterization of the relationship between the host-state and kin-state.

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[21] For boundary narratives in the contemporary world politics, see, e.g. Newman & Paasi (1998).

[22] For further elaborations, see, Murphy (1989); Agnew (1994); Knight (1994); Hooson (1994); Taylor (1994, 1995, 1996); Hall & Danta (1996); Herb & Kaplan (1999); Donnan & Wilson (1999); Newman (2004).

[23] Where of course by including the kin-state.

[24] For instance, Kosovo conflict is an ongoing debate where the parties do not just conflict over material resources on a territory, also attach symbolic significance as the cradle of their civilizations.

In this context, due to the specificity of *ethno-territorial cross-border conflicts*, that is "interlinked ethnic and territorial claims and of the involvement (potential or actual) of kin-state and host-state, external minority and host-nation" (Wolff, 2003: 14), by focusing not just on the conflict between the majority holding the state apparatus and national minority, but also by emphasizing the reconciliation between the host-state and the kin-state in the form of good neighbourhood, *Europeanization* as a conflict prevention mechanism of the European Union on ethno-political conflicts may provide valuable insights for the constructive role of third of third parties in conflict resolution. But prior to the analysis of *Europeanization* as a conflict prevention mechanism, to clarify the significant differences, an analysis of the role of third parties in conflict resolution will be presented.

A. 2. Theoretical Approaches in the Conflict Resolution Field: The Role of

Third Parties

As a multidisciplinary discipline, the history of conflict resolution studies can be traced back to the preliminary researches of the 1950's[25]. However, it is the current Post-Cold War period that a variety of conflict resolution theories and practices have become widely recognized in coping with various levels of conflicts from the individual to global. In fact the end of the Cold War did not only pose a threat to the political stability of the nation-states and the international system but also caused a shift in the traditional analysis of war and various forms of armed conflicts. Conflict monitoring projects such as SIPRI, led by Wallensteen and Sollenberg (1995) and PIOMM, led by Schmid and Longman indicated an escalatory trend in the emergence of violent conflicts. Wallensteen and Sollenberg noted that (1995) the world had witnessed ninety-four armed conflicts between 1989 and 1994. Although the two researchers indicated that the number of armed conflicts had decreased slightly, the succeeding work of Longman revealed an unsettling increase in the number of violent conflicts. While there were 22 high-intensity conflicts in mid-1995, this rose to 25 by November 1999. The same trend could also be observed in the frequency of low-intensity conflicts. While there were 31 low- intensity conflicts in 1995, it was 77 in mid-1999 (Longman, cited in Porto 2003: 4). However, beside these terrifying numbers, the complexity of the conflicts had also shifted the nature of contemporary conflicts in conceptual terms. As Miall, Rambsbotham and Woodhouse pointed out, this confusion led to the following question:

"What are we to call these conflicts? Current terminology includes 'internal conflicts' (Brown (ed), 1996), 'new wars' (Kaldor and Vashee (eds.), 1997), 'small wars' (Harding, 1994), 'civil wars' (King, 1997), 'ethnic conflicts' (Stavenhagen, 1996), 'conflict in post-colonial states' (Van de Goor et. al. (eds.), 1996), and so on, ..." (Miall, Rambsbotham and Woodhouse 1999: 66)

Despite this conceptual confusion, statistics reveal that identity politics has been at the center of most of these conflicts. Regehr indicated that nearly two-thirds of

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[25] For a brief history of the development of the field, see, Kriesberg (1997a: 51-63) and Miall, Rambsbotham and Woodhouse (1999: 39-64).

the ongoing conflicts in 1993 could be defined as identity-based (1993; cited in Rasmussen 1997: 30). As quoted above, among these, inter-ethnic tensions were the determinant factor on these conflicts (Harff & Gurr 1997: 5) In this respect, as the ethno-political conflicts between nation-states and ethnic minorities are central to all four cases of this dissertation,[26] I will approach the literature by the question of how this form of ethnopolitical conflicts and their resolution through third party intervention are examined in conflict resolution literature.

Within the broader literature of third party intervention, few studies examine exclusively third party intervention on intrastate conflicts (i.e. Carment 1993; Carment and James 1995a, 1995b; Cooper and Berdal 1993; Licklider 1993, 1995; Ruggie 1993; Mason and Fett 1996; Regan 1996, 1998, 2001, 2002; Harvey 1998). Furthermore, these works represent a wide range of accounts. For instance, the focus of the studies of Carment (1993), Carment and James (1995a and 1995b) is the internalization of these conflicts, particularly the examination of the conditions under which third party interventions will lead to the internalizations of these conflicts; Cooper and Berdal (1993) focus on the motives and strategies of third party intervention, of which they argue that it is *sui generis*; Licklider (1993, 1995) focuses exclusively on how civil conflict could be brought to an end; Ruggie (1993) develops a theory focusing on the strategic dimension of third party intervention; similarly Mason & Fett (1996) assess rational choice approach on the resolution of civil wars; drawing on deterrence theory, Harvey (1998) examines third-party intervention in former Yugoslavia; by drawing on his own data set covering intra-state conflict since 1945, Regan (1996) figures out the conditions for a successful third party intervention, or the conditions under which third parties will intervene in an ongoing intrastate conflict (1998), in a more recent work, he focuses only on operational -military and economic- interventions (2001).

Furthermore, there is not a common understanding of the distinctive characteristics of intra-state conflict. In this context, one of the most systematic analyses of intra-state conflicts, relevant to our cases, is Gurr's survey on ethnopolitical conflicts. In his database entitled *Minorities at Risk*, Gurr defines ethno-political conflict as the conflicts in which "one or more contenders (...) defines itself using communal criteria and makes claims on behalf of the group's collective interests

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[26] For the criteria of case selection, see Chapter 2 on Methodology.

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against the state, or against other communal actors."(1994: 352). He identifies 233 ethnocultural groups that are in conflict with more than 100 nation-state governments (1993: 3-27).[27] In a more recent article (1995) he raises the number of "minorities at risk" to 292, and the number of nation- states that is in conflict with them to 120 (1995: 212-213)[28].

However, some authors such as Rupesinghe, Small and Singer offer conceptualizations which are drawn on the fact that identifying all intrastate with an ethnic label will be too simplistic (Rupesinghe 1987; cited in Regan 1996a: 337). Accordingly, the most common characteristic that a consensus could be built on is the fact that they take place within the internal boundaries of a state.

In addition to this primary conceptual ambiguity, what is likewise essential regarding our cases is the place of third party intervention in these ethnopolitical conflicts.[29] To begin with, it must be underlined that the involvement of intermediaries

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[27] Gurr et.al. (1993: 15) use some systematic distinctions among these politicized communal group, basicly between "national peoples" and "minority peoples". While the former are "regionally concentrated groups that have lost their autonomy to expansionist states but still preserve some of their cultural and linguistic distinctiveness and want to protect or reestablish some degree of politically seperate existence", the latter are generally based on a "defined socioeconomic or political status within larger society (...) and are concerned about protecting or improving that status". They also identifies differing sectors among these groups, namely the "ethnonationalist" and "indigeneous peoples" in the first category, and "ethnoclasses", "militant sects" and "communal contenders" in the latter.

[28] For a minority to be "at risk", Gurr et al. examines whether (1) the group suffers "discrimination" relative to other groups in the country, (2) the group is "disadvantaged from past discrimination," (3) the group is an advantaged minority being challenged," or (4) the group is "mobilized," meaning that "the group (in whole or part) supports one or more political organizations that advocates greater group rights, priveleges, or autonomy". See, Gurr, et. al (1993: 34-60).

[29] See, for instance, Small and Singer (1982), Regan (1996: 338). Small and Singer identifies intra-state conflicts as to be based on three main criteria: (1) they take place within internal borders of a state; (2) one of the combatants is the government in power; (3) the opposition partyhas the resources for resistance. They identify the internal conflicts that do not meet this criteria as communal violence and regional internal wars (1982: 216). In a similar, but one modified with a statiscal criterion, Regan defines intrastate conflict as armed, sustained combat between groups within state boundaries in which there are at least 200 fatalities, not as an annual like the criteron of 1000 battle deaths per year proposed in the Correlates of War project, but rather an aggregate total. (1996a: 338; 2001: 3)

in the settling of disputes has a universal history throughout ages, both in Western and non-Western cultures (Gulliver 1979). Where the parties to a conflict become so tangled that they are not able to find any practical solution to their conflict, third parties can hold a creative position to generate a constructive effect leading a mutually agreeable settlement. Either individuals/group of individuals or governmental/non-governmental institutions who are not directly involved in the conflict,[30] in a large body of theoretical approaches, third parties are regarded as crucial factors in escalating or settling disputes.[31] Ranging from pacific mediation to the implementation of coercive diplomacy through use of force, in its basic form *intervention* can be defined as "any action taken by an actor that is not direct party to the crisis, that is designed to reduce or remove one or more of the problems of bargaining relationship and, therefore, to facilitate the termination of the crisis itself" (Young 1967: 34).

However, although third party intervention has a long history, there is not an all-agreed unified, systematic consideration on third party intervention in intrastate conflicts. Moreover the present literature is not free from conceptual confusions. Today, the issue of third party intervention in conflict resolution is evaluated by a variety of approaches in many disciplines. However, prior to all, even lack of an all-agreed notion of intervention leads a fundamental confusion. Although seems to be in a immature phase when compared with the present developments in the field of third party intervention, in his classic 1969 work focusing on this conceptual ambiguity, James Roseneau pointed out the difficulty of developing a systematic body of knowledge "on conditions under which interventionary behavior is initiated, sustained and abandoned" (1989: 149; cited in Butler 2003: 228). This ambiguity reflected in a variety of approaches in the existing body of literature "is pervaded with discussions of military interventions, propaganda interventions, economic interventions, diplomatic interventions, and ideological interventions, not to mention customs interventions and other highly specific actions through which one state experiences the impact of another" (Roseneau 1969: 344-345; cited in Rioux 2003: 4). In search of a literature on third party intervention which has been sophisticated particularly with the last quarter of the twentieth century, one could witness the same ambiguity today. Rephrasing

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[30] See, Rubin, Pruitt and Kim (1994: 196-223).

[31] For an overview of third party intervention, see, Fisher (2001).

Roseneau's concern on this conceptual ambiguity, Kegley and Hermann (1997, 1996) drew attention to the fact that due to different indices, the same pattern of intervention can be classified as military intervention, another form of intervention and even non-intervention (Butler 2003: 229). For instance, G.C. Huffbauer and Jeffrey J. Schott (1983) and J. Butler (2003) consider it in terms of military intervention; Alastair Smith regards third party intervention in the context of alliances (1996); Thomas G. Weiss focuses exclusively on UN-sanctioned humanitarian interventions (1999); Paul Diehl focuses particularly on UN peacekeeping interventions (1989, 2000).

In this context, the only systematic survey on third party intervention in intrastate conflicts is Regan's dataset identifying third party intervention in intrastate conflicts since the end of the Second World War and 1994.[32] By adopting James Roseneau's two criteria of intervention, namely convention breaking and authority-targeted (1968: 167), Patrick Regan identifies third party intervention in intra-state conflicts as "convention-breaking military and/or economic activities in the internal affairs of a foreign country targeted at the authority structures of the government with the aim of affecting the balance of power between the government and the opposition forces" (2001: 6).

Although the literature emphasizes different kinds of agencies that address different groups or institutions through strategies with differing purposes varying in form and duration, the common point is the necessity of third party intervention. Taking this fact as a point as a premise, the present literature focuses on four basic questions:

(1) WHETHER and WHY to intervene? : The motives of third party intervention.

(2) WHEN to intervene?: The timing of intervention.

(3) HOW to intervene? : Third party roles; levels of intervention; the methods used.

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[32] The statics in this primary work (1996a, 1996b) had further been extended to the period between 1945 and 1999. In a amore recent work (2001), Regan identifies a total of 1043 individual interventions carried out by 74 different third party actos into 101 conflicts.

(4) HOW TO DETERMINE SUCCESS? : The criteria to determine the effectiveness of third party intervention.

The question of whether a third party should intervene into a conflict is mostly evaluated in terms of the intervention of a state. In this context, it can be argued that the role of the third party in the literature is not just to intervene into the conflict as a neutral third party to facilitate or impose a settlement but also a party involving an already ongoing conflict. As a vague question, this has been answered by a collection of literature implementing differing internal and external variables: international politics and the superpower rivalry (Bull 1984; Morganthau 1967; Fetse 1992); the patterns of internal conflict (Pearson 1974a; Khosla 1999; Brecher and Wilkenfeld 1997); geographical proximity (Pearson 1974b, 1984; Heraclides 1990; Khosla 1999); crossnational, transactional and affective linkages (Mitchell 1970; Heraclides 1990); ethnic affinity between the intervening states and the targeted country (Carment and James 1995, 1996; Carment, James and Rowlands 1995; Davis and Moore, 1997; Saideman 1997, 2001); humanitarian considerations (Heraclides 1990; Regan 2000); moral commitments (Blechman 1995); doctrinal policies and bureaucratic struggle (Scott 1996); the effect of refugee flows (Dowty and Louscher 1996); alliance membership (Smith 1996; Levy 1981; Siverson and Starr 1991; Siverson and King 1979); decision-making process of the intervener (Bueno de Mesquita 1985; Blechman 1995; Daalder 1996; Kanter and Brooks 1994; Daalder 1996; Vertzberger 1993; Regan 1996a, 1996b, 1998); nature of the international system (Heraclides 1990; Regan 2000). Although these are among the factors that are regarded to be influential on whether an intervention will occur or not, as Regan states (1998: 756) "(We) do not have a set of logically consistent and empirically verified conditions that increase the likehood that outside actors will intervene in internal conflicts". However, what is shared by a significant amount of theoretical approaches is the position of third parties as important factors on settling or escalating the conflicts. Therefore, taking this fact as a premise, the subsequent part will focus on the questions of when and how the third party intervenes to the conflict.

When considered with aforementioned body of research on the factors affecting on the decision to intervene, a less systematic analysis exists on the factors that affect the timing of the intervention.

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One of the primary works in conflict resolution discipline constructing a model of successful third party intervention is Zartman's strategic assessment of "hurting stalemate" (1989). Zartman claims that in case of a "ripe moment" that is when unilateral solution among the parties are blocked and it is recognized by both parties that this mutually hurting stalemate will hurt all parties, a third party intervention may only be effective. In this context, by creating hurting stalemates to provoke ripe moments third parties could bring the parties to the table.

Holding the same logic with Zartman on the interplay between the timing and the success of third party intervention, a richer literature of phase-based approaches on third party intervention was produced such as the works of Brecher (1994), Bercovitch (1996) Dixon (1996), Lund (1996), Creative Associates (1997) Kriesberg (1997) (Carment & Rowlands 1999). What these works emphasized was the correlation between the stage of the conflict and the right strategy to be chosen for a successful intervention. Drawing on the earlier theoretical accumulation on the timing of third party intervention, one of the major works is the "contingency model" of Fisher and Keashly (1991) which seeks to match the initial third party intervention to the stage of conflict escalation. Drawing on the works of previous theories such as the works of Friedrich Glasl's (1982) and Hugo Prein's (1984) works at the organizational level; they put forward a four-stage model of conflict escalation: (1) discussion, (2) polarization, (3) segregation, (4) destruction. Accordingly, the intensity of the conflict should require a specific strategy of initial intervention. Namely, due to the level of the relation between the parties to the conflict, third party should hold the position of conciliation; consultation; arbitration or power mediation; or forms of peacekeeping, respectively.[33] A similar approach is emphasized by Regan (1996), Brecher and Wilkenfeld (1997). Examining the relation between the level of violence and the probability of third party intervention, they find that the higher level of violence will lead to a higher probability for a third party involvement. According to Regan, escalation is a way to make resistance to a third party intervener costly (1996; cited in Carment and Rowlands 1998: 575). Motivated by the same perception of "ripe moments", this model has been elaborated and sometimes modified by other scholars

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[33] For a detailed information, see, Fisher and Keashley (1990, 1991), Keashley and Fisher (1996), Fisher (2001).

and policy makers such as Daniel Druckman (1986) and Christopher Mitchell (1995)[34]. A literature contrary to this approach arguing that timing and the type of the intervention are not determined by identical factors has also developed in recent years (Rasler 1983; Ayres and Saideman, 2000[35]; Regan 2001; Pence 2003).[36]

Fisher and Keashly assumed that "properly structured, lead interventions would achieve initial effects, and could then be followed by further interventions designed to de-escalate the conflict to the point at which parties could manage it themselves" (2001: 12). This increases the importance of the question of how third party intervention will be shaped.

Depending on the specific nature of the conflict or the parties, the role and the function of the third party may vary significantly, which makes the offer of ideal-typical forms difficult. Thus, the answer to the question of how third party intervention will be shaped will not be a uni-dimensional one, but rather involves elements of a multi-lateral strategy; namely, the actors of the intervention; the role of the third party determining the core of the intervention strategy; the level of third party intervention and finally, the subject of the intervention, that is the actors within the conflicting parties.

Regarding the type of third party intervention, the first dimension is the question of who will intervene as the third party, an individual? A group of individuals? An institution or a group of institutional? Or a state or group of states? An additional question if third party is to be an institution, then a subsequent question will be whether it would a governmental institution or an institution of civil society? These questions were initially developed in Joseph Montville's original distinction between Track I and

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[34] For some critics of the "ripe moment" theories, see, Stedman (1991), Licklider (1993); Hampson 1996.

[35] Ayres and Saideman (2000) analyses to test which factors influence the timing of third party intervention. They assume that the level of violence, the type of the intervention, ethnic ties, strategic interests and colonial relationships as the significant factors on the timing of the intervention, namely by leading to an earlier involvement. Though not exclusively focusing on the timing factor, data on timing as a variable of third party intervention can be found at the dataset on civil wars produced by Regan (1996a, 1996b, 1998, 2001, 2002) and Lemka and Regan (2003).

[36] Another important dimension of studies on timing of the intervention is the interplay between timing of the intervention and the duration of the conflicts.

Track II diplomacy (1991), namely traditional diplomatic activities and unofficial, non-governmental initiatives, respectively (1991: 262). Drawing on the original model of Montville, John McDonald and Louise Diamond (1991) expanded the model to a nine-track framework, named by the two authors as "multi-track diplomacy".[37] This approach has also been maintained by Rupesinghe by assuming that in case of relying on interventions by different actors at different levels, a "multi-track approach" may be necessary (1996)

As the relevance of civil actors gained more supremacy, the sophistication of the third party roles has also developed. This makes it difficult to propose a unique, standard scheme of third party intervention strategies. To some extent, this is also due to the dominance of original features in a conflict, than commonalities[38]. The current literature on third party intervention can be analyzed under two broad categories, namely some focus on the roles; others focus on the strategies of third parties. For instance, Pruitt and Rubin offer a dichotomous scheme of third party roles: formal vs. informal roles; individual vs. representative roles; invited vs. non-invited roles; impartial vs. partial roles; advisory vs. directive roles; inter-personal vs. intergroup roles; and content-oriented vs. process-oriented goals (1986). Stulberg offers the following roles: catalyst, educator, translator, resource-expander, bearer of bad news, agent of reality, and scapegoat (1987). Linking differing roles of third parties to the appropriate stages of the conflict, more dynamic schemes have been offered by some authors like Kriesberg (1996); Susskind and Cruikshank (1987). Kriesberg, for example proposes third party roles as from preparing to de-escalate, initiating negotiations, conducting negotiations and eventually implementing agreements. These require, according to Kriesberg different third party roles such as formal mediator, informal third parties or quasi-mediators (Kriesberg 1996; cited in Fisher 2001: 14-15). This contingency approach can also be observed in the work of Susskind and Cruikshank

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[37] In this developed version of a five-track model proposed by McDonald in 1989, these actors are: (1) government; (2) professional conflict resolution; (3) business; (4) private citizens; (5) research, training and education; (6) activism; (7) religious; (8) funding; and (9) public opinion/communication.

[38] Cooper and Berdal, for example, argue that third-party intervention is *sui-generis* (1993). In this regard, as Carment and Rowlands pointed out, "despite the plea for increased doctrinal clarity, there remain few systematic and theoretical studies of third-party intervention in intrastate disputes (Carment and Rowlands, 1998: 574)

who propose that a change in the intensity of the conflict is also going to be reflected in third party roles and strategies (Susskind and Cruikshank 1987; cited in Baechler 1999)

Depending on their roles, third parties intervene in a conflict at three basic levels: on the level of the relationship between parties; on the level of the conflict process; on the level of the content (Baecher 1999). Trying to change the dynamics of the conflict for a mutually agreeable point of settlement, third parties may engage in various strategies from low-intensity interventions with the aim of forming a common ground for understanding among parties to high-intensity intervention such as shaping and imposing agreements to the parties even in the form of militarily-based strategies of peacekeeping. For instance Fisher offers a six-fold typology of pacific interventions directed at international level: conciliation, consultation, pure mediation, power mediation, arbitration, and peacekeeping (2001: 11)[39] Similarly Rioux indicates varying levels and forms ranging from "discussion of the problem in international or bilateral fora" to peacekeeping or military intervention, namely, discussion, fact-finding, good offices, condemnation, a 'call for action', mediation or conciliation, arbitration, sanctions, and eventually peacekeeping or military intervention (2003: 6-7); Ropers differentiates three basic roles: directive facilitation, non-directive mediation and directive mediation (1995: 44-49); in a more recent study, he distinguishes basic forms of intervention as good offices, facilitation and mediation, formal and informal arbitration/litigation, and power mediation (1997: 5-7). Beside these issue-based intervention roles, Ropers also assumes that a relation-based approach of consultation could constructively transform conflict, by combined with others forms of constructive actions such as "traning sessions in methods of communication, negotiation and mediation; the organizations of programmes of encounter and exchange; the initiation of bi- or multi-ethnic projects designed to improve shared living conditions, and so on" (Ropers 1997: 8-11). Similar comprehensive typologies of conflict management principles were also provided by Haas (1983), Esman (1995) and Dixon (1996).

For the purposes of this dissertation, I prefer an adoption of a four-fold typology of Roper which would indicate the level or the content of the third party intervention and the actors that are subject to third party intervention, namely process

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[39] For a full description of this taxonomy of third party intervention, see, Fisher and Keashly (1990: 211-238).

oriented/micro-level approaches or structure-related/macro-level approaches; and realm of states or the realms of societies, respectively. These can be displayed in such a scheme:

Table 1. Approaches to Constructive Conflict Intervention in the World of States and the Societal World.

Source: Ropers 1997: 16.

	World/Realm of States	Societal World/Realm of Societies
Process-oriented/ micro-level approaches	Crisis management	Peace-building
	Mediation (Track 1)	Consultation (Track 2)
	Peace-making	Civilian Peace-keeping
	Peace-keeping	
	Ad hoc regulations for the protection of minorities	
Structure-related/ macro-level approaches	Legal embodiment of protection of minorities	Macro-political peace building:
	Regime-formation for the protection of minorities	Creation of "peace constituencies and a "culture of peace"
	Power sharing	
	Autonomy	Promotion of multi-ethnic structures and loyalties
	Federalism	

By altering the two-fold classical actor and/or process categorization (Ropers 1995: 30), this categorization provides a multilateral framework. To begin with, micro-activities in the realm of states indicate generally the initiatives of negotiations, mostly undertaken when the conflict has reached its ripe moment so that there occurs urgent need for finding compromises through third party intervention. The strategy generally employed at this point is crisis management. However, when the causes of the conflict are grounded on deep historical conflict and/or socio-psychological sentiments, it may not be possible to resolve the conflict with ad hoc interventions. In this regard, the third party intervention may resort to structural management directly targeted to state structure. The main mechanisms proposed are: secession/partition; power sharing;

federalism and autonomy. It must be underlined that such power sharing arrangements can also be based on non-territorial principles.

In search for a more viable settlement, the essential question is whether these interventions directed to state and/or ethnopolitical leadership could offer a lasting, constructive solution, which would transform the latent or potential causes of the conflict. In this context, regarding micro-activities in ethnopolitical conflict regulation targeted at the realm of societies, Ropers indicates the two fundamental arguments: "first, the observation that ethnopolitical conflicts are not conducted only at the leadership level, but are interwoven with social structures in many diverse ways and thus affect the most desperate kinds of social actors; secondly, the thesis that the successful handling of such conflicts calls for concepts and strategies which state actors cannot develop or implement on their own." (1995: 34-35) In this regard, the third party intervention initiatives are targeted at the actors within the realm of society, namely through Track-II diplomacy (Diamond and McDonald 1993). These may be realized under two frameworks: either micro-activities/process-oriented approach or macro-activities/structure-related approaches. The main strategy used in this level is peace-building which predicts a long-lasting process of accommodation between the sectors within the societies. However, when it is considered that the potential ethno-political conflicts presented challenges to the varied segments of the society as a whole, the micro-level initiatives needs to be improved and cover a broader time zone. Accordingly, the last position that has been categorized as macro activities in the realm of societies predicts the overcoming of differences of opinion, so that both parties would "win" with that culture of compromise.[40]

This figure is also not free from deficiencies in explaining the complexity of third party interventions on the ground. However, it provides us a basic distinction between interventions directed at the process of a conflict which is generally ad hoc responses to conflicts and structure-related approaches which aim to re-structure the dynamics of the conflict for a durable settlement of the conflict. A remarkable distinction also emerges when the aforementioned approaches on third party intervention on conflict resolution is examined. It is considerable that most of the literature focuses on process-oriented/micro-level approaches. This fact also identifies

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[40] See, Rubin (1994: 33-45), and Fisher and Ury (1991; cited in Ropers 1995: 40).

the framework of the next section, namely the conflict resolution perspective of the European Union on the Western Balkans, which are exclusively motivated by a structure-related approach.

Finally, under these conditions, the question of the effectiveness emerges as another dimension reflecting the complexity of the issue of third party intervention. In case of an armed conflict, the secession of violence has often been referred as an indicator of a successful third party intervention. For instance, adopting the same framework of reference for the termination of armed conflict within the Correlates of War Data (Bremer, Jones and Singer 1997) and Diehl's (1993) criteria of successful peacekeeping interventions, Regan conceived success with the criteria of the cessation of armed conflicts at least for a period of six months" (Regan 2000) He argues that

"while stopping the fighting for this relatively short period of time would rarely even approach a resolution of the underlying issues at stake, six months without military hostilities can a) give policymakers a cause to claim success with their policy, and b) give a sufficient break in the fighting to initiate meaningful dialogue in an effort to resolve the underlying causes of the causes of the conflict." (Regan 2000)

Following the same approach, Diehl, Reifschneider and Hensel (1996; cited in Rioux 2003: 12) propose a ten-year principle to evaluate the effect of UN interventions in Latin America. However, Hampson (1996) argues that the criteria for success should not only be the cessation of violence for a determined period but also the parties' satisfaction and hence respect of the outcome of which proposes a mutual gain (cited in Rioux 2003: 13). This approach favoring success in terms of specific improvements "toward a negotiated settlement or a lasting peace" was advocated by some analysts, (Stern and Druckman 2000: 44). For example, Fisher offers a number of indicators to evaluate the effectiveness of third-party mediation, such as the rate of settlement, satisfaction of parties, change in attitudes and relationship between the conflicting parties, and, compliance with agreement (Fisher 2001: 21)[41]. Holding a similar logic, Stedman (1997; Stern and Druckman 2000: 44) conceives success as "the weakening of actors opposed to the peace process vis-à-vis those engaged in it". In this regard, as

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[41] See also, Kressel and Pruitt (1989) and Kressel (2000); cited in Fisher (2001: 21).

Rioux identified, by holding different approaches[42], we can outline several ways to measure success or failure of third party intervention. In this regard the correlation between the third party roles and the strategies used is an important variable to determine success. In elucidating this contingency approach, Fisher, for instance, argues that "one should not criticize mediation because the underlying attitudes of the parties remain unchanged, or consultation because it does not lead directly to the settlement of the dispute" (Fisher 2001: 21). To conclude, the degree of success may depend a variety of results ranging from the ones indicating "negative peace" in the form of the reduction or termination of violence, to the "positive peace", that is the transformation of attitudes and relationship between the conflicting parties (Galtung 1969; cited in Stern and Druckman 2000: 44).

In the following chapters, these theoretical frameworks on third party intervention will be analyzed in the context of the European Union to evaluate how these are applied in theory and in practice in specific case studies and identify the degree of success.

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[42] Such as "bureaucratic process" approach, "humanitarian approach", "utilitarian approach", "protracted conflict management approach", and a "problemsolving approach"; cited in Rioux (2003: 13).

A.3. European Integration Studies

Within the realm of International Relations and Political Science, one can witness a considerable literature on the relationship between integration and peace. In the course of decades the international integration theory has passed through various phases. In its pioneering work, *the Uniting of Europe* (1958), Ernst Haas wrote the European Coal and Steel Community. Followed by his subsequent works[43], Haas' account of neo-functionalism was based on two fundamentals: the concept of spill-over and the self interest of political elites as the driving force of integration. According to this early account of integration, "rather than relying upon a scheme of integration which posits 'altruistic' motives as the conditioners of conduct, it seems more reasonable to focus on the interests and values defended by them as far too complex to be described in such simple terms as "the desire of Franco-German peace" or "the will to a United Europe"' (Haas 1958: 13; Haas 1991: 23). Initiated by these goal- or interest-oriented actors, integration would "spill-over" quasi-automatically (Haas 1991: 23). As a process driven both by these interest-oriented acts of political elites and the impact epistemic communities drawing on a high level of technical expertise[44], the theory starts with the presupposition of a distinction between high politics and low politics, the former referring to the questions of national defense and security (Hodges 1972: 24), and the latter referring to economic aspects of policy making. According to this approach, functional economic cooperation in areas where there is little conflict would spillover to political coo-operation. Thus, economics would permeate political realms and the distinction between high and low-politics would become blurred (Tannam 2004: 4). To sum up, led by an interest-based account, the hypothesis was that common economic interests would lead to economic cross-border co-operation, and eventually political cross-border co-operation.

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[43] See for instance, Haas (1961, 1967, 1976, 1991), cited in T. Christiansen, K.E. Jørgensen and A. Wienner (eds), *The Social Construction of Europe*, Thousand Oaks: Sage Publications, pp. 22-31.; Haas, E.B. and Schimitter, P.C. (1964) 'Economics and differential patterns of political integration', *International Organization* 18(4): 705-37.

[44] Haas defines epistemic communities as "associations of professional experts in a particular field who, because of the knowledge they have, have an unusual influence on politicians and bureaucracts, and are, therefore, able to penetrate government departments and make their ideas part of policy". (2000: 10).

Following this line of thinking, Lindberg studied on the EEC (1963[45]), in which he also applied the concept of spill-over and expansive logic of integration. The same account has also been applied by the representatives of this neo-functionalist approach to the emergence of European integration (Lindenberg and Scheingold 1972; Harrison 1978; Hodges 1972). However, in contrast to that neo-functionalist account based on a functionalist spill-over, Karl Deutsch introduced a transactionalist account on attitudes and behaviour leading a "sense of community" among the parties. Deutsch et al. defined this "sense of community" as "a matter of mutual sympathies and loyalty; of 'we-feeling', trust, and mutual consideration of partial identification in terms of semi-images and interests; of mutually successful predictions of behaviour, and of cooperative action in accordance with it." (1957: 36) This emphasis on the role of the intensification of communication networks as a precondition to the formation of security communities have been recently adopted by the constructivist scholars Adler and Barnett,[46] who put the construction of "cognitive regions" at the center of security communities.

As Celik and Rumelili pointed out, the integration experience of the European Union has been recognized in almost all theories of international peace and cooperation: "the integration theories of the 1960s and 70s emphasizing transaction density (e.g. Haas, 1958; Nye, 1971), the institutionalist theories of the 1970s and 80s, focusing on issue linkage, and finally, the constructivist theories of the 1990s, underlying the importance of shared norms and collective identity for stable peace (e.g. Wæver, 1998)" (Celik and Rumelili 2004: 2-3).

Although in this sense the European Union was often regarded as a successful example of conflict transformation (Wallensteen 2002), the promise that integration would ensure peace (Higashino 2003) was going to be approached from different theoretical accounts from the 1960s onwards. The early functionalist integration studies of the 1960s have viewed the forging of a security community by underlying a geographical growth (Deutsch 1970: 4, 43-44; Haas 1968: 313-17; Schmitter 1969: 165;

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[45] Lindberg, Leon N. (1963), The Political Dynamics of European Economic Integration. Stanford: Stanford University Press.

[46] See, Adler and Barnett (1996: 63-72), Adler and Barnett (1998b), and Adler (1997 b); cited in Väyrynen (2000: 172-173).

cited in Schimmelfennig and Sedelmeier 2002: 501). However, the following debate of the 1970s was rather going to focus further on the political framework of this territorial integration, that is the "constitutional debate" of the emerging European Union with a more state-centered focus (Friedrich 1969; cited in Pace and Stetter 2003: 13; 17). This also marked the the construction of a polity-building issue which was going to be elaborated in the 1980s and early 1990s liberal inter-governmentalist/supranationalist approaches focusing exclusively upon issues of 'deepening' the integration through policy making acts such as the Single European Act (1986) and the Economic and Monetary Union (EMU). As a response to political realities of post-Cold War period, these studies were further elaborated by a constructivist approach such as the dynamic model offered by Adler and Barnett (1998). According to these two authors, in world where interests, borders and identities are constantly shaped and reshaped within further future inter/-trans- actions, identifying the factors that led the formation of the (Western) European security community could provide the transfer of models of political organizations. This could lead a new way of thinking about global security in both theory and practice (Adler and Barnett 1998; cited in Pace and Shetter 2003: 14). Elaborating the debate on the formation of security communities in a sociological framework, in his "seduction model of security" McSweeney asserted that these security communities would be "partly unintended product of reflexive agents" (1999: 170; cited in Pace and Shetter 2003: 15) when the parties realize their security and interests are attainable in these communities. However, the aforementioned theoretical approach tried to construct the emergence of such security communities, they did not particularly analyze how such bodies of transnational organizations could prevent the emergence of conflicts or the management of conflicts at present.

In this regard, although he did not propose a systematic analysis of conflict resolution possibilities of the European Union, Ole Wæver offers a novel conceptual ground on the relationship between integration and peace. By recognizing (Western) European integration as a mechanism of *desecuritisation*, Wæver signifies the power of the European Union in reducing the security problems between previous conflicting parties to mere economic issues which could be resolved by cooperation (2003: 13).

The conditions under which EU could transform border conflicts has been recently developed by Diez, Stetter and Albert (2004) through a theoretical framework

of four courses of influence by the European Union on conflicting parties. In their framework proposing four paths of influence, the authors argue that the European Union could have an impact on the resolution of such conflicts both within its territory through the mechanisms of integration and beyond its borders through association agreements. In the first path, relevant to an actor-driven framework, the EU employs direct intervention of carrot or stick policy of granting or withdrawing membership negotiations leading to integration with the EU (*compulsory effect*).[47] Path two relates to provision of a common reference point for primarily political leadership through the structural and discursive framework of the EU (particularly through *acquis communautaire*) (*enabling impact*). While these two paths refer primarily to political leadership, path three is directed principally towards wider societal level which involves direct support activities of civil society actors, financially or organizationally, by the EU (*connective impact*). Simultaneously, this is considered to lead to path four, which is the creation of a new discursive identity structures at the societal level (*constructive impact*).[48] (see Table 2)

Table 2: Pathways of EU impact

Source: Diez, T., Stetter, S., Albert, M. 2004: 20

Approach by EU

	Actor-driven	**Structural**
primarily political leadership	(1)compulsory impact	(3)enabling impact
principally wider societal level	(2)connective impact	(4)constructive impact

Unlike the previous approaches which sees the European integration as a process that would enable cooperation between partners and reduce conflict, the groundbreaking aspect of this work was that it also included the strategies for the EU to act as an actor in resolving conflicts. However, in practice, membership conditionality as a structural form

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[47] What must be underlined here is that this carrot or stick policy is exclusively employed for non-member countries, but not preferably for member-countries.

[48] For the implementation of the theoretical framework of Diez, Stetter and Albert (2004) on both the cases within the EU and beyond its borders, see Pace (2004).

of prevention of the EU is still motivated by *one-size fits-all approach*. In this regard, further elaborations of the neo-functionalist approach (Lindenberg and Scheingold 1972; Harrison 1978; Hodges 1972) which call for the overcome of national divisions in Europe that would eventually provide its member with a common identity (Wæver 1998; Wallace 1999; Diez 2004) is the prevailing approach in the studies of European integration. However, the inflexible nature of conflict zones in the periphery of the EU risks the relevancy of mere structural configurations for attaining peace among previous adversaries. This challenge will further be elaborated in the cases of this dissertation.

A. 4. The Conflict Resolution Perspective of the European Union: Actor or Framework?

The European Union is one of the leading, but ironically also a latecomer, international bodies acknowledging the importance of conflict prevention and improving its capacity for conflict prevention and peace-building. The Coal and Steel Community (ECSC) was an initiative established to transform patterns of conflict between two historical adversaries to a culture of cooperation through peaceful resolution of conflicts among them. Until the 1990s the EU's -then European Community's- 'traditional' instruments to prevent possible conflicts were rather economic incentives and regional integration, such as its common trade policy, terminating association and cooperation accords, provision of humanitarian and economic development assistance and undertaking programs for economic and technical cooperation. During the 1970s these initiatives were further improved by the framework of the Conference for Security and Cooperation in Europe (CSCE). The same decade had also witnessed the specific experiences of conflict prevention initiatives, like Euro-Arab dialogue and specific initiatives in Africa such as South Africa, Angola, Mozambique, Rhodesia etc. (Barbé and Johansson 2001)[49]. Yet these were not covered within a systematic framework of conflict prevention.

Following the fall of Berlin Wall, a post-bipolar international system urged the construction of a new security structure for Europe as the rest of the world. These debates were covered in concrete forms in the Lisbon Summit of the European Council in 1992 which would provide the EU with the conceptual tools of its novel conflict

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[49] In the period of 1995-1998 the European Union was going to adopt several documents of peace-building, conflict prevention and resolution focusing exclusively on African conflicts such as the December 4, 1995 conclusions of the Council on "Preventive Diplomacy, Conflict Resolution and Peacekeeping in Africa"; March 6, 1996 Commission communication on "The European Union and the Issue of Conflicts in Africa: Peacebuilding, Conflict Prevention and Beyond"; the June 2, 1997 Common Position on "Conflict Prevention and Resolution in Africa; the June 5, 1997 Council Resolution on "Coherence", and the Council's Resolution of November 28, 1998 entitled "The Role of Development Co-operation in Strengthening Peace-building, Conflict Prevention and Resolution". This document was decisive that it emphasized the need for the resolution approved so far relevant ro the African continent could be extended to all developing countries, in addition its binding feature in future EU member-state policies.

prevention strategy by the mission "to promote democratic principles, respect for human rights and minorities and furthering of cooperation at regional and international level" (Barbé and Johansson 2001). These were the nucleus of Copenhagen criteria (1993) that were going to be among the fundamental mechanisms of the Union in creating a common framework for the 'common house of Europe'. In this sense, these regulations were one of the fundamental pillars of 'Europeanization', which would be an aspect of structural prevention initiatives of the European Union. Prior to the Treaty of Amsterdam (1997) by which the EU developed formal instruments for conflict prevention[50], the crisis of the early 1990s such as genocides in Bosnia and Rwanda and the alarming security threats to the international community underlined the need for a holistic approach "addressing the social, economic and political circumstances underpinning conflicts, namely their root causes"[51]. This led the implementation of the conceptual framework of "structural stability" as the objective of the conflict prevention initiatives of the Union[52], that is the sustainable economic development, democracy and respect for human rights, viable political structures and healthy environmental and social conditions with the capacity to manage change without resorting to conflict.[53]

The Treaty of Amsterdam elucidated the EU's mandate in terms of conflict prevention and ordered the use of Special Representatives. The established means of conflict prevention were:

- Development cooperation and external assistance
- Trade policy initiatives
- Humanitarian aid
- Social and environmental policies
- Diplomatic instruments and political dialogue

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[50] See, International Crisis Group Report No.2, 6.

[51] European Parliament, Directorate General for Research, Briefing Note 1/2001, (March 2001):2.

[52] The concept was coined by the Commission in its 1996 Commission on Conflict Prevention.

[53] European Commission, "Communication from the Commission on Conflict Prevention," (COM (2001) 211 final) (11 April 2001)

- Cooperation with international partners and NGO's
- New crisis management instruments.[54]

Furthermore the Treaty included the humanitarian missions and rescue, missions of peacekeeping and missions in which combat forces may intervene for crisis management, including peace making missions (Petersberg Tasks) as the focus for the Union's evolving security and defense policy (Barbé and Johansson, 2001).

Since the Treaty of Amsterdam, numerous developments in the field of conflict prevention have emerged both in the legal and institutional level. In 1997, the Conflict Prevention Network (CPN), the European Platform for Conflict Prevention and Transformation, the Forum for Early Warning and Early Response (FEWER), the CFSP information network COREU and the Electronic Bulletin Board were created to exchange information on crisis developments and formulate political measures by providing policy oriented analyses in cooperation with civil society actors, NGO's (Debiel and Fischer 2000: 6-7)

In Cologne (June 3-4, 1999), the European Union expressed its commitment on strengthening the Common European Policy on Security and Defence by emphasizing that "the Council should have the ability to take decisions on the full range of conflict prevention and crisis management tasks defined in the Treaty on European Union, the "Petersberg tasks". To this end, the Union must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises without prejudice to actions by NATO. The EU will thereby increase its ability to contribute to international peace and security in accordance with the principles of the UN Charter"[55]. This emphasis on military capability was further elaborated in the Helsinki European Council in 1999 (December, 10-11). In Helsinki, it was committed that "to assume their responsibilities across the full range of conflict prevention and crisis management tasks defined in the EU Treaty, the Petersberg tasks, the Member States have decided to develop more effective military capabilities and establish new political and military structures for

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[54] See, Barnes (2002: 1).

[55] Presidency Conclusions, Cologne European Council, 3-4 June 1999. Annex III, Article I.

these tasks. In this connection, the objective is for the Union to have an autonomous capacity to take decisions and, where NATO as a whole is not engaged, to launch and then to conduct EU-led military operations in response to international crises." It was also proposed that "the Union will improve and make more effective use of resources in civilian crisis management".[56]

Furthermore, at the Göteborg European Council in 2001 (June, 15-16), in terms of strengthening conflict prevention capability, the Council approved the creation of the 'EU Programme for the Prevention of Violent Conflicts', "which will improve the Union's capacity to undertake coherent early warning, analysis and action. Conflict prevention is one of the main objectives of the Union's external relations and should be integrated in all its relevant aspects, including the European Security and Defence Policy, development cooperation and trade. Future Presidencies, the Commission and the Secretary-General/High Representative are invited to promote the implementation of the programmes and to make recommendations for its further development. The European Council welcomes Swedish readiness to host a regional meeting with organizations involved in conflict prevention in Europe."[57]

Although it seems that decisive initiatives had been taken to strengthen the conflict prevention capability of the European Union from the early 1990s to 2000s, it must be underlined that conflict prevention is only one of the three main tasks of the CFSP, which is aimed to produce a common the foreign policy, beside military crisis management and civilian crisis management. In this context, the main conflict prevention mechanisms are political dialogue, appointment of Special Representatives, civilian crisis management instruments, early-warning mechanisms and inter-institutional cooperations and finally military instruments.[58] While such mechanisms have been employed with functional motivations, with non-candidate countries such as

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[56] Presidency Conclusions, Helsinki European Council, 10-11 December 1999. Annex 4, "Presidency Reports to the Helsinki European Council on ' Strenghtening the Common European Policy on Security and Defence' and on 'Non-Military Crisis Management of the European Union."

[57] Presidency Conclusions, Göteborg European Council, 15-16 June 2001. "The Future of Europe", Article 52.

[58] See, Barbé and Johansson (2001: 4-5).

Lomé-Cotonou Accords, MERCOSUR, ECOWAS, ASEAN Regional Forum, the Northern Dimension and Euro-Mediterranean Partnership (Barbé and Johansson, 2001: 2), as elaborated by Diez, Stetter and Albert (2004), the acknowledgment of membership has been the fundamental instrument of the EU in near-periphery regions, which was tried to be implemented through the process of 'Europeanization'.

A. 5. Europeanization as a Method of Conflict Resolution

Europeanization is a popular, but a contested conceptual arena. The scholarly interest on using it as an analytical concept has come to the fore particularly over the last decade. However, a common definition could not be agreed on yet. This conceptual confusion has even led for some authors to argue that as the term itself does not have a single precise or stable meaning, it is so unwieldy that it is futile to use it as an organizing concept (Kassim 2000: 238; cited in Olsen, 2002).

Then, what is Europeanization? Goetz and Hix proposed that Europeanization literature differed from the preceding studies on European integration by its *analytical focus* (2001: 1-2). Taken this conceptual base as a premise, scholars of European studies have proposed different definitions of the concept.[59] However, what is common to all is the process of *domestic change,* due to a twofold interaction between the European and domestic levels.[60]

Taking this crucial element of change as a premise, in its basic form Europeanization can be conceptualized as "a process of change at the national level in which member states adapt their domestic structures to the new practices, norms, rules, and procedures of the European system of governance" (Dobre 2003: 57). Considering the asymmetrical relationship between the EU and the individual states, Europeanization can also be recognized as a foreign policy instrument of the Union. (Noutcheva et. al. 2004: 7). Although the impact of the EU strategies could vary from case to case in theory, the impact of EU institutions and policies on the individual states at the periphery of the Union, which are generally potential candidates of membership, can be observed in three main levels: "(1) the legal and administrative structures of

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[59] For different conceptualizations of Europeanization, see, Ladrech (1994), Meny, Muller and Quermonne (1996), Olsen (2002), Risse, Cowles and Caporaso (2001), Radaelli (2003), Dobre (2003), Winn and Harris (2003).

[60] In this context Noutcheva et.al differentiates Europeanization exclusively in the EU context and Europeanization in the context of the EU's periphery. While in the former the there is a two-way relationship betwen the structure, the EU, and the agency, member state, in which they shape each other's course; in the latter relationship the agency, the non-member state is just bounded by the reguations taken by the mechanisms of the EU. See, Noutcheva et. al. (2004: 7).

domestic institutions; (2) domestic economic, social or security policies; and (3) social changes in general, including changes in political representation, the party system, interest groups, domestic discourses, identities and other subjective aspects of politics" (Noutcheva et. al. 2004: 7).

In this context, although not always coincide with the distinction of policies applied to *within* and *outside* or periphery of Europe, a basic distinction has to be made in the conflict prevention style of EU. As elucidated in the aforementioned section, conflict prevention mechanism is divided into two broad frameworks as crisis management/preventive diplomacy and structural prevention. In parallel to this distinction it is central to our debate to distinguish between two conflict management style of the EU: 'EU as an actor', that is a third party to a conflict, and 'EU as a framework'.

In the first dimension EU enters the conflict situation as an active player and uses both official and non-official strategies[61] to guide the parties to an agreement. Although the EU could use incentives or disincentives for the settlement of a long-term, durable solution, it has to be underlined that it enters the conflict cycle as an external actor. This includes operational prevention, that is the involvement of a third party to the conflict to create the necessary conditions for the parties to the conflict in which they could negotiate on the problems that led to the conflict.

Contrary to the first dimension, in its role as a framework the EU provides additional constitutional and policy choices for the settlement of an institutional and constitutional structure that could provide the settlement of the conflict for a long-term agreement. The eventual aim in this process is the creation of a culture of prevention, which is covered in the conceptual framework of Europeanization within the context of EU's policy towards its periphery.[62] Relevant to our cases, over the last decade, particularly through its process of eastern enlargement, the EU developed

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[61] See p. 23.

[62] For a more detailed explanation on the distinction between EU as an actor organization and EU as a framework, see, Hill (2001: 325), Noutcheva et. al. (2004: 9-11) and Tocci (2004: 7-15).

'conditionality' as the main mechanism of Europeanization.[63] By using carrot and sticks policy on the way to the EU membership uses various conditionality mechanisms. Heather Grabbe elucidates five mechanisms of conditionality: (1) provision of legislative and institutional templates; (2) money: aid and technical assistance; (3) benchmarking and monitoring; (4) advice and twinning; (5) gate keeping: access to negotiations and further stages in the accession process, as the most powerful conditionality instrument (2002: 9-11). According to Marino Cowles, James Caporaso and Thomas Risse, these adaptational mechanisms are likely to success due to the "goodness of fit" between domestic and EU practices (Cowles, Caparosa and Risse 2001; cited in Noutcheva 2004: 13).[64]

The next chapter will be on the analysis of the evolution of EU presence in the Western Balkans which indicates a clear progress from a role of a third party actor in the resolution of conflicts to a 'model' of the EU providing a 'framework' to be adopted for the prevention of further conflict as a ground for a stable peace.

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[63] For more empirical data on the policy of Europeanization and the response of individual states in different levels of policy-making, see, Cowles, Caporaso and Risse (eds.) (2001), Knill (2001), George (2001), Goetz and Hix (eds.) (2001), Börzel (2003), Feldman (2003), Bulmer and Radaelli (2004), Lindstrom and Piroska (2004).

[64] For a detailed account of possible levels of change, see, Héritier (1998).

A. 6. EU Involvement in Western Balkans: From Stabilisation to Integration

A. 6. 1. The EUropeans in the former Yugoslavia

On June 28, 1991, Jacques Poos, Luxembourg's then-Foreign Minister was speaking to the press on leaving for the first EC ministerial mission to stop the war in Yugoslavia. One of his remarks became the sign of the irony of then the EC policies on the region: "This is the hour of Europe."[65] In fact, as pointed by Zucconi, "especially in the early phase of the conflict, the Community took up a broad commitment that went far beyond anything it had previously done in the global arena" (1996: 237). Indeed the EC already had the signs to be suspicious of its conflict prevention capability such as the lack of relevant institutions and strategies to formulate and implement the necessary steps.

In fact, Yugoslavia's break-up and the outburst of violence were not an unexpected or a sudden event. Rather, it revealed itself stage by stage following the walkout of the Slovenian delegation in January 1990 from the congress of the Yugoslav Communist Party. The subsequent multiparty elections in 1990, which brought the non-Communist parties to power in Slovenia, Croatia, Serbia and Bosnia-Herzegovina, made it clear that the Yugoslav republics are drifting apart and were ready to use force to achieve their political objectives.[66] Furthermore, the political collapse was accelerated by the deep economic crisis and structural adjustment programmes imposed by the IMF. This further strengthened the decision of the richer northern republics of Slovenia and Croatia to abandon the FSRY (Silber and Little 1996: 196-201; cf. Väyrynen 1997[67]). However, by the international community, it was regarded as a similar political crisis of the Eastern Europe. Thus, "its complexity and divergence from these patterns in Eastern Europe was, for the most part, ignored." (Mahmutcehayić, 2001) Thus, while the conflict was escalating in April and May 1991, the EC had initially offered additional loans, credits and an association agreement with Yugoslavia as an incentive to keep the republics together. However, for the republican leaders who were already left their

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[65] Riding (1991), cited in Zucconi (1996: 273)

[66] See,Väyrynen 2000.

[67] Silber and Little (1996: 196-201).

vision of the Yugoslav federation[68], these carrots without accompanying a comprehensive political strategy could not be regarded as a deterrent factor to prevent the conflict.

At this point, it can be judged that the EC had already failed in the timing of third party intervention, when it is considered that the Croatia began its preparation for war by the formation of volunteer defense units (Croats Defence Forces, *Hrvatske Obrambene Snage*, HOS) mostly composed of the members of the Croatian Democratic Union (HDZ) which was transformed into the first brigades called Croatian National Guard (*Zbor Narodne Garde*, ZND) in the spring of 1991 (Goldstein 2001: 225). Subsequent to that, in March 1991, the JNA (Yugoslav National Army) was going to resort force to suppress the rebel of the local Serbs in Croatia on the side of the ethnic Serbs which was going to be followed by a ten-day war to reassert the control of the FSRY's international border against Slovenia's declaration of independence on 25 June (Lund 1996: 60; Goldstein 2001: 218-236; Judah 1997: 168-190).

Having failed at preventing the outburst of the armed conflict, the initial international diplomacy entered Yugoslavia in May 1991, when the EC sent a mission to Yugoslavia, headed by Jacques Delors and Jacques Santer by the objective of promoting a peaceful settlement. After the JNA opted to use force to prevent the independence of Slovenia and Croatia, on July 5, the Community suspended all financial aid and banned arms exports to Yugoslavia to support its facilitation efforts at Brioni.[69] Under the leadership of Hans van den Broek, EU mediated the signing of the Brioni Agreement on July 7, 1991[70]. This "Common Declaration for a Peaceful Solution of the Yugoslav Crisis" aimed to freeze the independence declarations for three-months so that the parties could negotiate for a political solution. The EC also sent CSCE -sponsored

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[68] Except the Macedonian and Bosnian leadership who was going to present their "four-plus-two plan" uniting federal and confederal schemes to solve the crisis by proposing a confederal link between Croatia and Slovenia and a federation consists of the other four Republics, see, Tanner (1997: 248). Indeed, for Slovenia and Croatia, the only acceptable solution under the name of Yugoslavia was again a loose con-federal system. See, Judah (1997: 180).

[69] The United States supported the arms embargo in September 1991 by mobilising the UN to declare an arms embargo to all parties. See, UN Security Council Resolution 713.

[70] Brioni Agreements in Europe Documents, no. 1725, July 16, 1991.

missions to Slovenia and Croatia to monitor the implementation of the ceasefire. However, the Brioni agreement was harshly criticized mainly as it "left every important item of contention unresolved" (Silber & Little 1996: 166) Furthermore, as Woodward pointed out, the agreement provided the nationalist forces in Croatia, Serbia and Slovenia to recover their power, while weakening the position of the supporters of the federal structure in military and political platforms. (1995a: 168-170)

While the EC adopted a facilitator role in Brioni Agreement, moved by the same principle of finding a diplomatic solution to the crisis, the EC convened the Hague Conference on September 7, 1991. At the Hague, the EC mediators proposed their own constitutional settlement to the parties. As Silber and Little cited, in a framework agreement entitled "Arrangements for a General Settlement", the Chairman of the Conference, Lord Carrington proposed an "asymmetrical federation", which recognized Serbia and Montenegro as a core region while enabling Slovenia to retain its de facto independence, establishing the ties with the Federation and Croatia through various inter-governmental agreements, and finally leaving the two republics Bosnia and Herzegovina and Macedonia as constituent but semi-detached parts of the core of the Federation (Silber & Little 1996: 241-243). However, this con-federal arrangement failed due to Serbian veto. While these diplomatic efforts marked the triumph of the mediation efforts of the EC, they also presented main points of failure in EU's conflict prevention and crisis management policy at the outset of the war in Yugoslavia.

First of all it highlighted lack of an internal agreement on the direction of pursuing a common strategy. For instance, even in August 1991, in the UN Security Council, France had opted to collaborate with Austria in search of new ways of political influence in the conflict (Väyrynen 1997). Furthermore, despite the suspension of all financial aids to Yugoslavia to enhance its enforcement capability in Brioni, it became obvious that stronger instruments are needed than preventive diplomacy. Therefore, in August 1991, the military means started to be talked in the form of a 'European' "interposition force", "to isolate the sources of the conflict" and to ensure an orderly process of change" (Zucconi 1996: 243)[71] . However, while this possibility was

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[71] Statement by the Secretary General of the then Western European Union (WEU), Willem Ven Eekelen, in Weller, "The International Response", p. 575, cited in Zucconi (1996: 243).

supported by France, German and the Netherlands, London strongly resisted it[72]. Finally, at its extra-ordinary session at London, on September 18-19, the WEU excluded this option from its agenda, although the EC foreign ministers asked the WEU to draw up a contingency plan for the potential use of military force (Väyrynen 1997) However, as Väyrynen cited although the WEU planners recommended the use of naval force in November 1991, due to British opposition (Väyrynen 1997). This revealed both lack of institutional capabilities and common interest for such a measure.

What made the situation worse was the division within the Community, due to Germany's intensifying insistence on the recognition of the declarations of independence by Croatia and Slovenia. In this regard, before all else, the fundamental failure was leaving the idea of a unified, even a con-federal Yugoslavia. However, as Zucconi cited the recognition as an option was gradually becoming favorable for the EU members "in the midst of persistent confusion about western European objectives, of ineffective intervention, of stalemate among the contending parties, and of continuing mixed signals from different western capitals." (1996: 245). Thus to avoid a selective recognition, which would deteriorate the situation, and further divisions within the EC, the Community drew a timetable which offered recognition to all qualifying republics within a month.[73] This formal acknowledgement of the recognition policy by the Arbitration Commission of the Hague Conference, chaired by Robert Badinter, was indeed added nothing to the peace table. As Väyryrnen pointed out, despite the collective decision held on December 16, even without waiting the Badinter Commission's opinion, Germany's recognition on December 23, "prevented neither Croatia nor Serbia from using military force to promote their political and territorial goals. In fact, it may even have encouraged their subsequent efforts to carve Bosnia

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[72] Zucconi notes that, in the first place, such a force appeared totally unrealistic when the WEU has been considered regarding its lack of organizational and command structure and logistic capability. See, Zucconi, 1996, p. 243. Although German backed this idea, it was then restricted on uncapability of use of German forces outside NATO area due to its constitution.

[73] The criteria for recognition were the inviolability of republican borders, a commitment to work for a comprehensive political settlement, and respect for human and minority rights. See, Woodward (1995: 183-189), Andersson (1995: 343-346), cited in Väyrynen (1997)

up."[74](Väyryrnen 1997). In his message to the meeting of the EC Foreign Ministers on December 15-16, 1991, Lord Carrington stated its effect on the negotiation table: "I said very strongly that I felt that the timing of this was wrong. I pointed out that early recognition would torpedo the (Hague) conference. There was no way in which the conference would continue after that"[75]

Since September 1991, the EC Conference on Former Yugoslavia (ECCY), chaired by Lord Carrington, held thirteen plenary sessions in Brussels between September 1991 and August 1992. Although a "Statement of Principles" was put on the table and agreed by the parties, it was later rejected by the Bosnian government. This EU-led peace initiatives under the ECCY have been launched by the EC's chief mediator, Jose Cutiliero and Lord Carrington. The fundamental point was to bring the parties to the table and as Beriker pointed out, to "clarify the main points of agreements." (Beriker 1995: 190). However, what their plan proposed was not more than confirming the reality realized on the ground by the parties. The plan envisaged an independent Bosnia-Herzegovina, yet proposed its partition along three ethnic lines. The idea that the conflict is ethnically based and thus requires territorial partition did not contribute to facilitate the solution, but rather led the parties to undertake their own ethnic cleansing. As one diplomat emphasized, "without significant ethnic cleansing it will be impossible to draw boundaries that will give any coherence to three primarily ethnically based regions."[76] As Greenberg and McGuinness underlined, the failure of the

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[74] In his interview with *Washington Post*, Slobodan Miloševiĉ said that he saw this recognition as the beginning of the disintegration of Yugoslavia: "They started with Slovenia' and on the independence of Croatia he said: 'Germany practically helped this to happen', the premature recognition of independence was 'a tragic mistake'." Interview of Slobodan Milosovic to the *Washington Post*, reprinted in Ministry of Information, *Serbia in the World*, Special Supplement, November 1998, p. 48 and p. 28; cited in Deckers (2002: 164).

[75] Quoted in Silber & Little (1996: 199-200).; cited in Väyrynen (1997) also, .The former US Ambassador to Yugoslavia Warren Zimmerman also pointed out the failure by the European governments to abide by the principle established by UN Special Envoys Cyrus Vance and Lord Carrington in the summer of 1991 not to grant diplomatic recognition to any Yugoslav republic until all agreed on their mutual relationship: "If this simple principle had been maintained, Zimmerman said, less blood would have been shed in Bosnia." (Jentleson 1996: 10)

[76] PI 4/10/92: Constitutional *Options. ICFY Working Paper on Constitutional Options, in Balkan Odysses* CD-Rom; cited in Campbell (1999)

Lisbon Agreement, also known as Cutiliero Plan, "to push for constitutional protection minorities and creative governing arrangements to mitigate the heat of ethnic conflict was a critical early failure."(2000: 45) Consequently, this led the only original EC plan to fail. What's more, it led the EU to yield UN authority to enter the peace process.

The ECCY was followed by the UN-EC International Conference on the Former Yugoslavia (ICFY), established in August 1992 at the London Conference. Run by two mediators, Cyrus Vance, as the representative of the United Nations, and Lord Owen, EC's chief negotiator on the Balkans, EC-UN initiative introduced three main plans: 'Vance-Owen Peace Plan', in a January 1993; the 'Union of Three Republics Plan' in September 1993[77]; and the 'European Union Action Plan' in November-December 1993. Rather than giving the details of the plan, what must be emphasized here is the strategy behind these plans which led their failure. From the beginning of the EC peace initiatives, the fundamental assumption lying behind the logic of the proposed plan was the 'inevitability' of partition among ethnic lines in Bosnia-Herzegovina. However, the omitted fact in these initiatives was that an ethnically homogeneous geography[78] such a plan could easily lead the parties to resort the strategy of creating their own ethnically pure regions to gain the control. For instance, in Herzeg, subsequent to the Vance-Owen plan, proposing a Bosnia-Herzegovina composed of cantons formed on the principle of the majority of one ethnic group, the Croats started their own ethnic cleansing in the Herzeg region of Bosnia-Herzegovina.[79] Furthermore, beside the supporters of the thesis of 'all-warring parties'[80], although the aggression was clear to all, what the peace plans

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[77] Cyrus Vance was replaced by Thorvold Stoltenberg in May 1993.

[78] Especially Bosnia-Herzegovina.

[79] See, Sells (1996: 100-113).

[80] The exaggeration of the myth of 'ancient hatred' which caused the reluctance of the European actors to intervene the conflict by the claim that the conflict in the Balkans, and Yugoslavia in this specific case, is based on ancient hatreds that has its roots in their history and no one can not anything for them until all the warring parties stop fighting. This approach of "warrying parties" was also going to run specifically against the Bosnian Muslims. That is to say, while the Serbs could use the logistics of JNA- the army of the former Yugoslavia- Bosnia could not get military assets due to the arms embargo. What the main argument against its halting was that all the parties were warring, so it will cause a worse catstrophy to halt embargo, omitting the fact that the one who could get the arms were called as the perpetuator while the hands of the victim was tied.

mostly recognized and even committed, in Owen's own phrase was "the reality on the ground.[81] However, as he pointed out, despite this reality all the proposed plans were "basically of the same family."[82] (1995: 190)

To conclude, the war in Yugoslavia indicated a significant failure of the EC both in light of conflict prevention and crisis management. The emergence and the escalation of the conflict evidently reflected that the EU lacked the unity and the required instruments to deal with such an armed conflict.

Before all else, the initial failure was a warning-response-gap (George and Holl, 2000), which was not a failure only for the EC but also for the other international actors. Although the early warning signals had emerged in the late 1980s both in political and economic sphere, they could not prevent the outburst of the conflict while it was still possible within the political framework. However, beside neglecting the opposition in favor of a federal solution in these countries, through the economic adjustment programmes they even widened the gap between the richer northern republics and rest in the south which further mobilized the former to abandon the federation.

Although failed in preventing the conflict, the EC had actively involved in the later stages of the conflict in the name of conflict prevention and crisis management efforts by using a multilateral framework: Political tools involving statements and declarations; initiatives of preventive diplomacy both in the form of facilitation during

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The policy of the European powers not to intervene directly in a conflict in Europe was going to be identified by some specialist such as George F. Kennan and Ivo Banac, directly with this mentality based on cultural bias. In his response to the question of "What should be done?", Kennan was going to conclude that nothing can be done by an outsider, even it should not be expected to do so. See, Kennan (1993: 14), cited in Todorova (2003: 367.)
This policy was going to be changed by the US' entrance to the process. See, Kaplan (1993), Alcock (2000).

[81] Cited in Sells (1996: 100).

[82] Within the framework of the "London Conference on former Yugoslavia"(after changed its name into the "International Conference on the Former Yugoslavia") a series of conferences were held by which several peace proposals were prepared such as the October 1992 "Precursor to the 'Vance-Owen Plan'", January 1993 "Vance- Owen Plan", September 1993 "Invincible Plan", and November 1993 "European Union Plan". For the peace plans, see, Silber and Little (1995) and Szasz (1995: 363- 407).

the negotiations of the Brioni Agreement and mediation in the latter initiatives such as the Hague Conference which was also supported by legal frameworks such as the recommendations of the Badinter Commission; economic sanctions and initiatives; the deployment of observer missions to support the implementation the ceasefires; and finally humanitarian aid. However, although used a series of instruments, it could not prevent the strategies of the EC to fail. This was mainly due to 4 main factors:

1) Due to the lack of a comprehensive strategy for the Balkans, in the early phase of the conflict the "EC initiatives in Yugoslavia were largely reactive" where "anticipatory and proactive measures were neglected." (Lucarelli 1995: 9) Especially, in the latter phases of the conflict this made impossible to deal with the parties with different priorities.

2) Due to different priorities of the Member States, it could not propose a coherent and coordinated policy both implementing political and military measures.

3) It did not have the necessary legal and political instruments to formulate and implement such a unified policy. Thus due to the lack of coordination of both instruments and policies, it became much harder to deal with the indirect effects of individually held initiatives.

4) It mostly implemented 'soft' preventive diplomacy where it is requires a 'stronger' deterrence factor.

As a result of this legal and institutional restrictions fueled by internal divisions, the EU lost its prominent position to UN and NATO within this framework, and finally US which brought the conflict to an end in 1995 by heading the political and military leadership through the use of "coercive diplomacy". It was only the subsequent developments of the Dayton Plan that EU could re-emerge as an active player in the lands of former Yugoslavia in the name of economic and political post-conflict reconstruction of the region mainly through offering economic aid programmes and even security forces as observed in Bosnia. .

A. 6. 2. Post-Dayton Experiences: 1995-1999

While the policies of the EU on Yugoslavia were mainly characterized by the mentioned incoherence or fluctuations, which are generally due to the lack of institutional basis of the EU for an effective collective mechanism of conflict prevention and different priorities of its members on the newly emergent political agenda; following the signing of Dayton Accords in November 1995, the EU started to voice the initial regional initiatives focusing on the South-East "European" region. In fact, as Ginsberg argues, the European Union has often been regarded as a "symbol of structural peace and reconciliation among ancient enemies"[83] By the introduction of this policy, beside its previous conflict management policies and active participation as a third party actor in the Balkan conflicts, the EU initiated its structural prevention policy by proposing itself as a model for regional integration as a means of conflict prevention by the establishment of a security regime. Drawing on the insight of Schuman and Monnet that the European Coal and Steel Community was likely to make a Franco-German war not only unthinkable but materially impossible[84], it has been motivated by the premise that closer regional integration would reduce, if not eliminate at all, security crisis among the previously hostile neigbours and promote stability.

The First EU attempt was the Royaumont Process for Stability and Good Neighbourliness in Southeast Europe, launched in December 1996 with the aim to support the implementation of the Dayton Peace Agreements. It focused mainly on stabilizing the region by promoting regional projects in the field of civil society, culture and human rights.[85] Following its first initiative to stabilize the region via promoting regional cooperation, the EU General Affairs Council adopted the "Regional Approach" towards the "Western Balkans" in 1997, "aimed at the implementation of the Dayton and the Paris Peace Agreements, advocating political and economic cooperation among these countries, the establishment of good neighbourly relations regarding the free

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[83] Ginsberg, cited in Lily Gardner Feldman, 'Reconciliation and legitimacy: Foreign Relations and the Enlargement of the EU', in Banchoff and Mitchell (1999: 78).

[84] Cited in Schiff and Winters (1997: 5)

[85] The Royaumont Project is now responsible for inter-parliamentary relations under the Stability Pact.

movement of goods, services and people and the development of projects of common interest"[86] However, in the words of Anastasakis and Bojicic-Dzelilovic, "a long list of conditions of democratic principles, human rights, the rule of law, economic reform, regional cooperation and additional compliance with obligations under the peace treaties made it even more difficult for aid and agreements to come through" (2002: 22). In this context, the countries of the Balkans could achieve little progress under the Regional Approach of the EU.[87]

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[86] Cited in Anastasakis and Bojicic- Dzelilovic (2002: 22).

[87] See, Anastasakis and Bojicic- Dzelilovic (2002: 22).

A. 6. 3. Post-1999 Period of the European Vision: the Stabilisation and Association Process and the Stability Pact

The Kosovo crisis which forced the EU for a critical self-assessment resulted with the re-consideration of its previous strategies and tools. This paved the way for a set of strategies for the new era: "a) the re-organisation of the regional policies, b) the offer of a more committed and long-term bilateral framework of relations with the EU, c) the Unification of financial assistance to the Western Balkan region, and d) a more balanced application of positive and negative conditionality." (Anastasakis and Bojicic-Dzelilovic 2002: 23) The modified strategy has been drawn on three significant institutional and infrastructural basis: (a) the Stability Pact for South Eastern Europe based on a regional approach (June 1999); (b) the Stabilisation and Association Process, motivated by the enhancement of bi-lateral relations (May 1999); and finally (c) the financial assistance programme of CARDS (Community Assistance for Reconstruction, Development, and Stabilisation (December 2000).

The Stability Pact was the first and the most comprehensive initiative for the Balkans, with much wider aims and a more integral approach than earlier initiatives such as the previous European Agreements. As Altmann pointed out, "the pact has made clear that regional co-operation represents an indispensable component and a precondition for the so much desired integration into EU and EU-Atlantic structures"(2003: 142). Indeed, the strict conditionality could have already been heard from the top officials of the EU, such as the then Enlargement Commissioner Verheugen: "if countries want to join the European Union then they must prove that they can develop regional co-operation and resolve their co-operation with their neighbours".[88] Modeling Deutsch's "security community" (1957: 5) in the Western Balkans, the main political goals of the Pact were declared to be: maintenance of peace in the region, and promotion of its stability and prosperity on the basis of the development of good-neighbourliness, and respect of democracy, human rights and minority rights. The Pact organized itself through three main structures ("Tables") which would provide the platforms for dialogue and coordination of specific projects and activities under the broader "Regional Table": Working Table 1, on

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[88] Cited in Altmann (2003: 142).

democratization and human rights; Working Table 2 on economic reconstruction, co-operation and development; and Working Table 3 on security issues with two sub-tables of security and defense, and justice and home affairs (Stability Pact 2002: 2)

While the Stability Pact essentially focused on supporting greater regional cooperation, the Stabilisation and Association Agreements (SAAs) as the eventual step of the SAP were rather offering a new kind of contractual relationship between the countries of the Western Balkans and the EU, namely for the first time a clear prospect of integration into the EU mechanisms. The SAP has six fundamental targets:

1.   Development of existing economic and trade relations with and within the region;

2.   Development and partial redirection of existing economic and financial assistance;

3.   Increased assistance for democratisation, civil society, education and institution- building;

4.   Co-operation in the area of justice and home affairs;

5.   Development of political dialogue, including at regional level;

6.   Development of Stabilisation and Association Agreements.[89]

The objectives and the mechanisms of this initiative has been planned to be supported with financial assistance under the CARDS assistance program for 2001-2006 (Community Assistance for Reconstruction, Development, and Stabilisation), which foresees approximately 4,65 billion € for the region by replacing the previous PHARE[90] (1989), ECHO[91] (1996) and OBNOVA[92] (1996) programs[93].

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[89] Cited in "Joint Report to the Helsinki Council on EU Action in Support of the Stability Pact and South-Eastern Europe", presented to the Helsinki European Council, 10-11 December 1999 by the Finnish Presidency and the European Commission, in CEPS (ed.), Europa South-East Monitor, Issue 6, Brussels, December 1999. Available at http://www.ceps.be/Pubs/SEEMonitor/Monitor6.htm

[90] Assistance programme for Central Europe targeted at cross-border cooperation programmes. In 1997, PHARE has been extended to the SEE.

[91] ECHO provided humanitarian aid through emergenct supplies, technical assistance and related support.

[92] EC emergemcy support programme to assist in the implementation of the Dayton and Erdut Agreements and the restoration of stability in the Western Balkans, by Council Regulation (EC) No. 1628/96 as last amended by (EC) No 2454/99.

What the CARDS programme envisioned was the fact that as each country moves deeper into that process, the assistance will focus increasingly on support for the reforms and institution building necessary to implement the obligations in the SAAs, which marked a transition from post-conflict reconstruction to stabilisation and association. It has four main objectives:

(1) Reconstruction, democratic stabilisation, reconciliation and the return of refugees,

(2) Institutional and legislative development, including harmonization with EU norms and approaches, to underpin democracy and the rule of law, human rights, civil society and the media, and the operation of a free market economy,

(3) Sustainable economic and social development, including structural reform,

(4) Promotion of closer relations and regional cooperation among SAp countries and between them, the EU, and the candidate countries of central Europe.[94]

In its Article 5 of the CARDS Regulation (Council Regulation 2666/2000 of 5 December 2000), the conditionality for receiving assistance under CARDS was declared to be "respect for the principles of democracy and the rule of law and for human and minority rights and fundamental freedoms", adding that "(i)f these principles are not respected, the Council, acting by qualified majority on a proposal from the Commission, may take appropriate measures."[95]

By the Feira Council of the European Council in June 2000, the European Council recognized "all" the countries of the Western Balkans as "potential candidates" for EU membership and confirmed that "its objective remains the fullest possible

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[93] Cited in http://europa.eu.int/comm/external_relations/see/news

[94] CARDS Assistance Programme to the Western Balkans, Regional Strategy Paper 2002-2006, p. 3.

[95] In the second item of Article 5, it is stated that "(c)ommunity assistance shall also be subject to the conditions defined by the Council in its Conclusions of 29 April 1997, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms."

integration of the countries of the region into the political and economic mainstream of Europe through the Stabilisation and Association Process political dialogue, liberalization of trade and cooperation in Justice and Home Affairs."[96] Furthermore, it was declared that "The European Council encourages the States of the region to increase their regional cooperation, including through regional trade arrangements."[97]

By the EU-Western Balkans Zagreb Summit on 24 November 2000, the EU has underlined its approach towards "'all' the countries in the region as potential candidates for Union membership".[98] In the words of the President of the European Commission, Romano Prodi, what EU will undertake was "to help them walk that 'road to Europe".[99] In the Final Declaration of the Summit, it was underlined that "the stability and association process is at the heart of the Union's policy towards five countries concerned".[100] Based on the "account of the situation of each country and (…) on respect for the conditions defined by the Council on 29 April 1997 concerning democratic, economic and institutional reforms"[101], while each of these countries are presented with the vision of moving closer to the European Union within the framework of Stability and Association Process, it was underlined that this process would "go hand in hand with (the) process of developing regional cooperation", as a "matter of priority"[102] The interplay between these two process was explicitly defined to "form a

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[96] The European Council, Santa Maria de Feira, 19-20 June 2000, V. External Relations, D. Western Balkans, Art. 67.

[97] Ibid. Art. 68.

[98] See, message by Romano Prodi, 24.11.2000. http://europa.eu.int/comm/external_relations/news/prodi/zagreb_article.htm.

[99] See, message by Romano Prodi, 24.11.2000. http://europa.eu.int/comm/external_relations/news/prodi/zagreb_article.htm.

[100] Article 4 of the Zagreb Summit Final Declaration, 24 November 2000; available at http://europa.eu.int/comm/external_relations/see/sum_11_00/statement.htm

[101] Article 4 of the Zagreb Summit Final Declaration, 24 November 2000; available at http://europa.eu.int/comm/external_relations/see/sum_11_00/statement.htm

[102] Article 3 of the Zagreb Summit Final Declaration, 24 November 2000; available at http://europa.eu.int/comm/external_relations/see/sum_11_00/statement.htm. In the Article 3 of the Zagreb Summit's Final Declaration, the boundaries of this framework was mainly drawn as to "establish between their countries regional cooperation conventions providing for a political dialogue, a regional free trade area and close

whole"[103] In this framework, the major incentives of the EU were the programmes for the reconstruction and economic development (nearly € 5 billion since 1991), the deployment of EU security forces, the introduction of the Stabilisation and Association process, emergency package in response to the democratic change in FRY (€200 million), the establishment of the European Reconstruction Agency in Kosovo, the introduction of duty free access to the EU market for 95 % of the good of the SEE, the introduction of the new assistance programme of CARDS"[104],. In this regard, the course of the EU assistance was declared by Romano Prodi as a transition "from a policy largely driven by crisis management to the one that allows us to build a better and lasting future. A future rooted in democracy, the rule of law and justice."[105] In other words, the Zagreb Summit marked the initiation of the "compulsory impact" of the EU through a 'carrot-and-stick policy' with the final goal of the EU membership through the fundamental principle of conditionality.[106] While EU was determined to act as an actor in this path, it was aimed to be backed up by the initiatives of the parties themselves in the form of their domestic and foreign policy fundamentals, namely in the sphere of regional cooperation, that is an "enabling impact" in the words of Diez, Stetter and Albert (2004). By this Summit, the first Stabilisation and Association Agreement was

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cooperation in the field of justice and home affairs, in particular for the reinforcement of justice and the independence thereof, for combating organized crime, corruption, money laundering, illegal immigration, trafficking in human beings and all other forms of trafficking. These conventions will be incorporated in the stabilization and association agreements as they are concluded with the European Union."[102] Also it was stated by Prodi Prodi that "First of all, the Balkan countries should sign regional conventions among themselves (...) (which will) clarify and spell out the regional dimension of the Stabilisation and Association agreements." See, m essage by Romano Prodi,   24.11.2000. http://europa.eu.int/comm/external_relations/news/prodi/zagreb_article.htm.

[103] Article 2 of the Zagreb Summit, Final Declaration, 24 November 2000; available at http://europa.eu.int/comm/external_relations/see/sum_11_00/statement.htm

[104] Cited in http://europa.eu.int/comm/external_relations/see/sum_11_00/index.htm. For the period of 2000-2006 the five countries were declared to eb accompanied and further supported in their initiatives in the democratic, economic and institutional reforms with an amount of €4.65 billion under CARDS programme.

[105]See, message by Romano Prodi, 24.11.2000, available at: http://europa.eu.int/comm/external_relations/news/prodi/zagreb_article.htm.

[106] See, Diez, Stetter and Albert (2004).

initialed with Macedonia, decided to start negotiations with Croatia, and an invitation drawn on the prospect of the Stability and Association Agreement to the Federal Republic of Yugoslavia was issued by the Council on 9 October 2000.[107] These developments marked that, in the words of van Meurs and Yannis, the EU perspective has been steadily emerging as "the Archimedean point of the entire process of stabilisation and development" for the Western Balkans." (Meurs and Yannis 2002).

The Copenhagen European Council on 12-13 November 2002 reaffirmed the perspective proposed for the Western Balkans with its determination "to support their efforts to move closer to the EU" in accordance with the criteria defined at the Copenhagen European Council in June 1993 and the decision stipulated by the Feira European Council.[108] Furthermore, a Summit between EU Member States and countries of the SAP was decided to be organized on 21 June in Thessaloniki under Greek Presidency. Before this Summit, in Brussels European Council in 20-21 March 2003, the European Council explicitly stated that "the future of the Western Balkans is within the EU"[109] and invited the Council and the Commission "to examine ways and means, based also on the experience of the enlargement process, to further strengthen the Union's stabilisation and association policy towards the region."[110]

Following the Treaty of Athens in April 2003, which paved the way to the accession the ten Member States, the Thessaloniki Summit on 21 June 2003, which was a follow-up to the first EU-Western Balkans Summit in Zagreb, provided an opportunity for the EU to present the last enlargement as a 'success story' to the Western Balkans, which they could achieve if they had fulfilled the criteria, while for its part, revealing that it is ready to undertake the commitments support and assistance for the realization of the membership. The European Council emphasized the position of the SEE countries as "potential candidates"[111] and acknowledged that "the Stabilisation and Association

[107] See the Annex of the Zagreb Summit Final Declaration.

[108] Art.23, Feira European Council Presidency Counclusion.

[109] Art. 82, Brussels European Council, Presidency Conclusion.

[110] Art. 84, Brussels European Council, Presidency Conclusion.

[111] Cited in EU-Western Balkans Thessaloniki Summit Declaration, available at http://europa.eu.int/comm/external_relations/see/sum_06_03/decl.htm

process (SAP) will remain the framework for the European course of the Western Balkan countries"[112], while "rapprochement with the EU will go hand in hand with the development of regional co-operation."[113] In the Summit Declaration, these areas were mainly delineated as "the areas of regional free trade, visa-free movement within the region, collection of small arms, creation of regional markets for electricity and gas, development of transport, energy and telecommunication infrastructures, environment and water management, research technology and development, cross-border co-operation and parliamentary co-operation."[114]

In the "Thessaloniki Agenda for the Western Balkans, it was explicitly stated that "the pace of further movement of the Western Balkan countries towards the EU lies in their own hands and will depend on each country's performance in implementing reforms, thus respecting the criteria set by the Copenhagen European Council of 1993 and the SAP conditionality."[115] The SAP was composed of three major mechanisms:

1. Stabilisation and Association Agreements: By the signing of an SAA, it is assigned to adopt the EU legislation in a number of areas including a free trade area with the EU or co-operation with the EU in other issues such as justice, visa, border control, illegal immigration, money laundering, transport, energy etc.

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[112] Ibid., Article 4.

[113] In this context, beside the Stability Pact for South-eastern Europe, which was underlined to be a complementary initiative in the implementation of the agreed fundamental objectives, the EU declared that it supported regional co-operation initiatives such as the South-East European Co-operation Process (SEECP), the Adriatic-Ionian Initiative, and the Central European Initiative. See, ibid., Art. 9.

[114] Ibid, Article 9, and "Enhancing Regional Co-operation in the Thessaloniki Agenda for the Western Balkans; available at http://europa.eu.int/comm/external_relations/see/gacthess.htm

[115] Cited in ibid. The message of the Summit has explicitly stated by the Commissioner for External Relations Chris Pattern: "Thessaloniki will send two important messages to the Western Balkans: The prospect of membership of the EU is real, and we will not regard the map of the Union as complete until you have joined us. We in the European Commission will do all we can to help you succeed. But membership must be earned. It will take the sheer hard work and applied political will of those in power in the region. How far you proceed along the road towards European Integration, and how fast, will be up to you." Available at, http://europa.eu.int/comm/external_relations/see/sum_06_03/index.htm

2. Autonomous trade measures: It was stated that 80% of all goods from the region to enter Europe without any customs restrictions.

3. Financial assistance: Since 1991, the EU introduced various aid programmes that amounts to more than €7 billion from humanitarian aid during the war to reconstruction and recently aids aimed at institution building. Since 2000, by the introduction of CARDS these were coordinated from a single mechanism, which amounts to € 4.65 billion. [116]

Furthermore, it was decided to be enriched with certain elements of pre-accession strategy drawn on the previous enlargement process:

1. European Integration Partnership, as the Balkans-version of the Accession Partnerships with the countries of CEE, which was designed to be in the form of a road map and or "check-list" which sets down the short and medium-term priorities and obligations that has to be fulfilled as an additional means to intensify the SAP[117]. For the implementation of these requirements stipulated in the Annual Reports, each country should draw up and follow a national action plan with a timetable and details of how they plan to address the Partnership's priorities.

2. Strengthened political co-operation in the area of Common Foreign and Security Policy; Beside launching a high-level political forum, the EU-Western Balkans Forum, the countries are expected to adopt their policies in accordance with the CFSP.

3. Enhanced support for institution building, including the instrument of twinning[118], technical assistance by the Technical Assistance Information Exchange Office (TAIEX) and the establishment of a regional School for Higher Education on Public Administration Reform.

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[116] For details, see Thessaloniki Agenda for Western Balkans, available at http://europa.eu.int/comm/external_relations/see/gacthess.htm; and EU-Western Balkans Thessaloniki Summit Declaration, available at http://europa.eu.int/comm/external_relations/see/sum_06_03/decl.htm.

[117] In its Regulation No 533/2004 the Council (EC) stated that the follow up of the implementation of the European Partnerships will be ensured through the mechanisms established under the Stabilisation and Association process, notably the Annual Reports.

[118] With the aim of transferring administrative skills to the SAP countries, since October 2002 under the CARDS programme, it supports the secondment of civil servants from the EU member states to work as advisers to the beneficiary institutions.

4.   Promoting economic development, which is "essential for long-term stability in the region". These includes initiatives such as close-co-operation with the relevant international financial institutions, developing modern networks and infrastructures in energy, transport and telecommunications, some of which is already under practice within the framework of the Regional Balkans Infrastructure Study (REBIS) and the European Charter for Small Enterprises introducing further measures for the liberalization of trade.

5.   Participation of the Western Balkans in Community programmes, drawn on the experiences of the RTD 6th Framework and the TEMPUS programme, particularly for the areas of "education and traning, culture, research, energy, environment, civil society, SME support and anti-fraud co-ordination." [119]

Beside these mechanisms, the other elements of the pre-accession period were specified as "supporting the rule of law", "responding to new needs- financial support", "enhancing regional cooperation", "efforts to strengthen democracy- parliamentary co-operation", "improving political co-operation".[120] The aim of this overall agenda was to respond "the new challenges, as the countries move from stabilisation and reconstruction to sustainable development, association and integration into European structures."[121]

In the Thessaloniki Agenda for the Western Balkans, organized crime and corruption were declared to be the "real obstacles to democratic stability, sound and accountable institutions, the rule of law, and economic development in the Western Balkans and a source of grave concern to the EU", adding that "(c)ombating them must constitute a key priority for the governments of the region. Particular focus should be placed upon fighting all forms of trafficking."[122] Another issue standing as an obstacle

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[119] For details, see the Thessaloniki Agenda for Western Balkans (2003), EU-Western Balkans Thessaloniki Summit Declaration (2003) and The Western Balkans and European Integration", Communication from the Commission to the Council and the European Parliament, Brussels, 21.05.2003, COM (2003) 285 final.

[120] For details, see ibid.

[121] Cited in In the Thessaloniki Agenda for Western Balkans.

[122] "3. Fighting organised crime. Co-operation in other Justice and Home Affairs matters", as cited in ibid.

to normalization and the aimed democratic development was reconciliation including the issue of the return of refugees and internally displaced persons and the promotion of reconciliation through education, social development and culture such as the introduction of bilateral agreements on cultural issues, the issue of the restoration of cultural and religious monuments and revising history textbooks.[123]

To sum up, the European Union has been one of the main active this party actors in the lands of former Yugoslavia since the beginning of its collapse. Starting from an economic diplomacy strategy to prevent the collapse in late 1980s, it implemented a multilateral strategy of conflict management and resolution tools during the conflict and post-conflict mechanisms up to 1999 in the post-Dayton process. However, in 1999, it added a new dimension to its role of a third party 'actor'. As stated in the first paragraph of the first Annual Report of the SAP in 2002: "EU leaders decided that a policy of emergency reconstruction, containment and stabilisation was not, in itself, enough to bring lasting peace and stability to the Balkans: only the real prospect of integration into European structures would achieve that."[124] In terms of CR literature, this revealed EU's transition in its role as a third party actor aimed at peacemaking and post-conflict reconstruction to a broader ideal of conflict prevention and peacebuilding tied strongly to being a part of a general framework identical to Deutsch's 'security community'. In this context, the EU presented itself as a model 'framework' to be adopted through the acquis by the implementation of the requirements of the SAP. In this context, it avoided a direct involvement in the conflicts between the actors of the conflict, but rather uses positive or negative conditionality towards the governments, which is a conflicting party in this ethno-political conflict, for persuading it to come to an agreement. This put 'Europeanization' at the center of CR perspective of the EU as a conflict prevention mechanism.[125]

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[123] "5. Reconciling for the Future and Enhancing Regional Cooperation", See, ibid.

[124] See, the Report from the Commission, the Stabilisation and Association Process for South East Europe First Annual Report, Brussels, April 4, 2002, COM(2002) 285 final, p. 4.

[125] This reality was stipulated by Mungiu-Pippidi in a stricter/Assertive phrase that "there is no alternative project, neither on the table, nor in the social imagination." See, Alina Mingiu-Pippidi (2004)

CHAPTER 2: CASES

A. The Albanian Question in Macedonia

A. 1. Ethnic Albanians in Macedonia: Historical Background

Founded by Josip Broz Tito in 1946 as the "Federal People's Republic of Yugoslavia" and renamed as the "Socialist Federal Republic of Yugoslavia (SFRJ) in 1963, Tito's Yugoslavia offered a two-fold solution to the nationalities problem: firstly, the construction of "Yugoslavhood" as a supranational identity by the motto of "Brotherhood and Unity", and secondly, the establishment of a constitutional system securing equal representation and power-sharing of all nations (*narodi*) and nationalities (*narodnosti*) of Yugoslavia.[126] In its Constitution of 1974, Yugoslavia was defined as "a socialist self-management democratic community of working people and citizens of nations and nationalities having equal rights".[127] This system of representation and power-sharing was based on a two-fold framework, namely the principle of territoriality in the form of the representation of "nations" (*narods*) in "their" republics; and the principle of personality, in the form of the individual's self-declaration as a member of either a "nation" (*narod*) or "nationality" (*narodnost*) in a federal framework" (König 2002: 6-7). While the Republic enjoyed a high degree of autonomy in domestic affairs and equal representation in federal organs, all "nations" and "nationalities" were granted equal rights (Article 245) and enjoyed a significant cultural autonomy such as using their own languages in administration, education and media (Article 246-248) (König 2002: 7).

During the Federation, the legal base for inter-ethnic relations within the Socialist Republic of Macedonia has been shaped under the three Constitutions of

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[126] In addition to these two broad categories, the constitutional system has also acknowledged the rights of "Other Nationalities and Ethnic Groups" as the the left small minority groups. For the nationality question in Tito's Yugoslavia, see, Banac (1988), Paunoviæ (1997: 145-165), Poulton (1993: 5-13).

[127] Documented in Trifunovska, Snezana (ed.) 1994, Yugoslavia Through Documents. From its Creation to its Dissolution, Dordrecht et al.: Martinus Nijhoff Publishers, pp.224-233; cited in König (2001: 6).

Yugoslavia (1946, 1963, and 1974). While the first Constitution of 1946 was promising to respect and protect the cultural rights and liberties of the minorities (Milosavlevski and Tomovski, 1997: 15; cited in. Koinova 2002), the subsequent Constitution of 1963 and several amendments to it expressed more concrete provisions on inter-ethnic relations. It did not just confirm the equality of ethnic groups in Macedonia, but also promised the use of minority language both in daily activities like education and media "in areas where nationalities live" and in the "realization of the [community] rights and obligations, as well as in the procedure before state organs and organizations" (Milosavlevski and Tomovski 1997:20; cited in Koinova 2002). Finally, the 1974 Constitution was the most constructive legal framework for the establishment of a multi-national state: It confirmed the equality before law, recognized the Albanian language and alphabet as equal to Macedonian and protected and encouraged the development of Albanian culture. The implementation of these policies was regulated and monitored by the Commission on Inter-ethnic Relations comprised of "an equal number of members from the Macedonian nation, of the Albanian, and Turkish nationalities" (Milosavlevski and Tomovski, 1997:24; cf. Koinova, 2002). Above all, it defined the Socialist Republic of Macedonia as "a state of the Macedonian people and the Albanian and Turkish minorities" (Rosůlek 2001: 44).

However, contrary to this legal framework, in reality the promised legal provisions were not fully implemented. To begin with, although the Albanians outnumbered other "nations"(see Table 3), as they had an external home state, they were not considered as a "nation" but a "nationality". As mentioned above, although the legal framework guaranteed equal representation for these "nationalities" like the "nations" of Yugoslavia, they could not have the chance to obtain the considerable power that the nations hold within federal organs.[128]

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[128] For example, in 1981 Albanians comprised 5.5 percent of the League of Communists membership, although they were 21.36 percent of the population. Quoted in Poulton (1995:78).

Table 3: National Composition of the SFRJ, 1961-1991 (in percent)
Source: Official censuses quoted in Woodward 1995, p.32; cf. König, p.8.

National Group	1961	1971	1981	1991
Serbs	42.0	39.7	36.3	36.2
Croats	12.1	22.1	19.8	19.7
Slovenes	8.5	8.2	7.8	7.5
Macedonians	5.6	5.8	6.0	5.8
Montenegrins	2.8	2.5	2.6	2.3
Muslims	5.2	8.4	8.9	10.0
Albanians	5.0	6.4	7.7	9.3
Yugoslavs	1.7	1.3	5.4	3.0
Other	6.1	5.6	5.5	6.2
Total (absolute)	18,549,291	20,522,972	22,427,585	23,528,230

Discrepancies between the idealized legal framework and practice can also be observed in the socio-economic data on ethnic minorities in Macedonia. For instance, according to the statistical data for 1992, the lowest social product per capital is present in the ethnically mixed municipalities, particularly western Macedonia where the majority of the Albanian population resides; while 30.2% of the Albanians and 43.9% of the Turks live in urban areas, this is 64.3% for the Macedonians; the discrepancy is more evident in the ratios of the employees: while 85% of the ethnically Macedonian citizens work in public, mixed and cooperative sectors, this is 7% for the Albanians and not more than 2,4 percent for the other ethnic minorities.[129]

In addition to these socio-economic discrepancies, the ethnic tensions between ethnic Albanians and Macedonian authorities date back to the 1980's, parallel to the repressive policies of Milosevic towards the ethnic Albanian population in Kosovo. The then Communist authorities of Macedonia took similar measures towards their own ethnic-Albanian citizens. As delineated in an ICG report, any initiative in the name of

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[129] For details, see, Helsinki Committee for Human Rights in the Republic of Macedonia, Report on Minority Rights in the Republic of Macedonia, September 1999.

expression of identity was repressed as displaying Albanian nationalism: "the use of the Albanian language in education was curtailed, and numerous ethnic Albanian teachers who resisted the new curriculum were sacked; the ministry of the interior continued to enforce the policy of denying the right to give certain names, considered nationalist, to ethnic Albanian babies until 1992; and traditional walls surrounding Albanian homes (used for protection against intruders, to keep women out of sight and to dry tobacco leaves) were destroyed."[130]

Although Macedonia, with its heterogeneous population (see Table 4), managed to be far away from any serious ethnic conflicts, the negative balance between the Macedonian authorities and the ethnic Albanians was further affirmed in 1989 when the Constitution was amended to redefine Macedonia as "a nation state of Macedonian people" by replacing the previous statement as "a state of the Macedonian people and the Albanian and Turkish minorities"(Rosůlek 2001: 44; Poulton 1995: 133).

Inter-ethnic tensions came to the surface when the Macedonian authorities decided to declare independence. With the declaration of Macedonian independence in September 1991, concern over inter-ethnic relations revived. The national plebiscite for the declaration of independence in September 1991 was boycotted by the Albanian and Serbian minority.[131] Indeed, having its roots in the late 1980's, the struggle between Macedonian authorities and ethnic Albanians was not over rights but rather on power. As Engström pointed out the source of contention between the Macedonian state and the Albanian population was "about who controls the state and what kind of state Macedonia should be" (Engström 2002: 6).

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[130] See, ICG Balkan Report No. 138, 11 August 1998: 2. See also Helsinki Committee for Human Rights in the Republic of Macedonia, Report on Minority Rights in the Republic of Macedonia, September 1999.

[131] Of the 72% of the eligible voters who voted in this referendum, including ethnic Albanians living abroad, 95% voted for independence. Cited in Lund (2001: 176).

The Albanians in Macedonia, mostly concentrated in the western part of the country, constitute approximately 23% of the population (see, Table 4).[132] According to data from previous censuses, the ratio of the Albanian population has grown constantly since 1953, primarily due to their significantly higher birth rate. They comprised 13% in 1961; 17% in 1971; 19.7% in 1981; and 21% in 1991.

Table 4: Structure of the population in Macedonia regarding ethnic belonging
Source: Helsinki Committee for Human Rights in the Republic of Macedonia, Report on Minority Rights in the Republic of Macedonia, p.1-2

	1953	1961	1971	1981	1991	1994
TOTAL	1,304,514 100,0	1,406,003 100,0	1,647,308 100,0	1,909,136 100,0	2,033,964 100,0	1,936,877 100,00
Macedonian	860,699 66,0	1,000,854 71,2	1,142,375 69,3	1,279,323 67,0	1,328,187 65,3	1,288,330 66,5
Albanian	162,524 12,5	183,108 13,0	279,871 17,0	377,208 19,8	441,987 21,7	442,914 22,9
Turks	203,938 15,6	131,484 9,3	108,552 6,6	86,591 4,5	77,080 3,8	77,252 4,0
Roma	20,462 1,5	20,606 1,5	24,505 1,6	43,125 2,3	52,103 2,6	43,732 2,3
Vlach	8,668 0,7	8,046 0,6	7,190 0,4	6,384 0,3	7,764 0,4	8,467 0,4
Serbs	35,112 2,7	42,728 3,0	46,465 2,8	44,468 2,3	42,775 2,1	39,260 2,0
Rest	13,111 1,0	19,177 1,4	38,350 0,3	72,037 3,8	84,068 4,1	36,922 1,9

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[132] For the Albanian nationalists the population counts up to 40%. However, when the refugee flaw and the procedures of the registration for citizenship is considered, simply it can be estimated that they consist of 1/3 of the Macedonian population.

With such a significant population, the Albanian political leaders rejected to participate to the 1991 referendum on Macedonia's independence fundamentally due to the adoption of the new constitution. To the Albanians, the Macedonian Constitution of 1991 proposed a relegation of their legal status. As Engström pointed out, the self-perception of the Albanian community was not that they constituted a minority group, but rather, that they are another majority in Macedonia (Engström 2002:4). However, the proposed Constitution was evidently based on a wording emphasizing the ownership of the Macedonian state by the ethnic Macedonians, the preamble at particular. It was stated in the preamble that "Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent coexistence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia …"[133] This phrase was interpreted by the ethnic Albanians as the status of a second-class citizenship. Implicit emphasis on the Macedonian "ownership" of the state was also implied in some of articles of the constitution, such as Article 7, indicating that "the Macedonian language, written using its Cyrillic alphabet, is the official language of the Republic of Macedonia…"; Article 19 on religious freedom, which explicitly refers only to the Macedonian Orthodox Church.[134]

The ethnic Albanians boycotted the referendum held on 8 September 1991 and instead held their own referendum on political and cultural autonomy in January 1991. Accordingly, of over 90% of ethnic Albanians who participated in the referendum (90 %) declared to be in favor of autonomy.

Actually, the Constitution granted full equality to all "nationalities" as citizens of the Republic of Macedonia[135]. Besides, while it recognized the free expression of national identity as one of the fundamental values of the constitutional order (Article 8),

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[133] Preamble to the Macedonian Constitution adopted by the Assembly on 17 November 1991.

[134] Macedonian Constitution, http://www.president.gov.mk

[135] Article 9: Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race,color of skin, national and social origin, poliitcal and religious beliefs, property and social status. All citizens are equal before the Constitution and law.

the "nationalities" were also granted specific cultural rights. For instance, in Article 7 it was assured that "in the units of local-self government where the majority of the inhabitants belong to a nationality, in addition to the Macedonian language and Cyrillic alphabet, their language and alphabet are also in official use, in a manner determined by law". Also in Article 48, it was explicitly guaranteed that:

> "Members of nationalities have a right freely to express, foster and develop their identity and national attributes. The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities. Members of nationalities have the right to establish institutions for culture and art, as well as scholarly and other associations for the expression, fostering and development of their identity. Members of the nationalities have the right to instruction of their language in primary and secondary education, as determined by law. In schools where education is carried out in the language of a nationality, the Macedonian language is also studied."

These provisions were also elaborated in specific laws in the areas of education, language, media and local-self-government.[136] Beside these legal provisions, the Constitution established a *Council for Inter-Ethnic Relations*, which "considers issues of inter-ethnic relations in the republic and makes appraisals and proposals for their solution." (Article 78)[137]

In addition to domestic judicial regulations, Macedonia has also signed and ratified several international conventions related to the protection of minority rights. On 20 September 1993, Macedonia ratified *the International Covenant on Civil and Political Rights* (ICCPR) (IHF Annual Report for 1996, 1997: 121) which guarantees cultural, linguistic and religious rights to ethnic, national and religious minorities (Burgenthal, et al. 1997:34; cited in Koinova 2002). Also as a member of the Council of Europe since 9 November 1995, Macedonia has also been a party to the *Framework*

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[136] For a detailed information on special laws regarding the minority rights and expression of national identities, see the minority report of Macedonian Helsinki Committee, and Mario Koinova's report on Albanians of Macedonia.

[137] In the same Article, it is ordained that it consists of the President of the Assembly as the President of the council and two members each from the ranks of the Macedonians, Albanians, Turks, Vlachs and Romanies, as well as two members from the ranks of other nationalities in Macedonia.

Convention for the Protection of National Minorities[138]. On 25 July 1996 Macedonia signed the *European Charter for Regional or Minority Languages*, adopted by the Council of Europe in 1992, but has not ratified yet. (Deftary, 2001:9). Besides, its respect to all relevant documents of the OSCE in line with the *1990 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities* has also been declared (Copenhagen CSCE Document) (MFA, March, 1999). The other ratified significant documents relevant to minority rights are: *The Convention on the Prevention of the Crime of Genocide*, *the Convention on the Suppression and Punishment of the Crime of Apartheid*, *the Convention Relating to the Status of Refugees and Stateless Persons*, *the Convention on the Elimination of All Forms of Racial Discrimination*, *the Convention against Discrimination in Education*, etc. (Frckoski 1998: 92-94; cited in Koinova 2002).

Under this legal framework provided by domestic and international judicial regulations, it is evident that the ethnic Albanians enjoyed considerable civil and political rights. One comparing their political and economic situations with their kin in both Albania and Kosovo would generally witness much better conditions. However, these could not prevent the emergence of periodic problems and inter-ethnic tensions.

Since 1991, ethnic Albanian population's interests have been represented at the political level by several ethnically based parties, most influential of which are the *Democratic Party of Albanians* (Partia Demokratike Shqiptare, PDSH) and the *Party of Democratic Prosperity* (Partia p'r Prosperitet Demokratik/PPD), the *Party for Democratic Prosperity of Albanians* (Partia p'r Demokratik e Shqiptar've n' Maqedoni/PPDSh) and the *Democratic Union for Integration* (Demokratska Unija za Integracije/ DUI). However, as pointed out in a report by the International Crisis Group (1998: 6), the parties are divided over the means of raising the status of Macedonia's ethnic Albanians, which also determines the popularity for the ethnic Albanian population as the voters to these parties. Periodically, the policies of these parties aimed at the realization of the demands they believe that they 'deserved': In 1992, some Albanian politicians radicalized their demands for territorial autonomy in what they

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[138] Opened for signature on February 1, 1995 and entered into force on February 1, 1998

called as Illyrida in Western Macedonia[139]; the formation of a secret paramilitary organization, called the All-Albanian Army within the Army of the Republic of Macedonia in early November 1993[140]; the creation of parallel authorities alike the institutions in Kosovo, such as establishing the unofficial, private Albanian-language university in Tetovo by the municipal councils of Tetovo, Gostivar and Debar in 1994 (Daftary 2000: 14); the raising of Albanian flag in front of the town halls in Gostivar and Tetovo in July 1997.

The main issues of conflict between the ethnic Albanian demands and the position of the Macedonian government have been:

(1). The wording of the Constitution: The dissatisfaction of ethnic Albanians on the wording of the 1991 Constitution in articles regarding "nationalities" and the preamble at particular was based on the perception that it favored ethnic Macedonians as 'the owners' of the Macedonian state, and recognized the other "nationalities" as second-class citizens.

(2). Disputes over the censuses and the criteria of citizenship: According to the previous 1994 census, the Albanians were declared to constitute 22.7-23.0% of the total population of Macedonia. However, this was not accepted by the Albanian political leaders who claimed that the real number of their population is between 441,000 and 443,000 people. The Albanian leaders explain this discrepancy with the fact that approximately 100,000 Albanians have been denied citizenship with the restrictive citizenship law. According to this citizenship law it was required to be a permanent resident of Macedonia for 15 years. This made it impossible for many Albanians previously living in other parts of the former Yugoslavia to be registered as citizens and additionally participate in censuses and elections.

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[139] In early November 1993, police arrested a group of Albanians, including a deputy minister of defense in the government, with the allegation of establishing an "autonomomus province of Iliriada".

[140] Ortakovski reports that, for this military scandal in 1994, ten ethnic Albanians of Macedonian citizenship, including the former Secretary General of the PDP, Mithad Emini, were pronounced guilty for planning and organizing an Albanian irredentist army and thus consequently sentenced to five to eight years of imprisonment. Later, he was released under the amnesty. See, Ortakovski (2001: 11).

(3). Proportional participation in public life: Although significant progress has been achieved since the independence, the under-representation of ethnic Albanians in government bodies, civil service, the army and the police continues to exist. From 1994 to 1988, ethnic Albanians were represented by 19 members of the Parliament, 5 ministers (one of whom was a Deputy Prime Minister) and 4 deputy ministers; since 1998 this increased to 25 deputies at the Parliament, 5 ministers (one of whom again is a Deputy Prime Minister) and 5 deputy ministers.

(4). Education in minority language and the issue of Tetovo University: Although the Constitutional order of Macedonia recognizes the right to education in the mother tongue in primary and secondary education, where there is an increasing participation in their mother tongues both at the elementary[141] and secondary education[142], still these do not match up with their proportional share in the total population, particularly in terms of female representation (Daftary 2001: 23). Furthermore, the issue of higher education is a more contentious problem between ethnic Albanians and the Macedonian Government. As Ortakovski pointed out, the reality that "university education in their mother tongue is seen as a key means of achieving social and economic parity with the ethnic Macedonian majority" makes the issue more sensitive for ethnic Albanians. The introduction of the quota system of 10% for all minority students in 1991/92 led an increase in the percentage of Albanian students[143]. However, what was at the center of the crisis was the demand of ethnic Albanians for the State to provide higher education in Albanian. Although there is not any restriction on the use of minority languages in private institutions, in the Law on Higher Education, it is stated that all tuition had to be in the Macedonian language

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[141] Ortakovski cites that there is a trend to increase instruction in Albanian in elementary schooling: 26.8% in 1992/93; 26.95% in 1993/94; and 27.46% in 1994/95. In fact this a continuing trend since World War II. For a detailed account, see, Ortakovski (2001: 30).

[142] Alike the primary education, there is also an increase in the number and percentage of students studying in Albanian in secondary education, which is not compulsory: %24 in 1991/92; 5,9% in 1992/93; 7,4% in 1993/94; 9.8% in 1995/96; 13% in 1996/97. See, Ortakovski, 2001, p.31; Daftary, 2001, p. 13. It must be underlined that there must be at least 24 minority students in a class to be taught in their mother tongue, which was 30 in the previous law on secondary education from 1985. See, Daftary (2001:13).

[143] While it was 2.4% in 1991/92, it increased to 10% in 1997/97. Quoted in, Daftary (2001: 13).

exclusively (Daftary, 2001:14). Thus, for instance, although the Macedonian Government transformed the former Pedagogical Academy with a two-year programme in Albanian at Skopje University into the Pedagogical Faculty with a four-year study programme in Macedonian, Albanian and Turkish to train pre-school and primary teachers, this could not prevent the establishment of a private Albanian-language university in Tetovo by the municipal councils of Tetovo, Gostivar and Debar.[144] However, as the 1995 Law on Local Self-Government did not provide the jurisdiction for local authorities over higher education, this was declared illegal. It became a contentious issue between the ethnic Albanians and Macedonian government until the resolution of the problem in July 2000 under the auspices of the OSCE High Commissioner on National Minorities, Max van der Stoel.[145]

(5). Other language related issues: Beside the aforementioned language-related educational problems, another contentious issue is the status of Albanian alongside Macedonian. The primary problem relevant to this issue was the use of Albanian language in administrative and legal organs of the state.

(6). Religious issues: Although the freedom of religious confession is guaranteed by Article 19 of the 2001 Constitution, the explicit reference to the Macedonian Orthodox Church have been regarded as a privileged status.

(7). Media: The expression of national identity through the media is probably one of the least conflicting issues for ethnic Albanians in Macedonia. Today there are two daily papers - the private independent *Fakti* and the state-sponsored *Flaka*. One can witness a more colored picture in the case of visual and audial media. There are eight daily hour-and-a-half broadcasts on the national radio, on the second channel, and on many private radio stations (Poulton 1998:81; Nessimi 2000; cited in Koinova 2002).

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[144] Beside the Pedagogical Faculty in Skopje, ethnic Albanians could also study in their mother tongue in the depArticlement of Albanian language and literature at the Philological Faculty at the University of Skopje.

[145] See, Ortakovski (2001: 37-38); ICG Balkans Report no. 98 (2000: 18-20), and Rosůlek (2001: 47-49).

There are also several local radio stations.[146]. Albanian is also transmitted through visual media. At present, there are three hours of programs in Albanian from Monday through Friday on Macedonian National TV; numerous private stations meet the needs of the community. (Poulton 1998:81; cited in Koinova 2002)[147]. To conclude, generally, the ethnic Albanians' demand for greater access to media in their own language has been met by the Macedonian government.

The reactions of the Macedonian government to the aforementioned demands of the ethnic Albanians varied. While they were sometimes overlooked or tolerated, some initiatives were harshly repressed by the security forces. The Macedonian public witnessed several demonstrations or riots of ethnic Albanians, such as the ones in November 1992 following the killing of an ethnic Albanian teenage by the police in Skopje; demonstrations in December 1994 and February 1995 for the opening and existence of private Albanian-language Tetovo University; again in February 1995; protests of Albanian parliamentarians regarding the decision to ban the use of the Albanian language on Macedonian identity cards and passports; hunger strike and demonstrations in Spring 1997 regarding the initiation of Albanian education in the Pedagogical Institute of the University of Skopje.[148]

Although ethnic tensions were thought to relieve, armed clashes exploded in the spring of 2001 between so-called National Liberation Army (*Ushtia Çilirimtare Kombëtare*, UÇK) of ethnic Albanians and the Macedonian security forces. By the leverage of international community to bring an end to the fighting, an inter-ethnic coalition has been formed in May 2001. This was followed by the signing of the

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[146] In her report on Albanians of Macedonia, Koinova (2002) cites several local radio stations such as Radio "Vati," Radio "Fama," Radio "24" and Radio "Haraqina" in Skopje (Marku, 1999), Radio "Visar" and Radio "Fama" in Tetovo, Radio "Ars," Radio "Emi," Radio "Pro FM 92," Radio "Rumeli FM" and Radio "Rekaton" in Gostivar, Radio "Arbana" in Koumanovo, Radio "Merilin" in Debar, Radio "Rinia" in Prilep, Radio "Flora" in Krushevo, Radio "Uskana" in Kichevo. Quoted in Gligorovska (1999), cited in Koinova (2002)

[147] Some of these TV stations are: TV "Era" in Skopje, TV "Article" and TV "Koha" in Tetovo, TV "Globus," TV "Zeri I Cegranit" and TV "2" in Gostivar, TV "Festa" and TV "Hana" in Koumanovo, TV "Kaltrina" in Strouga, TV "Gura" and TV "Uskana" in Kichevo. Quoted in Gligorovska (1999), cited in Koinova (2002).

[148] For a detailed account, see, Lund (2001: 181-182).

Framework Agreement, also known as Ohrid Agreement, in August 2001, under the effective participation of the European Union, the OSCE and the United States. Accordingly, under the monitoring of NATO, a handover of weapons by the NLA has been put into operation. In addition to that, the provisions of the Framework Agreement, namely the amendments to the 1991 Constitution, in accordance with the demands of the ethnic Albanians, have been approved by the electorate in September 2001.

Since then, although several provisions of the Framework Agreement have been implemented by the Macedonian government, it is not possible to argue that the Macedonian government could succeed to overcome the threat of ethnic tensions among the two communities. Beside the resentments of ethnic Macedonians which regards the intervention of the international community as fully favoring the ethnic Albanians contrary to the viability of the Macedonian state, a newly formed Albanian paramilitary organization NLA started armed struggle since 2001 by assuring not to stop these "until the final liberation of all ethnic Albanian territory in the Balkans (Ordanoski 2001; cited in Koinova, 2002). In this regard, the position of the international community remains an important factor on the possibility of the peaceful settlement of inter-ethnic tensions and the creation of a civic, multinational Macedonia.

In view of that, the following section will be devoted how the initiatives of the European Union determined the settlement of inter-ethnic accommodation in post-1991 Macedonia.

A. 2. The European Union in Macedonia, Macedonia in the Process of Europeanization

Since its independence in 1991, Macedonia has been on the agenda of the international community due to both domestic and regional tensions, namely the crisis in interethnic relations and a possible spillover of violence from the north respectively. In order to address these challenges, the international community initiated a wide range of missions such as the UNPROPOR of the UN[149] and the Skopje-mission of OSCE.[150] While these were in the form of international initiatives directed at conflict prevention and conflict management, the relations between the EU and Macedonia has an additional dimension. Beside EU's -and the then EC's- position as a third party intervener, the relationship has also been shaped as a political relation between two political structures of international politics.

While the first Macedonian representative to Brussels had been appointed in October 1992[151], the diplomatic relations between the Republic of Macedonia and the European Union had been established in December 1995 due to the conflict between Macedonia and Greece.[152]

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[149] From 1992 to 1998, UNPROFOR was employed as a peacekeeping force in Macedonia as a measure of "preventive deployment"(under the name of UNPREDEP since 1995), with the mission of securing the northern border of Macedonia from the threat of the spillover of violence.

[150] Since 1992, OSCE established a long-term mission in Skopje with the mission of improving interethnic relations. Several initiatives had been undertaken under this mission, particularly the facilitation activities of the OSCE High Commissioner on National Minorities, e.g. the proposals of OSCE High Commissioner on National Minorities Max van der Stoel in November 1998 and 2000 regarding the ethnic Albanians' demands for higher education in Albanian and increasing their representation in public administration.

[151] The Permanent Mission in Brussels was elevated to Embassy in February 1996.

[152] Upon Macedonia's request for EC recognition in December 1991 following its declaration of independence in September 1991, Greece objected mainly to its name and flag with the assertiton that these are signs of Macedonia's irredentist policies as a threat to Greece's integrity. Due to this objection, although the Badinter Commission of the EC recommended the recognition of Macedonia and Macedonia amended its Constitution and flag, Greece achieved to balock EU for recognition. In April 1993, a partial solution could be achieved, which provided Macedonia to join the UN under the

In March 1996, in addition to urgent and humanitarian assistance, Macedonia was recognized to be eligible for funding under the PHARE programme, thus achieved access to assistance supporting structural reforms. This financial aid program was accompanied with the humanitarian aid of ECHO for coping with the influx of refugees from Kosovo. Within the framework of Phare and Obnova programmes, the EU assistance to Macedonia amounted to 62.4 millions between 1992 and 2001. Furthermore, the humanitarian aid agency of ECHO had alone transferred approximately 100 millions euros in the period of 1992-2002.[153]

Following the Transport and Cooperation Agreements, which entered into force in November 1997 and January 1998 respectively, the Cooperation Council was established in January 1998. Subsequent to these initiatives, The Parliament of the Republic of Macedonia adopted a Declaration in February 1998, for the development of relations with the European Union, which confirmed the political consensus for membership of the European Union as a strategic goal of the Republic of Macedonia.

In March 1998, the Cooperation Council held its initial meeting and the first Permanent Representative of the European Commission was established in Macedonia. Following the conclusion of a feasibility report to initiate the Stability and Association Agreement (SAA} with Macedonia on 16 June 1999, in April 2000 the EU started negotiations with the Macedonian government to conclude the SAA with the prospect of regular economic aid, improved trade relations, advance political dialogue with EU and finally EU integration.[154]

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name of "The Former Yugoslav Republic of Macedonia (FYROM)" without its flag flying at UN headquarters. The relations severed with the decision of Greece to impose an economic embargo in 1994. Following nearly three years period of negotiations, a settlement could be achieved in 1995 by the signing of the Interim Agreement.

[153] See, the website of the external relations of the European Commission.

[154] In the same month, an EU Delegation was opened in Skopje and the first Head of Delegation at ambassadorial level had been appointed.

Following the successful conclusion of negotiations in November 2000[155], the initial initiative had been the inclusion of Macedonia in the CARDS Programme[156] Subsequent to that, the Stabilisation and Association Agreement was signed on 9 April 2001.[157]

While these initiatives, as a reflection of the conflict prevention strategy of the EU, were drawn on the prophecy that integration within the European structures would ensure peace and stability, the first serious incident that tested the EU's conflict resolution capabilities after the 1992-95 wars in Yugoslavia and the subsequent armed conflict in Kosovo in 1999 had been the Macedonia crisis in 2001.

Indeed, the outburst of such a conflict, by itself, marked a serious deficiency in these capabilities, namely early warning-response gap. As Gounev pointed out "the most frequently cited causes for the conflict in 2001, namely the political, social and economic inequalities between the Macedonians and the Albanians have been overlooked." (Gounev 2003: 232). For years, the international NGOs had reported that the Macedonian government has repeatedly violated the basic human rights of Albanians, such as under-representation in public sector, partial attitudes of the government with respect to the position of the religious communities and the establishment of the higher education institutes in their own language. However, not to 'break the glasses', the EU could not hesitate to be silent. But, while it could not take serious attempts favoring the righteous position in its name conflict with Greece[158],

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[155] Through three rounds of main negotiations and five meetings at the experts level, i.e. technical negotiations.

[156] In this context, only within a two years period of 2001-2002, the EU transferred 97.70 millions euro to Macedonia.

[157] The SAA was ratified by the Parliament of the Republic of Macedonia in April 2001 and by the European Parliament on May 2001. The ratification process was completed in all the member-states of the European Union and it entered into force on 1 April 2004.

[158] Upon Macedonia's request for EC recognition in December 1991 following its declaration of independence in September 1991, Greece objected mainly to its name and flag with the assertiton that these are signs of Macedonia' s irredentist policies as a threat to Greece' s integrity. Due to this objection, although the Badinter Commission of the EC recommended the recognition of Macedonia and Macedonia amended its Constitution and flag, Greece achieved to balock EU for recognition. In April 1993, a partial solution could be achieved, which provided Macedonia to join the UN under the

which weakened the economy of an already weak and instable post-Socialist structure and strengthened centralism motivated by a nation-building process, it also overlooked crucial factors that would soon destroy its dream of Macedonia as an island of peace in the region. These were mainly the increased illegal arms trade in the Kosovo-Macedonia-Albania triangle, followed by the increasing scope of organized crime[159], radicalization of the Albanians as their demands had been overlooked or underestimated both by the international community and the Macedonian government[160] and the unsteady internal arrangements between the ethnic Macedonian majority in power and ethnic Albanian leadership. In the words of Schneckener (2002: 36), "measures such as endorsing all party negotiations on political reforms which were later introduced under rather difficult circumstances could have been applied much earlier."

In any case, although failed in conflict prevention capability for the emergence of the conflict, when compared with the previous experiences in the Balkans, EU crisis management has arguably improved during the 2001 crisis. In contrary to the previous Bosnia and Kosovo failure, this time EU responded relatively quickly with a unified position embodied in the position of the Secretary General High Representative (SC/HR). As Nicholas Whyte pointed out (2001), rather than the pompous and ineffective statements issued by the Council of Ministers, 'Europe' was there through the post of Javier Solana, resembling the position of an American Secretary of State.[161]

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name of "The Former Yugoslav Republic of Macedonia (FYROM) without its flag flying at UN headquArticleers. The relations severed with the decision of Greece to impose an economic embargo in 1994. Following nearly three years period of negotiations, a settlement could be achieved in 1995.

[159] For a detailed analysis of the role of organized crime on the instability and conflict prevention initiatives of the EU, see Gounev (2002).

[160] Indeed a significant amount of ethnic Macedonians was going to regard the position of the international community mostly favoring the Albanians with a blind-eye, transforming force into law. As a clear example, see, Skaric (2002); ICG (2001c); Schenecker (2002: 33-35). For a detail account on the parties' perceptions on the course of the conflict and intervention, see Norwegian Helsinki Committee Report (2003/1).

[161] See, Whyte, N., \'93L' heure de l' Europe \endash Enfin arriv\'e9e?\'94, in Whyte, N.; Arbatova, N. A. and Allin, D. H., "The Macedonian Crisis and Balkan Security", ESF Working Paper, no 2, July 2001.

Moreover, as Scheneckener underlined, for the first time Secretary General High Representive (SC/HR) could become active rapidly and on wide range of basis: "he served as a 'trouble-shooter', frequently traveling to the region and establishing contacts", who was simultaneously supported by the mid-term and long-term commitments by the EU Commission (Schenecker 2002: 36).

The creation of the Policy Unit as the think-thank of Solana[162], together with the post of SC/HR could also provided him to be represented by a permanent representative when he could not be in Skopje.

EU, at first, introduced both short-term conflict management incentives in the form of a package of 'carrots', and a long term vision of conflict prevention and peace building policy by the introduction of SAA in April 2001. In addition to the 'shuttle diplomacy' of Solana between Brussels and Skopje, for the first time, the EU Commission adopted a set of exceptional financial assistance programmes such as the new Rapid Reaction Mechanism which was created in February 2001 for the allocation of financial resources in case of emergency.[163] The EU Commission also extended the mission of the European Agency for Reconstruction for Kosovo and Yugoslavia to Macedonia, beside the allocation of EuropeAid funds.

In April 2001, the EU introduced the SAA accompanied by CARDS in the midst of the crisis. By giving the status of a potential candidate of the EU, this was used as a 'face-saving strategy' towards ethnic Macedonian politicians who did not want to make any concessions and towards ethnic Albanians as an evidence for the EU' s position in favor of a united Macedonia.

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[162] By the Amsterdam Treaty.

[163] Adopted on 4 May 2001, the RRM worth 2.5 milion euros. Schenecker (2002) notes that beside EuropeAid and ECHO, for the first time the EU Commission used the new Rapid Reaction Mechanism for allocating financial resources, although it took a month for the money to arrive to Skopje. See, CARDS Assistance Programme, Former Yugoslav Republic of Macedonia 2002-2006, Including Multi-annual Indicative Programme 2002-2004, European Commission External Relations Directorate General, p. 20, 31.

While SAP offered major incentives such as funds under the CARDS programme and the prospect of EU membership key to a stable future, it also put political and economic conditions on the table, such as the establishment of regional cooperation, the respect for fundamental rights and the improvements in the conditions of ethnic minorities. However, the peace process was disrupted at the end of April 2001, when eight Macedonian soldiers had been killed by Albanian militants.[164]

This forced the EU to act with the other international actors, especially with NATO with a more involved position. Despite the presence of spoilers particularly in the Macedonian side, the Solana and the NATO Secretary Robertson achieved to promote the establishment of a "government of national unity" on 13 May and prevent the declaration of a "state of war" by the Prime Minister on 6 June which would possibly cause further ethnic polarization within the society and make it much harder, even if not impossible, to keep the channels for dialogue open. (Schnecker 2002: 32-33)

When it is considered that the ESDP was not declared yet operational during this stage of the conflict[165], NATO's presence within the conflict management processes was crucial as the military deterrent actor, especially when its presence in the Northern border of FYROM is taken into account.

When the crisis entered its last stage marked by an intensified international mediation by EU, US and OSCE in July-August 2001, which enhanced its efforts of peace-making, even sometimes in the form of arbitration by proposing their own proposals.[166] Within this structure, the EU, besides participating in this joint team by Francois Léotard, by itself announced significant financial aid packages for the peaceful resolution of the conflict, mainly on the basis of SAA. (Schenecker 2002: 34)

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[164] Furthermore, in contrast the previous stagecaharcterized by the fightings between the NLA and the Macedonian security forces, this stage was backed by civilian riots of ethnic Albanians.

[165] The ESDP was declared operational at the Laeken Summit in December 2001.

[166] The EU-US mediation team was supported by legal experts, such as Robert Badinter who chaired the EU Commission of experts during the wars in former Yugoslavia. the international team supported its proposal, a Framework Document in 7 July.

On 13 August 2001, under the joint mediation of the European Union -by Francis Léotard- and the US -by Special Envoy James Pardew, the parties concluded the negotiations and signed the Ohrid Framework Agreement. The signatories were four major political countries of Macedonia, namely the two Albanian parties, the Democratic Party of Albanians (Partia Demokratike Shqiptare/PDSH) and the Party for Democratic Prosperity (Partia p'r Prosperitet Demokratik/PPD), and the two Macedonian parties, the Internal Macedonian Revolutionary Organization- Democratic Party of Macedonian National Unity (Demokratska Partija na Makedonsko Naciolno/VMRO-DPMNE) and the Social Democratic Alliance of Macedonia (Socijaldemokratski Sojuz na Makedonija/SDSM). The overall objective of the Agreement was declared to "(secure) the future of Macedonia's democracy and (permit) the development of closer and more integrated relations between the Republic of Macedonia and the Euro-Atlantic community."[167] Basically, the agreement provisioned a series of constitutional and other legislative amendments as well as measures for its implementation aimed at the settlement of confidence building including the disarmament of the NLA (Operation Harvest).[168] For EU's part, the conflict had also strengthened the EU's perspective on peacekeeping to help Macedonia to recover itself by leaving its instability behind and reconcile the inter-ethnic accommodation.

In this framework, the contractual relationship between the EU and Macedonia was based on the implementation of the Ohrid Framework Agreement within the broader framework of SAA conditionality and the allocation of financial assistance in return. Based on this perspective, the aims of the 'association' were declared as:

"(1) To provide an appropriate framework for political dialogue, allowing the development of close political relations between the parties;

(2) To support the efforts of the former Yugoslav Republic of Macedonia to develop its economic and international cooperation, also through the approximation of its legislation to that of Community;

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[167] The English text of the Agreement is available at http://president.gov.mk

[168] See, Daftary (2001a: 301-305), Daskalovski (2002: 17-27), Engström (2002: 9-19).

(3) To promote harmonious economic relations and develop gradually a free trade area between the Community and former Yugoslav Republic of Macedonia;

(4) To foster regional cooperation in all the fields covered by this Agreement"[169]

The intensification of the relations was also reflected in the EU aid. While the EC/EU had allocated approximately a total amount of 475 million euros in the period of 1992- 2000[170], in October 2001 the EU proposed an emergency assistance with a total amount of 31.9 million euros, including a new RRM financial aid programme of 10.3 million Euros aimed at the realization of the measures provisioned in the Framework Agreement[171], beside the regular support stipulated by the CARDS programme for 2001.[172]

In its first annual report on SAP in 2002, main challenges for the region was determined by the Commission as:

(a) The challenge of building effective, democratic states, including fragile constitutional arrangements, weakness in applying the rule of law, weakness in administrative capacity, questionable standards of political behaviour, extreme forms of nationalism, weak civil society and media;

(b) The challenges of tackling poverty and social deprivation

(c) The challenges of enhancing regional cooperation.[173]

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[169] Article 2.1 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one Part, and the Former Yugoslav Republic of Macedonia of the Other Part, Council of the European Union, 2001/0049 (ACV), Brussels, 26 March 2001.

[170] See, CARDS Assistance Programme, Former Yugoslav Republic of Macedonia 2002-2006, Including Multi-annual Indicative Programme 2002-2004, European Commission External Relations Directorate General, p. 69.

[171] See, ibid, p. 71.

[172] Ibid, p. 70.

[173] The Stabilisation and Association process for South East Europe First Annual Report, Brussels, April 4, 2002, COM (2002) 163 final, pp. 9-12.

For Macedonia, experiencing common challenges, the EU had specifically determined 5 basic priorities over the medium term:

(a) Maintaining peace and stability and easing inter-ethnic tensions;

(b) Enhancing the efficiency of the state;

(c) Alleviating poverty and developing human capital;

(d) Promoting private sector growth and job creation;

(e) Implementing the Stabilisation and Association Agreement signed with the European Union in April 2001.[174]

In order to respond these challenges, in its Report on Macedonia within the first Annual Report on SAA Process in 2002, the EU mainly focused on four main sectors: Democracy and Rule of Law (inter-ethnic relations and support to civil society), Economic and Social Development (private and financial sector development, trade, local infrastructure development, social cohesion and education), Justice and Home Affairs (integrated border management, immigration and asylum, fight against crime) and Environment",[175] by allocating 41.5 million euros under the 2002 CARDS programme to tackle with these issues.[176] The initiation of this package of 'carrots' was made conditional upon the ratification of all constitutional amendments envisaged by the Framework Agreement.[177]

It specifically emphasized on:

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[174] CARDS Assistance Programme, Former Yugoslav Republic of Macedonia 2002-2006, Including Multi-annual Indicative Programme 2002-2004, European Commission External Relations Directorate General, p. 4.

[175] Cited in Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, pp. 7-12.

[176] In June 2002, a total amount of 3.6 million euros was re-allocated from the 2001 CARDS Macedonia National Programme for housing reconstruction purposes. Cited in ibid. p. 30.

[177] For instance, it postponed a donors' conference scheduled for October 15, citing Macedonia's delay in the implementation of the agreement. Cited in 2002 Annual Report of the HRW on Macedonia.

(a)   The full implementation of the Framework Agreement of August 2001, which was regarded as "essential to build the necessary country-wide political consensus and stability needed for the reform effort ahead";

(b)   The implementation of the structural reform in economic sphere such as the privatization of the state-owned enterprises and sale or liquidation of large loss making enterprises, the regulation of banking system in accordance with the Interim Agreement;

(c)   The decentralization of public administration and the need for an action plan to cope with the weakness of the judiciary and corruption.[178]

Since then the Annual Reports prepared by the Commission Staff had been the main instrument that determined the course of this contractual relationship including the allocation of the EU funds. The reports were mainly framed under three parts,:(1) the Political Situation, including the democracy and rule of law, human rights and protection of minorities, regional cooperation; (2) the Economic Situation, including the current economic situation, existence of free-market economy and structural reforms and management of public finances, and (3) the Implementation of the Stabilisation and Association Process, including a general evaluation, internal market and trade, sectoral policies and cooperation in justice and home affairs. Subsequent to the assessment of the general situation and specific issues regarding each title and the relevant sub-title including the performance based on the recommendations of the previous Annual Report, the Commission propose a kind of a 'homework' in accordance with the principles and priorities of the SAP by outlining further requirements for progress or deficiencies to be overcome, under a specific title of "priority areas needing attention in the next 12 months" if needed.[179]

Regarding the protection of minorities and regional cooperation, in its second SAA Report in 2003, the EU had emphasized that "confidence building measures are starting to have an effect" while "interethnic tensions remain high". In this regard,

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[178] See, the Former Yugoslav Republic of Macedonia Stabilisation and Association Report Executive Summary, in the Stabilisation and Association process for South East Europe First Annual Report, Brussels, April 4, 2002, COM (2002) 163 final, (SEC (2002) 342) p. 22.

[179] See, Former Yugoslav Republic of Macedonia Stability and Association Report, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342.

besides calling for empathy towards minorities, the EC underlined the need for a "zero tolerance" in case of human rights abuses by the police and called for "higher standards in the application of the existing rights", beside "relative progress" in recent months. Regarding regional cooperation, underlying Macedonia's active participation, the EC advocated that

"regional and bilateral cooperation should continue to be seen by the authorities as a driving force to address common problems in a pragmatic way and sustain internal reforms, while supporting the country's efforts towards further integration in the EU and in the NATO structures"[180]

In the 2004 Annual Report, regarding the same issues, the EU stipulated that "the implementation of the Framework Agreement and confidence-building measures are progressively reducing ethnic tensions", for the benefit of the whole Macedonian society, in the name of "strengthening of democracy and better governance". However, it also underlined that "tensions have not (…) completely disappeared, and provocations or incidents must be kept under constant monitoring so that they do not to escalate." Especially strict monitoring has been emphasized to be implemented on police misconduct; the establishment of "democratic and academic standards" for the third state university in Tetovo and the development of professional media. The EC also praised the Macedonian government on its active support of regional cooperation and the development of good neighbourhood, based on "the growing understanding of mutual dependency and the need to address common challenges, whether security-related or economic, and needs of the citizens, through co-operation and pragmatism."[181]

In view of those developments, Macedonia was provided with a total amount of 43.5 million euros through 2003 CARDS Programme and with 51 million euros through CARDS 2004 programme which provided a 5.5 million increase in accordance with the Council conclusions of 16 June 2003 particularly to be used in the sector of the proportional representation of non-majority ethnic minorities in the public

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[180] See, ibid., pp. 7-12.

[181] Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 13.

administration.[182] Furthermore Macedonia also achieved the grants offered through the CARDS Regional Programme, EC macro-financial assistance, ECHO, and European Investment Bank and funds collected in Donor's Meeting such as the EU-World Bank joint initiative in March 2002.[183]

Following the ratification process of the SAA by all the member states in January 2004[184], The Parliament of the Republic of Macedonia adopted a Declaration for the submission of an application for membership of the European Union which was submitted a month later. The Council of the European Union considered the application and asked the European Commission to prepare an opinion in May 2004.

While this process was processing, The EU had formally published the European Partnership for the Republic of Macedonia in March 2004. Through this, the EC reiterated short term and medium term priorities to be respected and the relevant policies to be realized in accordance with the titles determined in the SAA. Regarding our cases, it required the Macedonian government for the short term,

"to (1)[185]ensure the functioning of state institutions in all the territory, implement the Ohrid Framework Agreement,[186] improve the functioning of the

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[182] Cited in ibid. p. 34.

[183] For detailed account, see, ibid., pp. 34-35 and Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, pp. 31-32.

[184] The SAA entered into force in April 2004, which was the first amon the countries from the SAp.

[185] Under the title of "Democracy and the Rule of Law".

[186] The Macedonian Government was exclusively ordained to "Implement the Ohrid Framework Agreement - Implement the legislation already adopted to implement the Framework Agreement (FA). Adopt remaining legislation required by the FA, in particular adopt and implement the Laws on the Territorial Organization, Municipal Finance and the City of Skopje. Achieve rapid progress in the implementation of the decentralisation process to allow proper local elections as scheduled, in particular strengthening the municipalities' capacity in financial management and management of transferred competences and assets through training, consultancy and provision of equipment. In parallel, strengthen administrative capacities to supervise and facilitate the decentralisation process, including at central level, in particular of the Ministry of Local Self-Government and of the Ministry of Finance in relation to fiscal

public administration, strengthen the judicial system, and improve the fight against corruption; (2)[187] Improve the respect of human rights by law enforcement bodies, promote freedom of expression of media, and ensure respect of minority rights[188]; and (3)[189] promote regional cooperation[190], ensure proper implementation of the Stabilisation and Association Agreement in the field of regional co-operation[191], adopt an appropriate legal framework on cooperation with the International Criminal Tribunal for the former Yugoslavia, and implement international agreements concluded by the former Yugoslav Republic of Macedonia.[192]

These were supplemented by the medium term policies to be implemented in the aforementioned sectors respectively:

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decentralization as well as the line ministries in their own areas of competence. Ensure that appropriate budgetary resources are allocated in order to ensure a smooth transfer of competencies. Adopt a medium term strategic plan for equitable representation of minorities, including adequate budgetary means, and ensure speedy implementation. Take further measures to ensure the implementation of the FA provisions on the Use of Language and on community symbols. Improve the monitoring and evaluation capacity of the central government. Enhance efforts to revitalize former crisis areas." See, Proposal for a Council Decision on the principles, priorities, and conditions contained in the European Partnership with the former Yugoslav Republic of Macedonia, presented by the Commission, Brussels, xxx, COM (2004) yyy final, p. 6.

[187] Under the title of "Human Rigts and the Protection of Minorities".

[188] It was stated that the Macedonian Government should "Ensure that the process of establishing a third State University in Tetovo is completed in a way that creates synergy with the South East European University and provides for academic standards in line with the Bologna Declaration" See, Proposal for a Council Decision on the principles, priorities, and conditions contained in the European Partnership with the former Yugoslav Republic of Macedonia, presented by the Commission, Brussels, xxx, COM (2004) yyy final, p. 7.

[189] Under the title of "Regional Cooperation and International Cooperation".

[190] Macedonian Government was ordained to "Comply with the Stabilisation and Association process requirements and Thessaloniki commitments in terms of regional cooperation. Ensure implementation of all regional free trade agreements. Pursue the conclusion of agreements with neighbouring countries, including on cross border cooperation as regards the fight against organised crime, trafficking and smuggling, judicial co-operation, border management, environment and energy, and ensure their effective implementation. See, ibid, p. 7-8.

[191] The EC stated that the Macedonian Government should "Conclude negotiations with Croatia on the bilateral convention on regional cooperation. See, ibid, p. 8.

[192] Ibid. pp. 6-8.

(1) Implement the Ohrid Framework Agreement[193], further improve the functioning of the administration, further strengthen the judicial system, and further improve the fight against corruption;(2) Ensure the respect of human rights by law enforcement bodies, further promote freedom of expression and media, and further promote the principle of non-discrimination and equal representation[194]; (3) Further promote regional cooperation[195], and implement international agreements concluded by the former Yugoslav Republic of Macedonia.[196]

While the Macedonian government adopted its 'Action Plan for the Implementation of the European Partnership for the Republic of Macedonia' in September 2004, in the same month the first meeting of the Stabilisation and Association Council was held in Brussels, which is the highest institutional body in charge of the SAA implementation.

The fundamental 'carrot' that was used in this contractual relation was the programming of Community Assistance.[197] Accordingly, while the follow up of the European Partnership is ensured through the mechanisms established under the SAP, particularly the Annual Reports, the Community Assistance was determined to be "conditional on further progress in satisfying the Copenhagen political criteria and in particular progress in meeting the specific priorities of this European Partnership, adding that "failure to respect these general conditions could lead the Council to take

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[193] The medium term policies to be implemented were determined as to "Implement the strategic plan for equitable representation of minorities. Ensure the proper functioning of the decentralised levels of government. Sustain efforts in revitalizing former crisis areas." See, ibid, p. 11.

[194] The Macedonian Government was ordered to "Foster employment opportunities for all ethnic communities and facilitate access to education. Promote higher education for minorities and ensure that higher education in Albanian respects European standards as defined in the Bologna declaration." See, ibid., p. 12.

[195] The priorities detemined in the field of regional cooperation were to: "Maintain a constructive and balanced regional policy which promotes dialogue, stability, good neighbourhood and co-operation. Implement the Memorandum of Understanding of the South East Europe (SEE) Core Regional Transport Network. Implement the commitments undertaken in the framework of the 2003 Athens Memorandum of Understanding on the Regional Energy Market in SEE, and prepare for the establishment of the Integrated Regional Energy Market." See, ibid., p. 12.

[196] Ibid., pp. 11-12.

[197] For the programming, see, ibid. p. 15.

appropriate measures on the basis of Article 5 of Council Regulation (EC) No 2666/2000." It was also stated that "Community assistance shall also be subject to the conditions defined by the Council in its Conclusions of 29 April 1997 and 21-22 June 1999, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms."[198]

While the EU contributed to the presence of international community in Macedonia for the monitoring of the security situation and implementing the relevant confidence building measures through its first ever Military Mission "Concordia"[199] and Police Mission "Proxima",[200] as stated in its 2004 SAA Annual Report on Macedonia, "development in the security situation led to the assessment that international military presence in the field was no longer necessary but that further steps were necessary before the rule of law could be considered fully established in the former crisis areas."[201]

To conclude, accepting full-fledged membership in the European Union as a "clear and totally shared strategic interest and a consistent priority goal in the policy of the Republic of Macedonia" since its declaration independence[202], its 'power of attraction' has been regarded by the European Union as the fundamental element of its "compulsory-" and "enabling impact" for the adoption of internal reforms which would lead the settlement of inter-ethnic accommodation in Macedonia. Furthermore, by

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[198] See, Ibid. p. 15.

[199] EU took over the mission from NATO in April 2003 and was in charge by 15 December, when the Proxima had been launched.

[200] As stipulated in the 2004 SAA Annual Report on Macedonia In order to further improve the security situation and stabilisation of the country, the General Affairs Council upon the invitation of the former Yugoslav Republic of Macedonia authorities, adopted on 29 September a Joint Action establishing a European Union Police Mission. The Mission have been deployed since 15 December 2003 within the Ministry of Interior and in police stations at Tetovo, Gostivar, Kumanovo, Debar, Ohrid, Kicevo and Struga. See, Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 8.

[201] Ibid., p. 8.

[202] Proclaimed by the Government of Macedonia in the "National Strategy for European Integration of the Republic of Macedonia", Government of the Republic of Macedonia, Skopje, September 2004, p. 29. For the chronology of the development of relations between the Republic of Macedonia and the European Union, see table 5.

stating in its first Annual Report on SAA in 2002, that "integration with the EU is only possible if future members can demonstrate that they are willing and able to interact with their neighbours as EU Member States do"[203], the EU put the regional cooperation on the table as another fundamental element for its broader strategy of conflict prevention and peacebuilding for the region. In this regard while creating key organizations such as the Stability Pact (1999) in helping the region to further enhance this goal, it also aimed to facilitate the process within their own mechanisms and by encouraging initiatives of the region in bilateral and regional level by putting it within the conditionality framework of the Stability and Association Process.[204]

In the next part, I will assess whether and how the EU integration process affected these two dimensions. For the first part regarding the protection of minorities, the adoption and implementation of the *Framework Convention for the Protection of National Minorities,* as a fundamental document setting out the 'European' standards in minority protection will be analyzed. For the latter part, it will be analyzed whether and how the minority community and the progress in its position due to this "domestic Europeanization" affect the relationship between the "host-state" and the "kin-state" and encourage "external Europeanization (Wolff, 2003: 3). In this part, particular emphasis will be given on the assessment of the reference points through a secondary data analysis composed of the media coverage of the statements of the Macedonian political leaders for this envisaged bilateral and regional cooperation, namely the position of the national minorities and its role in setting good-neighbourhood, the regional dynamics and priorities and the prospect of European integration.

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[203] The Former Yugoslav Republic of Macedonia Stabilisation and Association Report Executive Summary, in the Stabilisation and Association process for South East Europe First Annual Report, Brussels, April 4, 2002, COM (2002) 163 final, (SEC (2002) 342) p. 22.

[204] See the previous chapter on "Post-1999 Period of the European Vision: the Stabilisation and Association Process and the Stability Pact".

A.3. Evaluation of the Normative Framework from the Perspective of the Framework Convention

As the first legally binding, multilateral instrument to protect national minorities within the respective territories of the signatory Parties, the Framework Convention was opened for signature by the Council of Europe's member States on 1 February 1995 and entered into force on 1 February 1998 after the required number of 12 member states had ratified the Convention[205]. As the 33rd state that signed the Framework Convention on 25 July 1996, Macedonia ratified the Convention on 10 April 1997 and it was entered into force on 1 February 1998. The first cycle of the monitoring process developed as follows: the first state report was submitted on 23 September 2003[206]; the first visit by the Advisors Committee (AC) was initiated during the period of 08-12 December 2003; on 27 May 2004 the first opinion of the AC was adopted which was published on 02 February 2005, followed by the comment of the Macedonian state on the same day. This process was also accompanied by NGO parallel reports on September 1999 and March 2001. The Committee of Ministers has not presented its Resolution yet.

In addition to the initial categories of "international co-operation", the definition of the term of "national minority" and general provisions, the Framework Convention identifies six specific objects of minority rights, namely territorial provisions, political participation, language, education, media/culture, and religion.[207]

In this regard, most of the policies that brought considerable changes towards a more democratized society in regard with the minority rights regime envisioned in the Framework Convention were adopted by the Constitutional Amendments of 17 November 2001 and other reforms in accordance with the provisions of the Framework Agreement, which was monitored regularly in the Annual Reports of the SAA through

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[205] On the history and content of the Framework Convention, see Estébanez and Gál (1998), Troebst (1998).

[206] The second state report was due to 01.02.2004. However, the Macedonian government has nott submitted it yet. The delay in the monitoring process should be taken into account in this case. For details see, http://www.coe.int/T/e/human_rights/minorities

[207] See, the Introduction.

the use of the aforementioned contractual links. The importance of the FCNM regarding the protection of minority rights was explicitly stated in the 2004 SAA Annual Report on Macedonia: "Efforts made fully to apply European standards, such as the implementation of the Framework Convention for Protection of National Minorities of the Council of Europe, would help to build further confidence and sense of loyalty to the State."[208] This process is principally under the supervision of the Commission Delegation and the EU Special Representative in Skopje, which was regarded to be "critical in supporting the implementation of the Ohrid Framework Agreement.[209]

The following outline systematizes *de jure* situation of minorities, namely the Constitutional and other legislative provisions in accordance with the standards of the Framework Convention.

International Cooperation (Article 1)

The Constitution of the Republic of Macedonia recognizes that "the international agreements ratified in accordance with the Constitution are part of internal legal order and can not be changed by law" (Article 118)[210]. This is extended to the whole judiciary process by ensuring that "courts judge on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution (Article 98).

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[208] See, Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 12.

[209] See, ibid, p. 7.

[210] In the minority rights report of Macedonian Helsinki Committee for Human Rights (1999), the relevant documents that Macedonia has ratified are cited as: the International Covenant on Civil and Political Rights, the Convention on Prevention and Punishment of the Crime of Apartheid, the Convention on Slavery, the Convention on the Status of Persons without Citizenship, the International Convention on Elimination of All Forms of Racial Discrimination, the Convention Against Discrimination in Education, the European Convention on Human Rights, and the Framework Convention on the Protection of National Minorities and it is signatory of the Charter on Regional and Minority Languages.

While the 1991 Constitution recognized the term of "nationality" in the use of "national minority", these frames were adjusted in a more democratic approach following the provisions of the 2001 Ohrid Agreement. Today, the term <u>communities</u> is used instead of "national minorities" and <u>communities not in the majority</u> instead of minorities[211]

General Provisions (Articles 4, 5, 6)

Article 8 of the Constitution determines "the fundamental values of the constitutional order of the Republic of Macedonia (as) the basic freedoms and rights of the individual and citizen, recognized in international law and set down in the Constitution; <u>equitable representation of persons belonging to all communities in public bodies at all levels and in other areas of public life</u>; the free expression of national identity … (Article 8). The subsequent article (Article 9) ensures the equality of all the citizens of Macedonia. The general provisions provided for the expression and protection of the rights of the members of national minorities are set out in details in Article 48: "members of <u>communities</u> have a right freely to express, foster and develop their identity and <u>community</u> attributes, and to use their <u>community</u> symbols. The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all <u>communities</u>. Members of <u>communities</u> have the right to establish

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[211] In Article 3 of Part III on "Specific Comments in Respect of Article 1-19" of the "Opinion" of the Advisory Committee on "the former Yugoslav Republic of Macedonia", adopted on 27 May 2004, it is noted that the instrument of ratification deposited on April 1997 by "the former Yugoslav Republic of Macedonia" contains the following declaration:

1. The term "national minorities" used in the Framework Convention for the Protection of National Minorities is considered to be identical to the term "nationalities" which is used in the Constitution and the laws of the Republic of Macedonia.

2. The provisions of the Framework Convention for the Protection of National Minorities will be applied to the Albanian, Turkish, Vlach, Roma and Serbian national minorities living in the territory of the Republic of Macedonia."

As noted above, these terms were amended by the constitutional changes provisioned by the Ohrid Agreement in 2001.

The underlined part cited hereinafter are the amendments to the Constitution in accordance with the provisions of the Ohrid Agreement (2001).

institutions for culture, art, science and education, as well as scholarly and other associations for the expression, fostering and development of their identity. Members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried in another language, the Macedonian language is also studied. [212] The constitution also set out provisions for the prevention of any attempts directed towards the exercise of these rights (Articles 20; 54, 110).

For the implementation of these rights a Committee for Inter-Community Relations has been established: "The Assembly shall establish a Committee for Inter-Community Relations. The Community consists of 19 members of whom 7 members each are from the ranks of the Macedonians and Albanians within the Assembly, and a member each from among the Turks, Vlachs, Roma, Serbs and Bosnians. If one of the communities does not have representatives, the Public Attorney[213], after consultation with relevant representatives of these communities, shall propose the remaining member of the Committee. The Assembly elects the members of the Committee. The Committee considers issues of inter-community relations in the Republic and makes appraisals and proposals for their solution. The Assembly is obliged to take into consideration the appraisals and proposals of the Committee and to make decisions regarding them. In the event of a dispute among members of the Assembly regarding the application of the voting procedure specified in Article 69(2), the Committee shall decide by a majority vote whether the procedure applies. (Article 78)[214]

In addition to these Constitutional provisions regulating the free exercise of the rights of the members of national minorities, the relevant bodies of laws also ensures

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[212] In the original form of the Constitution in 1991, the terms used are nationality, national attributes and the language of a nationality.

[213] Identical to the role of Ombudsman.

[214] The previous Committee was named as the Council of inter-ethnic relations. A more important amendment is its structure. In its former structure (Article 78.2), it is stated in the Constitution of 1991 as "The Council consists of the President of the Assembly and two members each from the ranks of the Macedonians, Albanians, Turks, Vlachs and Romanies, as well as two members from the ranks of other nationalities in Macedonia". Additionality by the Amendment XII, line 7 of Article 84, which states that the President of the Republic of Macedonia "proposes the members of the Council for Inter-Ethnic Relations" had been deleted.

penalty in case of any breach of these rights, such as Article 137 of the Criminal Code; Article 9 of the 1996 Law on Telecommunication and Article 4 of the 1996 Law on Political Parties.

Furthermore, according to Article 77 of the Constitution, and the subsequent Amendment XI to the Constitution in accordance with the Ohrid Agreement, the People's Attorney (Ombudsman) has the mandate to pay special attention to the protection of the principles of nondiscrimination and adequate and equitable representation of members of communities in the organs of the state administration, organs of local self-government units and in public institutions and services. The People's Attorney is elected by the Assembly of the Republic of Macedonia for a term of office of eight years, with the right to one reelection. The Office was granted greater financial independence by the Law on the Ombudsman of 10 September 2003 and opened its local offices in Bitola, Kumanovo, Tetıvı, Stip, Strumica and Kicevo.[215]

Regarding these general provisions of minority protection, the implementation of the provisions ordained in Framework Agreement on the equitable representation of minorities in the public administration and public enterprises, use of language and community symbols has been among the key areas of priorities specified by the EU in the SAP Annual Reports 2002, 2003 and 2004 and the last Council Decision on the "European Partnership with the FYROM". The Commission specifically indicated that the strategy adopted by the Government on 3 February which proposes "an action plan for the implementation of the FA, and operational programme for decentralisation and a draft programme for fair and equal representation of minorities in public administration and public enterprises"[216] was a confirmation of "governing coalition's positive ambition to take the process forward at a good pace" adding that "it now needs to implement this speedily and effectively"[217] It also underlined in the same report that the

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[215]Cited in Advisory Committee on the FCNM Opinion on "the former Yugoslav Republic of Macedonia", adopted on 27 May 2004, ACFC/INF/OP/I(2005)001, Strasbourg, 02 February 2005, Articles 35-36.

[216] Mainly in accordance with the Law on Civil Servants (Official Gazette of the Republic of Macedonia No. 59/00,59/02)

[217] Advisory Committee on the FCNM Opinion on "the former Yugoslav Republic of Macedonia", adopted on 27 May 2004, ACFC/INF/OP/I(2005)001, Strasbourg, 02 February 2005, p. 4. However, while indicating that although the recommendations in

Parliamentary Committee on Relations between the Communities "should play an important role in preventing or resolving inter-communities issues"[218]

However, in the 2004 SAP Report, despite initial measures taken in accordance with the FA and the recently adopted plan of the Government in spring 2003, it was emphasized that "the mid-term objectives of the Government (14%) have not been met, except in specific sectors", adding that "increased efforts will be needed". In this regard the Commission explicitly stated that this requires a clear and a comprehensive strategy, which also included the critical budgetary dimension, training and changes in the regulations relevant to the employment in the public sector."[219]

Additionally, despite some progress like the availability of identity cards in May 2003 either in Macedonian and Albanian languages upon request, it was emphasized that "the use of language(s) in the public administration and the use of community symbols are two other sensitive areas where further measures need to be adopted" such as the extension of the aforementioned implementation to all identity documents.[220]

Territorial Provisions (Article 16)

Articles 114 to 117 of the Constitution determine the issue of local self-government in the Republic of Macedonia. They are granted administrative (Article 114/1) and financial autonomy (Art 114/3). Their mandate is determined by Article 115: "urban planning, communal activities, culture, sport, social security and child care,

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2002 SAR on "(providing) the Civil Servants Agency with the means to implement civil service in a perspective of future integration into the EU structures, (promoting) transparency and 'merit' based organisation in the public administration and in all state bodies" had been basically not implemented. See, ibid. p. 13.

[218] Ibid., p. 9. In accordance with the constitutional amendments ordained by the Ohrid Agrement, it has been established under the Article 78 of the Macedonian Constitution.

[219] Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 5 . See also the part under the title of Public Administarion in the same Report, p. 6.

[220] Ibid. p. 5.

preschool education, primary education, basic health care and other fields determined by law." Besides, Skopje is determined as a "particular unit of local self-government", granted administrative and fiscal autonomy (Article 117)

Following the Law on Local Self-Government, adopted in 1995; the new Law on Local Self-Government was passed on 24 January 2002, in accordance with the Framework Agreement and the related Amendments to the Constitution. This process of decentralisation has been regarded by the EC as a "pivotal part" of the Framework Agreement, which "will help to strengthen democracy throughout the country and bring public services closer to citizens".[221] The Law regulates

"competencies of the municipality; direct participation of the citizens in the decision-making; the organization and the work of the organs of the municipality; municipal administration; the acts of the organs; the property – ownership of the municipality; supervision of the work of the municipal organs; dissolution of the council of the municipality; mechanisms of cooperation between the municipalities and the Government of the Republic of Macedonia; neighbourhood self-government; the protection of local self-government; determining of official languages in the municipalities; and other issues of importance to the local self-government."(Article1)

. Accordingly, the municipalities "may cooperate with units of local self-government of other states, as well as international organizations of local communities, and may be members of international organizations of local governments." (Art 14, item 4). The law also ensured the establishment of a Committee for Inter-Community Relations if "in the municipality in which more than 20% of the total number of inhabitants of the municipality determined at the last census are members of a certain community" (Article 55), and decide on the use of any other language as an official language alongside Macedonian language (Article 90). In its 2002 Stability and Association Report, the Commission underlined that "the changes to the Constitution in November 2001 and the adoption of the Law on Local Self-Government in January

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[221] Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, p. 4. The same message was reiterated in the 2004 SAP Report by underlying that the process is "a key challenge the country must tackle to enhance the quality of its governance and its democracy", by adding that it khas two key objectives, namely "to bring government closer to the people and to improve the delivery of services. See, Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, pp. 6-7.

2002 were a positive direction"[222] In its 2003 SA Report, it further emphasized that "fiscal decentralisation and allocation of resources, territorial division of municipalities and institution building will be the main elements of this process which needs to be largely completed by the time of the next local elections in 2004."[223] It also added that "partnership with citizens associations and a serious communication programme will help the smooth implementation of the decentralisation process."[224]

Subsequently, following the final results of the Census on the ethnic composition of the resident population[225], the new "Law on Territorial Organization of the Local Self-Government" was prepared on 11 December 2003 and passed by the Parliament on 11 August 2004. This law was a part of an Operational Programme including three principal laws (the Law on the City of Skopje and the Law on Municipal Finance) co-ordinated with other reforms through an inter-ministry Decentralisation Working Group and a Coordinating Body of State Secretaries.[226] The Law envisioned the reduction in the number of municipalities from 123 to 84 in accordance with the recommendation of the EC in 2004 SAP Report that "its success depends on rationalizing the size and number of municipalities in order to increase fiscal and managerial capacity and on transferring to the municipal level the

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[222] The Stabilisation and Association process for South East Europe First Annual Report, Brussels, April 4, 2002, COM (2002) 163 final, p. 22.

[223] Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, p. 4. It was also added that "the legislative framework which will ensure smooth implementation of the decentralisation process through offering the appropriate means to the central state bodies to manage the process, and developing the capacity of local self-government bodies to undertake the transferred responsibilities" has not been basically implemented although included in the recommendations in the 2002 SAP Report.

[224] Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, p. 13.

[225] The Census was published on 1 December. The final data showed that while there is an increase in the Albanian population both in number and in percentage of overall population from 22.7% to 25.17, and a decrease in the percentage of the Macedonians of the overall population from 66.6% -1994- to 64.18%. See, Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 4.

[226] Ibid, p. 7.

competencies listed in Article 22 of the Law on Local Self-Government"[227]. Its importance for the stability of Macedonia and in its pace within the process of European integration has also repeatedly expressed by Macedonian top officials. For instance, in his interview with the Macedonian TV MTV 1, President Branko Crvenkovski stated that he "supported the territorial organization law ... not because this is an ideal solution" adding that

> "the reason why this is important is that the Framework Agreement sets out that a new territorial organization law must be adopted by revising the existing municipal boundaries. Second, this law must be adopted using what is known as the Badinter majority. In other words, in addition to the general, that is, regular procedure for adopting a law, the majority of non-Macedonian Assembly deputies must vote for it. So the Framework Agreement stipulates that a consensus on the issue is needed."

The president further remarked that

> "Macedonia does not have time to lose. It will be catastrophic for us if Macedonia spends the next six months, a year or even two standing in one place and arguing on the territorial organization. Somebody may not like what I am going to say, and this may be met with serious criticism, but I fear that while trying to save Struga's municipal boundary, Macedonia's European future will slip through our fingers."[228]

By this arrangement, the minorities achieved the opportunity to establish majority populations in several municipalities, so that they could achieve higher levels of self-government capabilities. However, although the EC underlined that "the rationalization and the transfer of competencies should take place so that the new decentralised set-up can begin to function on 1 January 2005"[229], the referendum held for it on November 2004 failed as the majority of the citizens abstained from voting. According to the State Election Commission, the voter turnout equaled 26.24 %.[230] It is important that although the EC emphasized the procedural arrangements and its

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[227] Ibid, p. 7.

[228] Reported by MTV 1 Skopje on September 08, 2004, avavilable at http://www.csses.net.

[229] Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 7.

[230] Cited in http://www.ifes.org.mk/EN/latest.asp. For detailed information, see also http://www.makedonija.com/mic/vesti.php?pn=view&seite=15

implementation process[231] the progress has been impeded by the citizens' unwillingness.[232]

Political Participation (Articles 7, 17)

The Constitution of the Republic of Macedonia guarantees its citizens "the freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties, join them or resign from them. (Article 20). The citizens are also granted "the right to assemble peacefully and to express public protest without prior announcement or a special license. The exercise of this right may be restricted only during a state of emergency or war." (Article 21)

Language (Articles 10, 11)

Although the Constitution recognizes the Macedonian language as the official language of the Republic of Macedonia, it also guarantees the recognition of any other language spoken by at least 20 per cent of the population as an official language along with Macedonian (Article 7) The same law also provides the applicability of this principle to the units of local self-government.

The exercise of this right in specific circumstances is determined by the relevant laws, i.e.1995 Law on Local Self-Government (Article 89)[233]; The 1995 *Law*

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[231] It was emphasized by the EC that the "progress is now dependent on effective co-ordination within the central government, parliamentary approval of the required legislative acts, training of the municipal administrations and clarification of the situation with regard to municipal debt.".

[232] In fact this was its second rejection by the citizens. Before that formal referendum, by claiming that this law is "a threat to Macedonia's survival", The opposition block, composed of political parties, civic associations and individuals, called on Macedonian citizens to support an initiative for referendum on annulling the territorial organization law. See, MIA news agency, 13 August 2004, http://www.csees.net

[233] This Article proposes that in areas where there are nationalities, and where the latter are either the "majority" (50 percent of the population according to the last population census) or are in "considerable numbers" (20 percent of the population), "besides the

on the Personal Names (Article 9); 1995 Law on Identity Cards (Article 5); the *Law on Registries of Births, Deaths and Marriages* (Article9).

However, although The *Law on the Criminal Procedure* and the *Law on the Lawsuit Procedure* proposed that those involved in the procedures are guaranteed the use of their mother tongue, and the state authorities are obliged to ensure translation during the procedures (Ortakovski 1998:349; Koinova 2002), With the 1997 changes of the *Law on the Criminal Procedure*, the official language in court became Macedonian (Najcevska, 2000).[234]

In addition to that, sometimes problems occur at the Parliamentary level. For instance, although Albanian has been in use in Parliamentary session since its constitution on 3 October 2002[235], the refusal by some opposition members to chair the committees of which they are in charge in the Macedonian language has been hindering their regular works for more than a year.[236]

Education (Articles 12, 13, 14)

Article 48 of the Constitution guarantees that **"**members of <u>communities</u> have a right freely to express, foster and develop their identity and <u>community</u> attributes, and to use their <u>community</u> symbols" beside their right to "establish institutions for culture,

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Macedonian language and its Cyrillic alphabet, the language and the alphabet of the nationality" shall be in use". Cited in MHC, 1999. See also Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 5.

[234] During the Socialist Federation of Yugoslavia, all documents of communication with the courts could be written in the minority languages. (Koinova 2002) In late 1998, the Macedonian Constitutional Court ruled that court decisions should be only in Macedonian, thus overruled past practice (Nessimi 2000; cited in Koinova 2002).

[235] Cited in Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, p. 3.

[236] Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 6.

art, science and education, as well as scholarly and other associations for the expression, fostering and development of their identity"[237]

The relevant laws of education such as Article 8 and 81 of the 1995 *Law on Primary Education* and Art 7 of the *1995* Law *on Secondary Education* set the details of the exercise of these rights. For instance, Article 8 of the specifies that the education and instruction for persons belonging to nationalities is carried out in their language. In Article 81 of the same law, it is proposed that (1) The pedagogical documents and records are being written and issued in Macedonian language and its Cyrillic alphabet, (2) For pupils who attend the instruction in one of the languages of nationalities, the pedagogical documents and records are registered and issued both in the Macedonian language and its Cyrillic alphabet and in the language and alphabet of the nationality, while the pedagogical evidence is written in the language and alphabet in which the instruction is being carried out.

By the *Education Law* of July 2000, higher education is allowed in other than the Macedonian language only in private universities in Macedonia. In these private institutions, instruction is provided in a "world-language" or the language of the nationalities, while Macedonian is also studied. Furthermore, education in Macedonian is to be provided for at least two additional educational subjects (Article 95, Law on Higher Education, Georgieva, 2000; cf. Koinova, 2002).[238] In addition to that, the law allows the instruction of "didactic-methodic subjects" in the languages of the nationalities in a special pedagogy center affiliated with the pedagogical faculty of Skopje University for the training of secondary school teachers. A third new moment is that Article 198 opens the possibility for the people, involved in civic initiatives, to take part in state education (Georgieva, 2000, Article 95 of the *Law on Higher Education*, July 2000; cf. Koinova, 2002). This implicitly gives the students of the private

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[237] The law explicitly states that "Members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried in another language, the Macedonian language is also studied" In the original form of the Constitution in 1991, the terms used are nationality, national attributes and the language of a nationality.

[238] However, even before the adoption of this law, the three faculties of the Skopje - state- University, namely, the pedagogical, linguistic and drama faculties instructed in the mother tongue of the nationalities.

Albanian-language[239] Tetovo to take state exams, and accordingly validate their unrecognized academic status. Especially following its re-establishment based on the proposals of the OSCE High Commissioner on National Minorities to a university with three-language education, it has been also recorded by the EC that "its continuous development and wide impact across various communities has confirmed it as a viable, forward looking, and academically sound educational institution."[240]

<div align="center">

Culture and Media (Article 9)

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Article 16 of the Macedonian Constitution guarantees "the freedom of speech, public address public information and the establishments of institutions for public information" (Article 16/2)It also guarantees free access to information, freedom to receive and impart information (Art 16/3). Additionally, by the Article 48 members of the communities are guaranteed "the right freely to express, foster and develop their identity and attributes of their communities and use symbols of their communities" are guaranteed. (Art 48/1)

Furthermore, the "Law on Broadcasting" determines the conditions of broadcasting activities. In Article 45, paragraph 2 of the Law orders the public broadcasting company, the Macedonian Radio and Television to broadcast programs in the languages of communities beside Macedonian language. Paragraph 3 of the same Article of the Law on Broadcasting foresees that in the areas where members of communities constitute a majority or a significant number, the local public broadcasting company must broadcast programs in the language of that respective community. The subsequent paragraph accepts the same right exercised by commercial broadcasting organizations.

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[239] Which was declared to be illegal by the Macedonian authorities until February 2004 subsequent to its modification in accordance with the model faciliateted by OSCE High Commissioner on National Minorities.

[240] Cited in Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 12. As stated in the same report, "at the end of the four year cycle (in 2004), Albanian students will represent over 14% of all higher education students in the country", while their percentage was 4.8% for 2000/2001. See, Ibid., p. 12.

Under Article 6, paragraph 1 , subparagraph 1 of the Law on the Establishment of the Public Company Macedonian Radio Television (2000), the public company Macedonian Radio and Television is obliged to produce and broadcast radio and TV programs within the framework of the guaranteed freedoms and rights of the individual and citizen in respect of informative, educational, cultural, scientific, sport, musical, entertaining and other contents in the languages of nationalities, that is to say communities living in the Republic of Macedonia.

Religion (Article 8)

The constitutional order of the Republic of Macedonia guarantees the freedom of religious confession and accordingly its expression "publicly, individually or with others" by its Article 19. The same article also specifies some religious communities in Macedonia and determines the rights granted to them and emphasizes on the separation of religious communities and the state:

"The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are separate from the state and equal before the law. The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are free to establish schools and other social and charitable institutions by way of a procedure regulated by law."[241]

Furthermore, the *Law on the Religious Communities and Groups* (July 16, 1997) supports the principles established in the 1991 Constitution. In Article 8, the Muslim denomination is defined as one of the recognized "religious communities," i.e. "voluntarily organized non-profit communities of adherents of the same religion," equal in status to the Catholic and the Macedonian Orthodox church (IHF, 1998; cited in Kaikovski, 2002).

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[241] In the previos form of the Constitution in 1991, only the Macedonian Orthodox Church is explicitly mentioned, the rest are expressed under the statement of "other religious communities and groups."

A. 4. Factual Situation on the Exercise of National Minority Rights

Despite the existence of small scale tensions and problems, especially following the signing of the Ohrid Framework Agreement, the democratization process has brought a considerable relaxation in Macedonia with regard to inter-ethnic relations when compared with the period of 1991-2001. In this section, examination of the implementation of minority rights standards will be evaluated by drawing on the reports of the three international human rights organization, namely the Amnesty International, Human Rights Watch and the International Helsinki Federation and the Helsinki Committee for Human Rights of the Republic of Macedonia, particularly between 2001 and 2005.

Prior to the signing of the Ohrid Framework Agreement and the SAA in 2001, the main concerns relating to the protection of the rights of ethnic Albanians were cited as[242]:

- Provisions of the Constitution (IHF 1997)

- Lack of citizenship rights due to the 1992 Citizenship Law, which remained large number of ethnic Albanians, Turks and Roma stateless (IHF 1997, IHF 1999, IHF 2000, HRW 2001, IHF 2001)

-Lack of proportionate employment in public sector, especially in police force (IHF 1997, IHF 1999, HRW 2001):

- Access to Albanian-language education and the broader framework of education policy, particularly the establishment of private secondary schools, the recognition of the private Albanian-language Tetovo University founded in February 1995, the language of instruction at the Pedagogical Faculty of St. Cyril and Methodius University in Skopje in 1996, treatment of Albanian instructors, and the delayed law on

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[242] According to the 1997, 1998, 1999, 2000 and 2001 Annual Reports of the International Helsinki Federation; 1999, 2000 and 2001 Annual Reports of Human Rights Watch; and the 2001 Annual Report on Amnesty International. For the main points of disputes, see also pp. 39-41.

higher education (IHF 1997, IHF 1998, HRW 1999, IHF 1999, IHF 2000, HRW 2000, HRW 2001, IHF 2001)

- The position of the Orthodox Church *vis a vis* the state and the relevant issue of religious freedom, particularly issue relevant to the 1997 Law on Religious Communities and Groups, which favored the "traditional" religions over the other minor religious believers under the category of "religious group" (IHF 1998, IHF 1999, IHF 2000, HRW 2000, IHF 2001)

- Irregularities during the election processes, particularly regarding the composition of the electoral commissions, district gerrymandering and inadequate state funding for voter education (HRW 1999; IHF 1999, HRW 2001, IHF 2001). The irregularities also included administrative measures towards the media critical of the government (AI 2001; HRW 2001)

- Biased media coverage of inter-ethnic relations (IHF 1999; IHF 2000, IHF 2001)

- In sufficient presentation of cultural identities through media channels, and banning of press and confiscating the licence of Albanian language stations, i.e. the temporary shut-down of the Tirana based daily newspaper *Bota Sot*, which is critical of the Albanian party in the coalition and the case of TV-Koha in Tetovo and TV-2 in Gostivar, losing their licence (IHF 1997, IHF 1999, AI 2001, HRW 2001).

- Use of minority languages in communication with the administrative and legal authorities, and the use of bilingual names of locations in the municipalities with a significant minority population (IHF 2000):

- The status and location of refugees following the Kosovo crisis in 1999 (HRW 1999, HRW 2000, IHF 2000, IHF 2001)

- Human rights violations by the Police forces, particularly following the flag raising event in July 1997 in Gostivar and Tetovo where more than 200 people injured; and the killing of three police officers outside the Albanian village of Aracinovo on

January 11, 2000 (IHF 1998, IHF 1999, AI 2001). Besides, crossing the ethnic boundaries, illegal behaviors of the police such as use of excessive force, conducting "informative talks" or holding suspects more than twenty-four hours allowed by the law are also cited nearly all the reports of the international organizations (IHF 1997, IHF 1998, HRW 1999, IHF 1999, IHF 2000, IHF 2001, HRW 2000; AI 2001, HRW 2001)

In 2001, the inter-ethnic tension that has existed in Macedonia since the independence, which was evidently reflected in the aforementioned reports of the main international NGOs, escalated into open armed conflict. During 6 months of fighting between the ethnic Albanian armed groups, namely the NLA and the Macedonian security forces *Pax-Macedonia* was significantly upset.

In the course of the six-months fighting human rights violations became more frequent, both committed by the NLA and the Macedonian forces including government forces and paramilitary groups such as the *Lions*, *Tigers* and the *Red Berets* (AI 2002, HRW 2002). Implementation of the provisions of the Ohrid Agreement brought considerable changes to the socio-political conditions of Macedonia. These can be summarized as follows:

-By the implementation of the proposed amendments to the Constitution by the Ohrid Agreement, Albanian language was recognized as an official language[243] (HRW 2003), following the guarantee of proportional access for national minorities to the aforementioned structures of public sector; according to the Macedonian Helsinki Committee, during the three years since the Ohrid Agreement was signed, there has been an 80% increase in the employment of minorities, which provided the ethnic Albanians a closer level of representation to their share of the country's population (HRW 2004); as one of the main controversies since several years, the Albanian-

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[243] The Framework Agreement proposes that in areas where more than 20% of the population speak it as their mother language, Albanian has to be recognized as an official language. In addition to Macedonian, Albanian is an official langue in 34 municipalities, Turkish in 5 municipalities, and Romany and Serbian in one municipality each (Source: Ministry of Local Self-Government;cf. fn. 7 in the Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities). Relevant items propose use of Albanian language in communication with administrative units.

language private Tetovo University eventually has been recognized in February 2004 (HRW 2004); following the introduction of the *Law on Local Self-Government* on 24 January 2002, by the introduction of redistricting plan under the *Territorial Organization Act* on August 11, 2004, the last package of the provisions of the Ohrid Agreement, the powers of the administrative districts were increased and their numbers were proposed to be decreased from 123 to 76 in 2008[244], which decentralized the country and increased the number of the local districts where Albanian would be used as an official language and representation of a large number of ethnic Albanians in local governments (HRW 2004). Within the broader legal framework, the ethnic Albanians were also provided with a legal power on the issues regarding national minorities, of which the Ohrid Agreement required not just the majority of all parliamentary disputes, but also the majority of all deputies representing national minorities for such a law to be adopted (HRW 2004).

- On August 2002, the national television channel MTV opened a multi-ethnic channel, of which nine hours of the total 12 hours of daily programming were in Albanian language (IHF 2003)

- Following a Presidential pardon by Trajkovski on December 2001(AI 2002), in March 2002 an amnesty law was introduced for former NLA combatants who had not committed war crimes and voluntarily laid down their arms by 26 September 2002. This was regarded as by the international community as crucial for reconciliation and inter-ethnic peace (AI 2003, HRW 2003). This was followed by the disarmament of NLA under the NATO operation of "Task Force Harvest". NATO declared that through the operation 483 machine guns and 3210 assault rifles in addition to tanks/APCs weapon systems mines, explosives, and ammunition were collected[245].

- The general elections in September 2002 resulted in the new "Together for Macedonia" coalition led by Branko Crvenkovski of the *Social Democratic Union*

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[244] See the the previous section on the legal situation regarding territorial provisions.

[245] RFE/RL NewsLine 26 September 2001. Keesing's, September 2001 – Macedonia. Completion of NATO weapons collection operation – New NATO operation. Available at http://keesings.gvpi.net/keesings/lpext.dll?f=templates&fn=main-h.htm&2.0/. Cited in Eldgridge (2002: 67).

(Socijaldemokratski Sojuz na Makedonija/SDSM) with the recently established ethnic Albanian party, *Democratic Union for Integration* (Demokratska Unija za Integracija/DUI), led by the former Albanian rebel leader Ali Ahmeti[246] replaced the former VMRO-DPMNE and PDSH coalition.

However, beside these developments the same period also witnessed challenges for the democratic process proposed by the Ohrid Agreement such as:

- The establishment of the mono-ethnic special police unit of the *Lions*, which allegedly included many former criminals (IHF 2002) and the continuing police violence mainly backed up by the argument of fighting against extremist and terrorist groups.(IHF 2002, HRW 2004)[247]. Police abuse and human rights violations has been an issue of crossing all ethnic boundaries (AI 2002, AI 2003, AI 2004, HRW 2004, IHF 2002, IHF 2003)

- Declaration of St. Dimitrija as the patron-saint by the Ministry of Interior (IHF 2002)

- Incidents of biased, one-sided media coverage favoring ethnic prejudices and hate speeches during the inter-ethnic conflicts (IHF 2002, IHF 2003)

- The government's pressure on the ethnic Albanian media, i.e. tapping of the Albanian-language newspaper *Fakti*'s telephones. (HRW 2003, IHF 2002).

- The disintegration of ethnically mixed schools. After the ethnic Albanian community demanded that the names of the schools their children attended to be changed to reflect Albanian culture and its well-known people and placed Albanian symbols in front of many schools, inter-ethnic tensions escalated into violent conflicts in 2002 and 2003, which led a vicious cycle of retaliation among ethnic Albanians and

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[246] The coalition took 40.4 % of the vote, where DUI won the greatest portion of ethnic Albanian vote. See, HRW 2003 Annual Report.

[247] One of the most serious incidents occurred in August 2002. Following the attack of the Macedonian police on the ethnic Albanian village Ljuboten, ten civilians died and more than 100 were arrested, amny of whom were severely beaten in police custody. For details, see, IHF 2002.

Macedonians such as the cases of Matin Adili and Vanco Josifovski in 2002 and Arsenie Jovkov and Bitola cases in 2003 (IHF 2003, IHF 2004)

- Irregularities during the 2002 elections (IHF 2003)

Today, in addition to the obligations required under the Framework Convention, the basic framework of the Government of the Republic of Macedonia in relation to the protection of the rights of national minorities is the full implementation of the Ohrid Framework Agreement in the legal and factual framework, what is one of the highest political priority goals and tasks of the Government on the way of EU integration.

In this respect, in its opinion on "the former Yugoslav Republic of Macedonia" at its 19th meeting on 27 May 2004, the Advisory Committee (AC) on the Framework Convention for the Protection of National Minorities welcomed "the fact that the constitutional and legislative changes made so far, in accordance with the Ohrid Agreement, lay the foundations for greater protection for minorities, *inter alia*, in such fields as the use of minority languages, education and participation, with the introduction of the principle of equitable representation for minorities at all levels of public administration."[248] However, underlying that "the fostering of mutual understanding and intercultural dialogue remains vital to the future of social cohesion in the country, which has been adversely affected by the armed conflict of 2001" the AC indicates in its opinion that "the interethnic tensions observed, particularly in the younger population groups, continue to give cause for great concern and bear witness to the existence of significant barriers between the different communities, and particularly between Albanians and Macedonians", adding that "additional efforts should be made to encourage interaction between the different components of society, particularly in the sphere of education, where individuals' knowledge of the languages spoken in their region could be promoted."[249] The same anxiety has also been highlighted by the EC through its SAP Reports. In its 2003 Report, noting the existence of "a few ethnically-

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[248] Cited in the Executive Summary of the Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on "The Former Yugoslav Republic of Macedonia", adopted On 27 May 2004. Strasbourg, 02 February 2005.

[249] Ibid. Concluding Remarks, item 152.

motivated incidents have taken place", it stated that although "a responsible attitude has been shown so far by public authorities (…) the potential for such incidents to escalate clearly remains. Polarisation of young people along ethnic lines is a serious concern and needs to be addressed on both sides of the ethnic divide"[250] In this regard by referring to the establishment of the Parliamentary Committee on Relations between the Communities, the EC explicitly stated that "further measures to build confidence and promote dialogue between communities will be vital to support on-going political process and reinforce the de facto cooperation which often, at the local level, allows daily public affairs to be conducted."[251] For instance, both in its 2003 and 2004 SAP Reports, it was stated that religious dialogue between Communities can usefully contribute to the relaxation of existing cultural and inter-ethnic tensions.[252]

Although state report was submitted by the Government of the Republic of Macedonia on 23 September 2003[253] (due on February 1, 1999), the AC points out that "this report contains detailed information on existing legislation together with more limited information on relevant practice", besides, it is argued that "the armed conflict of 2001 and its consequences are not fully reflected in the State Report"[254], of whose effects are "still being felt in society and are making implementation of the Framework Convention more complicated".[255]

In this context, although a steady progress can be observed in the Macedonian citizens' support on the Ohrid Agreement (see, Table 5), support for the Constitutional

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[250] 2003 Sap Report, p. 9. However, a similar statement had also been declared in 2004 SAP Report due to "incidents and protests with racist connotations at the reopening of schools". The EC warned that "over-politicing the education issue may well put at risk progress in a key area for the future of the country". See, ibid. p. 12.

[251] Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, p. 10.

[252] See, ibid, p. 9, and Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 12.

[253] Due February 1, 1999.

[254] Ibid. General Remarks, item 6.

[255] Ibid. General Remarks, item 10.

amendments provisioned in it such as the law on territorial division[256], equitable representation (see, table 6) represents fluctuations, which are generally opposed more than half of the ethnic Macedonian population. For instance, On October 2004, Albanian daily in Macedonia, Fakti reported that the latest opinion poll indicated that over 50 % of the Macedonian population opposed the law on territorial divison[257], One year before, in its Early Warning on Macedonia, the UNDP experts reported that 63.1% of the ethnic Macedonians somewhat oppose the process, while only 17.6 % somewhat accept it. The same figures for ethnic Albanians were 34.2 % and 39.8 % for ethnic Albanians respectively (UNDP 2003: 69, 73) In a more recent opinion poll conducted by the International Republican Institute in Macedonia in May 2005, it was reported that 62 % of the citizens back decentralization process, considering it as a very significant prerequisite of accession to the EU. In that survey, 47 % of the Macedonian citizens stated that they are not satisfied with the process.

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[256] Reported by MIA state news agency, May 23, 2005, Available at http://www.csees.net. However, it must be taken into consideration that these results reflects total percentages reflecting both the Macedonian and Albanian approach.

[257] Fakti, October 7, 2004. available at http://www.csses.net

Table 5: Approaches on Ohrid Framework Agreement

Sources: US Government Opinion Poll, October 2001, BCR No.250, 25 May 2001; cf. IWPR Balkan Crisis Report No. 341[258]; US Government Opinion Poll, June 07, 2002, cf. IWPR Balkan Crisis Report No. 341; UNDP Macedonia Early Warning Report No.1, January 2003, p. 44; Report from 24 June 2003, A1 TV, Skopje; Opinion Poll by the US International Democratic Institute, 3-9 September 2003, reported by A1 TV, Skopje; Opinion poll conducted by the International Republican Institute in Macedonia at the end of 2004, Reported by the HINA news agency, Zagreb, January 13, 2005.

	Support		Oppose	
Date	Ethnic Macedonians	Ethnic Albanians	Ethnic Macedonians	Ethnic Albanians
Oct. 2001	44 %	No data	56 %	No data
June 2002	37%	90%	63%	10%
Jan. 2003	38%	91,6 %	55.1%	2.8%
June 2003	53%	53%	40%	40%
Sept. 2003	55%	55%	40%	40%
Jan. 2005	57%	57%	38%	38%

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[258] This data and the subsequent data is available at http://www.csses.net

Table 6. Attitudes of Macedonian citizens on equitable representation of ethnic communities

Sources: UNDP Macedonia Early Warning Report No.1, January 2003, pp. 69, 73; UNDP Macedonia Early Warning Report, No.2, March 2005, p. 50; UNDP Early Warning Report on Macedonia, No.3, June 2005, p. 64.

Opinion	Macedonians			Albanians			Others		
	January 2003	March 2005	June 2005	January 2003	March 2005	June 2005	January 2003	March 2005	June 2005
Strongly disagree	24.6%	36.0%	35.4%	14.3%	0	0.9%	X	26.2%	5.6%
Somewhat disagree	37.3%	20.6%	23.0%	12%	0	2.1%	X	14.%	13.9%
Somewhat agree	16.0%	28.5%	27.9%	16.7%	10.2%	17.5%	X	21.5%	25.0%
Strongly agree	4.3%	30.3%	10.3%	30.3%	85.5%	75.6%	X	37.4%	49.1%

While these results of the opinion polls reflect the Macedonian resentment, the tensions are particularly experienced at the societal level, although relaxed when considered with the early 2000s. In this context, despite the amendments of the legal framework and the relevant policies, the recent polls highlights how inter-ethnic relations are still unstable and peoples have the tendency for not to trust "the other". For instance, in May 2001 the percentage of Albanians favouring of an ethnically mixed Macedonia was 71 %, this reduced to 61 % in October 2001, and to only 39 per cent in June 2002[259]. What is interesting was that members of other national minority groups reconcile more with Macedonian rather then Albanians[260] (see Table 8).

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[259] Cited in US Government Opinion Poll, June 07, 2002, See, IWPR Balkan Crisis Report No. 341, Available at http://www.csees.net. The results are more moderate when

Table 7. Living with 'the Other'[261]

	Marriage with a Mac.	Marriage with an Alb.	Having a Mac. friend	Having an Alb. Friend	Sharing village, street, block with a Mac.	Sharing village, street, block with an Alb.
May 2001	82%	87%	25 %	45%	No data	No data
June 2002	91%	95 %	61%	52 %	No data	No data
Jan. 2003	95.3%	84.9%	35.8%	37.1%	39.1%	47.2%

it is a temporary meeting with the other when compared with the ones in table 10. For instance, In May 2001 14 % of the Albanians state that they would not go to shoping from a shop owned by a Macedonian, while 40% of the Macedonian states the same for an Albanian. These were reduced to 35% for Albanians, and 52 % for Macedonians respectively. The other results were: 33.5 % of the Macedonians, 23.1% of the Albanians do not accepting to share the work place with 'the Other'; 41.7% of the Macedonians, 31.9% of the Albanians rejecting to make business, and 15.8% of the Macedonians and 83.6% of the Albanians states that he/she would not vote for a candidate who is a member of the other national group. This also reflects how the approach has been politicized for the ethnic Albanian population. For the results see, US Government Opinion Poll, June 07, 2002, See, IWPR Balkan Crisis Report No. 341, Available at http://www.csees.net, and UNDP (2003).

[260] One of the reasons for this can be the fact that they already enjoyed the rights given to national minorities, beside the fact the rebel of the ethnic Albanians has transformed the political framework in the country to a platform of the struggle of two 'majority' nationalism, which furthjer marginalized their position in the political and administrative structures. For a critics of the Ohrid Framework Agreement from thjis point of view, see, Engström 2002. This fact reveals itself when the question is on whether a member of another national minority would vote for a Macedonian or an Albanian. 96. 2 % completely or somewhat agree to vote for a Macedonian candidate, while this is only 26.4 % for an Albanian candidate. See, UNDP (2001: 70).

[261] The ratios indicate those who gives a negative response to the aforementioned questions.

Table 8. Living with a Macedonian or an Albanian?

Source: UNDP 2001 Macedonia Early Warning Report, No.1, pp. 70-71.

	Get married		Having a/an		Share village, street, block	
	with a Macedonian	with an Albanian	Macedonian friend	Albanian friend	with a Macedonian	with an Albanian
1	64.2 %	18.9 %	88.7 %	50.9 %	94.3 %	58.5 %
2	17.0 %	9.4 %	9.4 %	26.4 %	3.8 %	15.1 %
3	3.8 %	7.5 %	-	9.4 %	-	5.7 %
4	13.2 %	64.2 %	1.9 %	13.2 %	1.9 %	20.8 %

1- Completely agree, 2- somewhat agree, 3- somewhat disagree, 4- completely disagree

These results have also been supported by the poll of Gallup in 2003, indicating that 85% of the Macedonians interviewed agree with the approach that sees minorities as a threat.[262] These results stipulate that the situation has been still fragile within the first years of the implementation process, although it has been presented as a success story for both the EU and Macedonia. The 2005 Early Warning Report on UNDP on Macedonia revealed that despite the policies of the government, inter-ethnic reconciliation can not be observed in the realm of society, which is the fundamental requirement for a stable multi-ethnic Macedonia. (2005a: 25) Accordingly, over 54% of the ethnic Macedonians perceive interethnic relations as very bad or a bit better than that. The same attitude is presented by 23 % of the ethnic Albanians.[263] (UNDP 2005a:

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[262] Macedonia 2003, Gallup IBEU Project, cited in Mungiu-Pippidi, p. 11.

[263] What is more interesting is the fact that, in March 2005 while 88.6 % of ethnic Macedonians of those interviewed stated that he/she "like Macedonia", that was only 9.7 % for ethnic Albanians while it was 81.5 % for other persons belonging to a national minority group other than Albanians. The percentages of those who stated as "I do not know this song" were 8.7 % for ethnic Macedonians, 60.2 % for ethnic Albanians, and 12.0% for members of other national minority groups. See, UNDP (2005a: 51).

50). While the Early Warning Report of the UNDP in June 2005 reported that it was reduced to 41.8 % for ethnic Macedonians, it increased to 25 % for the Albanians (2005b: 63) (See, figure 2) Further more, Macedonia is the country with the greatest ratio that the people feel that their country is still under the threat of armed conflict. (See, Fig. 3)

Figure 1: Inter-ethnic relations in Macedonia in March 2005
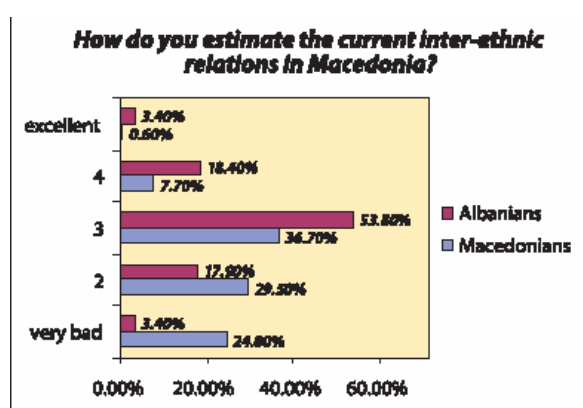Source: UNDP (2005a: 25).

Figure 2: Inter-ethnic relations in Macedonia in June 2005
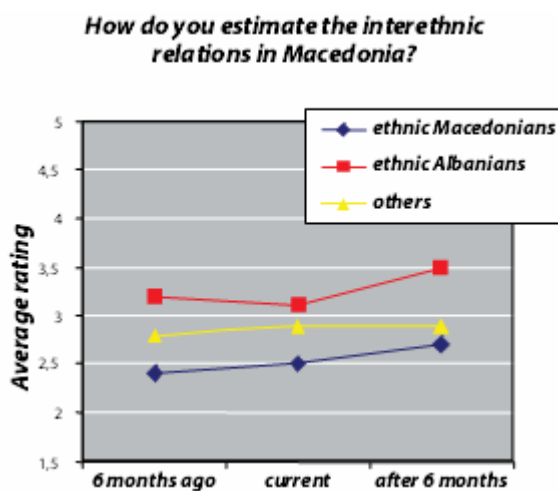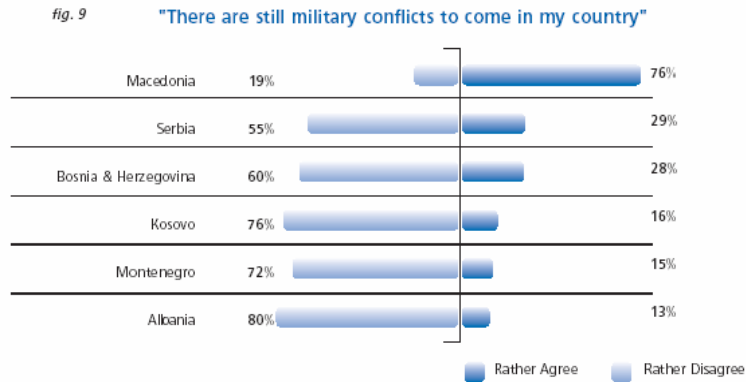Source: UNDP 2005b: 30.

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Figure 3: Opinion on the Probability of Armed Conflict

Source: International Commission on the Balkans (2005). The Balkans in Europe's Future, p. 46, fig. 9.

fig. 9   "There are still military conflicts to come in my country"

Country	Rather Disagree	Rather Agree
Macedonia	19%	76%
Serbia	55%	29%
Bosnia & Herzegovina	60%	28%
Kosovo	76%	16%
Montenegro	72%	15%
Albania	80%	13%

■ Rather Agree   ■ Rather Disagree

In this context, the Advisory Committee on FCNM recommends that "the authorities should resolutely pursue the reforms begun in relation to the protection of minorities (…) so that the existing legal framework is completed and consolidated."[264] Therefore, further measures that are recommended to be taken by the government are the issues of instruction in minority languages and providing qualified teachers for teaching[265], facilitating contacts between pupils and teachers of different communities and thus functioning of ethnically mixed societies[266]; reviewing the prohibition on establishing private education[267]; promoting access to the media for persons belonging to national minorities[268]; relaxation of requirements for citizenship such as having a

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[264] Concluding Remarks, item 151.

[265] Ibid., III. Specıfıc Comments in Respect of Articles 1-19, Article 12, item 77; and Article 14, items 88, 89, 90, 91and 92; IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 12, items 136 and 137, Article 14, items 141 and 142.

[266] Ibid., III. Specıfıc Comments in Respect of Articles 1-19, Article 12, items 74 and 75; and IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 12, item 134.

[267] Ibid., III. Specıfıc Comments in Respect of Articles 1-19, Article 13, items 85, 86; IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 13, items 140; and Concluding Remarks, item 153.

[268] Ibid., III. Specıfıc Comments in Respect of Articles 1-19, Article 9, item 65; IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 9, item 129; and Concluding Remarks, item 155.

permanent source of income, proof of legal residence, and the requisite identity papers[269]; monitoring and fully investigating cases of violence and ill-treatment inflicted on persons belonging to minorities by the law enforcement officials and police[270]; continuing to promote participation in public administration, i.e. judiciary where there is considerable under-representation[271]; the conclusion of decentralization process[272]; generally the authorities are recommended to guarantee non-discrimination towards numerically smaller minorities, particularly Roma[273] and Vlachs[274].

Similar anxieties are also reflected in the IHF Report on the human rights situation in Macedonia in 2004 such as the continuing human rights violations by the police force and the secret police force, the *Lions*, state-church relations in favor of the Orthodox Church, unsuccessful disarmament of the armed ethnic Albanian groups[275];

[269] Ibid., III. Specific Comments in Respect of Articles 1-19, Article 4, item 38; IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 4, item 118.

[270] Ibid., III. Specific Comments in Respect of Articles 1-19, Article 56, item 53; and IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 6, item 123.

[271] Ibid., III. Specific Comments in Respect of Articles 1-19, Article 15, items 97, 98, and 99; and IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 15, items 144 and 145. According to the statistics provided in the State Report only 11.5 % of (elected) judges belong to minorities. Of these, 6.2% are Albanians, 0.8% Turks, 1.9% Vlachs, 0.3% Macedonians of Muslim religion, 0.5% other persons of Muslim religion, 1.1% Serbs, 0.5% Montenegrins, 0.1% Croats and 0.1% Bulgarians.

[272] Ibid., III. Specific Comments in Respect of Articles 1-19, Article 15, items 100 and 101; and IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 15, item 146.

[273] Ibid., III. Specific Comments in Respect of Articles 1-19, Article 4, items 30, 31, 32, 33; Article 6, item 52; Article 14, item 92; IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 4, items 115 and 116; and Concluding Remarks, item 154.

[274] Ibid., III. Specific Comments in Respect of Articles 1-19, Article 5, item 45; Article 14, item 91; IV. Main Findings and Comments of the Advisory Committee, In Respect of Article 5, item 120; and Concluding Remarks, item 155.

[275] For ethnic Macedonians, these were just a small portion of the arms of the Albanian rebels. Cited in Eldgirdge (2002: 67). The same anxiety was also applicable to the armed ethnic Albanian population, it is cited that three years after the end of the armed conflict,

restrictions of the election process in the early Presidential elections. However, what is more significant is the fact that, while the AC opinion takes the Ohrid Framework Agreement for granted for the protection of national minority rights accompanying the Framework Convention, the Helsinki Committee for Human Rights of the Republic of Macedonia points out that, after four years of the signing, a crucial problem is the degraded role of the parliamentary institutions in favor of political parties due to the further ethnicization of the political situation by the Ohrid Agreement. As cited in its Annual Report on the human rights situation in Macedonia, it can be observed that under the dominance of the Ohrid Framework Agreement determining the current political structure in Macedonia, what is promoted is "a civic state through ethnically defined measures" (Engström 2002, 13). The consequence is evidently pointed out in the Joint Statement of the Macedonian Helsinki Committee for Human Rights and the International Helsinki Federation for Human Rights:

> "On the one hand, the events resulted in the Macedonian majority population's increased sensitivity to the Albanian issue, leading to overreactions, growing mistrust and fear of movements towards secession. On the other hand, the ideas of bilateral dialogue or bi-nationalism provoked reactions on the side of the other minorities in Macedonia -the ethnic Turks, the Roma, the ethnic Serbians and last but not least- the Vlachs." (Joint Statement, 2001)

Under the dominance of this de facto bi-national structure, as reflected both in the annual reports of the international NGOs and the AC Opinion, discrimination towards minor national minorities could not be prevented. These clarify why members of the minor national minorities do not coincide with ethnic Macedonians (see Table 8). Furthermore, "the political parties have negated the Parliament as a forum for negotiation and agreement-reaching, and emerged as substitutes of the overall state apparatus and of the legal structures of the authority" (IHF 2005). Sometimes, it can also be observed that the dominance of the political parties on the future of the country is also reflected into other sectors of the state structure such as the judiciary mainly by through the appointment process of judges and public prosecutors.[276]

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the government could not still succeed in fully disarming the armed groups of ethnic Albanians (HRW 2004, IHF 2004).

[276] Cited in Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, p. 6.

Taking these into consideration, as mentioned above today the European Union mainly monitors the process through the SAP Reports and the recently established mechanism of European Partnership. Regarding the current situation drawing on the aforementioned priorities outlined in its 2004 SAP Report[277], the EC underlined that "… (T)he completion of the implementation of the Framework Agreement, a sense of political responsibility by local authorities, including in the former crisis areas, in addition to the forthcoming implementation of the Ministry of Interior reform, should be key elements to ensure possible future incidents and provocations remain isolated"[278].

In this regard, under the monitoring of the "carrot-and-stick" policy, the EU adds the two critical factors among the fundamental causes of the 2001 conflict into its monitoring process through the SAP[279], namely addressing organized crime and the unresolved issues relating to Kosovo.[280] Where the two meet is the regional cooperation, which was set by the EU as a crucial requirement, by putting itself as a framework to be adopted However, it seems unlikely to reach a durable settlement without addressing these two essential factors. This is required not just for the

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[277] "The implementation of the Framework Agreement and confidence-building measures are progressively reducing ethnic tensions. The reform process has started to benefit not only minorities but society as a whole and contributes to the strengthening of democracy and better governance. Tensions have not however completely disappeared, and provocations or incidents must be kept under constant monitoring so that they do not to escalate. Effort is still needed to ensure that police misconduct is efficiently prevented or, if it occurs, duly sanctioned. In the field of higher education, the process of establishing a third State University in Tetovo has also been a highly symbolic development. Great care must be taken to ensure that this process undertaken ensures that democratic and academic standards are met. More generally education is an area where much remains to be done. The development of the country's democracy will also depend on the development of professional media. Further efforts are needed to ensure the greater independence and the upgrading of the broadcasting services. Greater professionalism in the media would also contribute to furthering democracy." Cited in Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, p. 10.

[278] Ibid., p. 12.

[279] Of which the Ohrid Framework Agreement failes to take into account.

[280] For a more detailed analysis on the relation between organized crime and EU conflict prevention efforts in MAcedonia, see, Gounev (2003).

reconciliation of inter-ethnic relations in Macedonia but also needed for the settlement of good-neighbourhood relations between Macedonia and Albania.

A. 5. Implementation of the EU Vision of Good Neigbourhood Relations

The webpage of the European Union's relations with South Eastern Europe starts with the following phrases: "The EU's fundamental aim for South East Europe is to create a situation where military conflict is unthinkable -expanding to the region the area of peace, stability, prosperity and freedom established over the last 50 years by the EU and its Member States"[281]. In fact, in its 2002 SAP Report, the EU explicitly stated that "integration with the EU is only possible if future members can demonstrate that they are willing and able to interact with their neigbours as EU Member States do."[282] By arguing that "the five countries face a number of common threats and developmental problems which they can only sensibly deal with by working together with each other, the EU and other neigbouring countries[283], the EU constructed both its own mechanisms and institutions for the region, such as the Stability Pact[284], and further encouraged the countries in the region to set up bilateral and regional cooperation mechanisms guided by the same motivation. It is stated that this is essential to facilitate the crucial problems of the region, such as the normalization of bilateral relations, tackling organized crime, issue of refugees and displaced persons, market opening, and reconnecting regional transport, energy and information networks.[285]

As implemented in internal issues, the SAAs also provide the priorities and recommendations for the countries which are monitored through Annual Reports based on the same principles of conditionality.[286] For instance, in the 2002 SAP Report, the

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[281] Cited in http://europa.eu.int/comm/externa_relations/see/index.htm

[282] See, The Stabilisation and Association process for South East Europe First Annual Report, Brussels, April 4, 2002, COM (2002) 163 final, p. 11.

[283] Ibid. p. 11.

[284] In the 2002 SAP Report, is it stated that "the Stability Pact has an important role to play with the EU in helping the region to take forward these ambitions and, though its axctivities, in complementing and reinforcing the Stabilisation and Association Process." Cited in ibid. p.12.

[285] Ibid, p. 11-12.

[286] In the same Report, it is stated that "the Stabilisation and Association Agreements provide the model for the extent and type of co-operation the EU expects to be replicated between the five countries of the region. They also require each signatory to

achievements of Macedonia was cited as to be an active participant in the main regional cooperation initiatives such as the Stability Pact, South East Europe Cooperation Process, Central European Initiative and Adriatic Charter beside its progressing relations with neigbouring countries realized through the June 2001 Memorandum of Understanding on Trade Liberalisation and Facilitation within the framework of the Stability Pact and Free Trade Agreements with Albania[287], Croatia, Romania and Slovenia in line with the recommendations in the 2002 SAP Report, while it was also recommended among the "priority areas needing attention in the next 12 months" to "continue efforts to enhance regional co-operation".[288] This positive approach has also been reflected in the 2004 SAP Report, by referring to Macedonia's active participation in SP, SEECP and the conference on border security and management in Ohrid in May, bilateral memoranda for co-operation on EU integration-related matters, cross-border cooperation and its further initiatives in Thessaloniki Summit. Macedonia has also been praised in the same report due to its significant cooperation with Albania.[289] The proposal on European Partnership with Macedonia has also been written in a positive expression. The priorities of the proposal both in short and medium term was on the policies to be implemented for further intensification of bilateral and regional

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conclude a bilateral convention on regional co-operation with other signatoris to support the creation of links between the Stabilisation and Association process partners". See, ibid. p. 11.

[287] It was signed on 29 March 2002 and ratified on 19 June 2002. Macedonian Economy Minister Besnik Fetai said that this agreement should contribute to a greater bilateral exchange among the two countries: "This agreement complies with WTO [World Trade Organization] regulations, EU legislation and the Trade Liberalization Memorandum among the countries from southeastern Europe within the framework of the Stability Pact. It is very suitable, and it is also very important for us that Albania as a WTO member has average customs rates of 8 per cent," adding that (Albania) has signed eight bilateral free trade agreements so far." Cited in *Nova Makedonija*, Skopje, 4 March 2002.

[288] See, Former Yugoslav Republic of Macedonia Stability and Association Report 2003, Commission Staff Working Paper, Brussels, 26.03.2003, SEC (2003) 342, pp. 11-14.

[289] See, Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004, Commission Staff Working Paper, Brussels, xxx, SEC (2004) 373, pp. 13-14.

cooperation rather than a discrepancy between the recommendations of the previous SAP Reports and the current situation.[290]

In fact, beside the aforementioned inter-ethnic tensions, as a small, landlocked state, one of the most challenging issues for the newly independent Macedonia was the settlement of good relations with neigbouring countries, most of which were late in recognizing it due to either ethno-cultural (Bulgaria and Greece) or territorial questions (Serbia). When these tensions with the other neigbouring states examined, it can be stated that bilateral relations between Macedonia and Albania have been relatively good. Since the border between the two countries was reopened in April 1999, for the first time after 44 years, despite the disputes regarding the Albanian question in Kosovo and Macedonia, as cited in a report of the Norwegian Helsinki Committee, "both governments have shown restraint by not exaggerating potential problems or capitalizing on existing disputes for short term gains at home." (Vik 2001: 32)

For the Albanian side, this was mainly due to the fact that Macedonia has been seen as a "counterweight to Serbia" (Pettifer 2001: 21). As one Albanian analyst indicated: "For Tirana, Macedonia, home to a large ethnic Albanian community, is a source of deep angst, a foreboding that destabilisation of the fledgling country lead to Serbian intervention, and consequently, Serbian-Greek encirclement of Albania" (Biberaj 1998: 239; cited in ICG 2001: 7). In this context, although Albania had initially welcomed the independent Republic of Macedonia, it also affirmed its stand that such a state does not particularly belong to the ethnic Macedonian people (Isakovic

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[290] In the proposal the short term priorities for regional cooperation are cited as: "Comply with the Stabilisation and Association process requirements and Thessaloniki commitments in terms of regional cooperation. Ensure implementation of all regional free trade agreements. Pursue the conclusion of agreements with neighbouring countries, including on cross border cooperation as regards the fight against organised crime, trafficking and s muggling, judicial co-operation, border management, environment and energy, and ensure their effective implementation; Conclude negotiations with Croatia on the bilateral convention on regional cooperation. Besides the long term priorities are: "- Maintain a constructive and balanced regional policy which promotes dialogue, stability, good neighbourhood and co-operation. Implement the Memorandum of Understanding of the South East Europe (SEE) Core Regional Transport Network. Implement the commitments undertaken in the framework of the 2003 Athens Memorandum of Understanding on the Regional Energy Market in SEE, and prepare for the establishment of the Integrated Regional Energy Market." Cited in European Partnership, pp.7-8, 12.

2000: 220).The diplomatic mission of Albania was opened in 24 December 1993. This was followed by the signing of an agreement on mutual cooperation in 1994. Accordingly, Albania opened the port of Durres for Macedonia to ease the consequences of the economic embargo of Greece (SIDA 2003: 11).

The only exemption in the early 1990's for this moderate relations was the personal approach and the subsequent interferences of the former Albanian President Sali Berisha. As indicated by Williams, during his term Berisha "frequently and publicly raised the question of the rights of ethnic Albanians, which prompted protests from the Macedonian government that Albania was interfering in Macedonia's internal affairs" (2000: 28)

The two incidents in 1994 and 1995 were the most controversial issues that strained the bilateral relations. The former was the support of the ruling Democratic Party's (DP) support of the break-up of the PDP in Macedonia, which led to the formation of a more radical party of the ethnic Albanians, namely DPA. In this event, Sali Berisha's stance, who openly criticized PDP for its cooperation in the ruling coalition in Macedonia and supported the DPA (Williams 2000: 28), received immediate criticism not only from the Macedonian state, but also from the USA which later "led Berisha to moderate his comments on the issue" (Vik 2001: 17). The latter incident took place in 1995, when the Albanian foreign minister declared his reactions on the decision of the Macedonian government to close down the University of Tetovo, in addition to the support of Berisha for the University instructing in the Albanian-language. This was also criticized by the Macedonian government as an attempt to interfere its internal issues.

Since the fall of Berisha relations between the two countries have been progressively developed as the Albanian leaders of Tirana stood on the policy of the collaboration of the ethnic Albanian political leaders in Macedonia within the existing political structures of Macedonia. Although the relations strained in 1997, due to the border incidents during the crises in Albania[291], the relations were improved following the visits of the Albanian Prime Minister in the early 1998. During these visits several

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[291] See, Vik (2001: 33).

co-operation agreements were signed such as the reduction in customs tariff, elimination of double taxation, improved legal cooperation etc. (Vik 2001: 17). This was followed by the signing of co-operation accords m the end of January 2001 on the field of education, free trade and health. (ICG 2001: 7)

Despite the improving relations, the 2001 crisis put the Albanian political leaders in a difficult position. During the crisis the Albanian government tried to follow a moderate stance in middle course by both respecting the sovereignty of the Macedonian government and addressing the demands of the ethnic Albanian Macedonians. On his visit to France, Prime Minister Ilir Meta expressed his "hope that the Albanians of Southern Serbia and Macedonia would choose dialogue because otherwise they will become isolated and lose everyone's support. (…) As for Macedonia, the maintaining of its territorial integrity and sovereignty are as essential for Albania as they are for regional stability".[292] Besides, in his interview with BBC, he told that "Tirana would have zero tolerance for anyone supplying weapons to the ethnic Albanian rebels in Macedonia" adding that the situation was totally different from that in Kosovo two years ago and his government would give no support to the rebels"[293]. This co-operative stance was also reflected in practice for border incidents.[294]

However, it must be underlined that the same moderate policy could not be followed by the other political actors in Albania. The Tirana government was fiercely criticised by its opponents, such as the leader of the Social Democratic Party (SDP), Arjan Starova, for ignoring the problems of the ethnic Albanians in Macedonia and following "only cosmopolitanism" detrimental to "national interests".[295] Nevertheless, Albanian government can be regarded as successful dealing with both these internal critisms and the broader discourse of the "Albanian threat" towards regional stability[296]

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[292] Reuters, 6 March 2001; cited in ICG (2001: 7).

[293] BBC monitoring, 4 April 2001, 10:35 ,cited in ICG (2001: 3).

[294] See, ICG (2001: 7).

[295] See, ICG (2001: 7-8).

[296] As commented by the daily newspaper, Shekulli, "the latest incidents taking place on the border between Macedonia and Kosovo have revived ancien prejudices, historical

Furthermore, since then, shared aspirations for the EU and NATO Membership have enhanced the dialogue between the two countries.[297]

In this framework, thirty-four bilateral agreements have been signed by the two states in various fields.[298] Furthermore, following the signing of a Free Trade Agreement on 29 March 2002[299], a Memorandum of Understanding[300], and the draft text of the Agreement on Good-Neigbourly Relations and Friendship is also in progress.[301] Furthermore the bilateral relations have also been strengthened directly

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divisions are again surfacing. Albania's neighbours are still haunted by the tem Greater Albania, or at the very least a Greater Kosovo. The ensing of the war in Kosovo and the strengthening of the position of Albanians following that conflict has again brought to the surface the old syndrome of "the Albanian threat to the region'". See, ICG (2001: 7-9).

[297] For an analysis of cross-border cooperation between the two countries which reflect an important dimension of bilateral cooperation. See, COE & ISIG (2002). In this report, it is stated that the Macedonian-Albanian border relations have been among the ones with the highest marks in the region, namely regarding the level of propensity towards co-operation, cross-border relation by sector of activity and economic factors for co-operation. In this regard obstacles to a further co-operation are mainly depended on the relevant characteristics of state centralization inherited from the socialist era .see, Ibid p. 178. These levels are (1) level of propensity towards co-operation, (2) level of traning of local bodies and coordination, (3) cross-border cooperation relation by sector of activity, (4) incisiveness of institutional obstacles, (5) incisiveness of economic obstacles, (6) incisiveness of socio-cultural obstacles, (7) institutional factors for co-operation, (8) administrative factors for co-operation, (9) economic factors for co-operation, (10) linguistic, cultural and historical factors for co-operation. See, Ibid, pp. 152-154.

[298] See, the Annual National Program for Membership of the Republic of Macedonia in NATO, 2004-2005, Skopje, September 2004, p. 15-16.

[299] As stated above, this agreement complied with EU legislation and the Trade Liberalization Memorandum among the countries from southeastern Europe within the framework of the Stability Pact. Cited in Nova Makadonija, Skopje, 4 March 2002. Cited in the Stabilisation and Association Report 2003 of the Council of Europe Commission Staff Working Paper, Brussels, 26.03.2003, p.11.

[300] Cited in "National Strategy for European Integration of the Republic of Macedonia", Government of the Republic of Macedonia, Skopje, September 2004, p. 47. See, the same document also for the regional initiatives that Macedonia is a partner to, pp. 45-47.
[301] Cited in the Annual National Program of the Republic of Macedonia for NATO Membership, 2004/2005, Skopje, September 2004, p. 15.

under the coordination of regional initiatives, such as the Adriatic Charter"[302], and the establishment of the Prespa-Ohrid Euroregion between Macedonia, Albania and Greece[303], Corridor 8 and the AMBO Trans-Balkan oil pipeline and other projects of regional initiatives.[304]

In addition to these, with regard to the EU vision of the building of good-neighbourhood relations, Macedonia is also an active party to the existing regional cooperation initiatives, namely, the South-East Europe Cooperation Process (SEECP), the Central European Initiative (CEI), the Stability Pact (SP) and the Initiative for Cooperation in South-East Europe (SECI). While it is a full-fledged member of these initiatives, it is also on the way of full-fledged membership to the Organisation for Black Sea Economic Cooperation (OBSEC) and has the observer status in the Adriatic-Ionian Initiative and in the Szeged Process.[305]

In fact, the signing of the Stability and Association Agreement, on 26 March 2001, and the monitoring of this process by the EU through its Annual SAP Reports, is principally believed to strengthen the ties with both the countries of the region and with the EU on the way of membership, as a foreign policy priority[306]. This was already set up as a condition in the SAA with Macedonia. In its Article 11, it is stated that

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[302] Macedonia, Albania, Croatia and USA are the parties to the Adriatic Charter, which was signed in Tirana on 2 May 2003, expected to be the prelude for future NATO membership.

[303] The local pArticleners in this project are the Regional Enterprise Support Centre in Bitola, Macedonia; the Regional Development Agency (RDA) of Korca, in Albania; and the center for Inter-Balkan Co-operation (CIBC) of Kozani, in Greece. More information on the Prespa-Ohrid Euro-region is available at http://www.ewi.info.

[304] The latter two initiative is cited in the Annual National Program for Membership of the Republic of Macedonia in NATO, 2004-2005, Skopje, September 2004, p. 16.

[305] Cited in the "National Strategy for European Integration of the Republic of Macedonia", Government of the Republic of Macedonia, Skopje, September 2004, p. 47. See, the same document also for the regional initiatives that Macedonia is a partner to, (2004: 45-47).

[306] Cited in ibid., p. 47. See, the same document also for the regional initiatives that Macedonia is a partner to, pp. 29.

"(I)n conformity with its commitment to peace and stability, and to the development of good neighbourly relations, the former Yugoslav Republic of Macedonia will actively promote regional promote regional cooperation. The Community will also support projects having a regional or cross-border dimension through technical assistance programs."[307]

The following Articles 12-13-14 of the SAA also determined the conditions of cooperation with Macedonia and "with other countries having signed a Stabilisation and Association Agreement", "with other countries concerned by the Stabilisation and Association Process" and "cooperation with countries candidate for EU accession" respectively. It is quite clear that grounding these relations on the basis of SAA and EU Membership conditionality for a country which stated that "the integration (…) into the European Union is a clear and totally shared strategic interest and a consistent priority goal in the policy of the Republic of Macedonia at all levels of government",[308] the motivation for the goal of EU membership would be an unavoidable factor on establishing bilateral and regional cooperation. In this framework, building cooperative relations with the other countries of the region with the same vision of EU integration would not confront with significant problems; as also they have not directly been a party to a conflict with Macedonia. However, taking it into consideration that a constructive change in the bilateral relations can be achieved if the variables of the conflict can be successfully transformed into a factor of reconciliation between the conflicting parties, the resolution of the Albanian conflict is also dependent on the reference points in the normalization of relations between the host-state and the kin-state of the ethnic communities.

In this context, to see the extent of the role of the ethnic minorities in the cooperative perspectives of the countries and whether there is a direct relationship between the normalization of inter-ethnic relations and the bilateral cooperation with Macedonia and Albania, I conducted a secondary data analysis through a detailed

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[307] "Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part", Brussels, 26 March 2001, (OR. en) 6726/01, p. 13.

[308] Cited in the "National Strategy for European Integration of the Republic of Macedonia", Government of the Republic of Macedonia, Skopje, September 2004, p. 47. See, the same document also for the regional initiatives that Macedonia is a partner to, pp. 29.

account of media coverage provided in the Macedonia section of the website of the Center for South East European Studies (CSSES)[309]. Within the media coverage of the statements of the state officials and political leaders from Macedonia, I looked for the reference points for the enhancement of bilateral relations which would both reflect the effectiveness of the EU membership conditionality and determine how the minorities had been reflected in the policy level for the cooperation process (see Annex 2).

Having clustered them, the results indicates that the references to the EU-related words or phrases indicating the reference points for bilateral cooperation, such as "integration into Europe", "more rapid EU integration", "join EU-Atlantic structure", "EU and NATO membership", "EU integration" and "Integration in EU and NATO", and "EU and NATO membership" reveals the biggest motivation of the Macedonian leaders in their relations with Albania (45.45%, 10 out of 22). When we specifically consider NATO, it is also close to the former result (36.36% with 7 results out of 22). In other words, by putting them together, integration with transnational bodies reflects the largest motivation (54.54%). In this context, there has been just one reference specifically to the role of the Albanian community in Macedonia and the Macedonian community as a motivation for good-relations between the two countries, alongside one expression by Crvenkovski stating that "Good regional cooperation creates a better climate for taking care of Macedonians living in the neighbouring countries". The clustered reference points are:

European/EU Integration > 4 out of 22

EU& NATO/Euro-Atlantic > 6

NATO > 2

The interest of two countries > 2

Successful cooperation for the region > 2

Fight against organized crime > 1

Prevent illegal crossing- 1

Stabilization of the region > 1

The role of Albanian and Macedonian communities > 1

Taking care of Macedonian minorities in neighbouring countries > 1

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[309] http://www.csees.net

These results highlight that the perspective of EU memberships is the most important reference point for the Macedonian officials to enhance their relations with Albania. It further underlines that the position of the Albanian minority and the democratisation process regarding the relaxation of their conditions do not directly affect these relations with the same weight as much as the former do. In view of that, it becomes important whether this script of cooperative schemes could be reflected to the communal level when the politicians mostly focus their efforts on EU vision. In this regard, this dissertation is drawn on the premise that the question of whether Europeanization brings peace both at domestic and regional level requires a positive respond for both.

B. The Serbian Question in Eastern Slavonia, Croatia

B. 1. Historical Background

Marcus Tanner accurately describes the outcome of the Serbian demands and the subsequent 1991-1995 fighting in Croatia in his work *"Croatia: a nation forged at war"*: "After demanding all, they had lost all." Having experienced the worst scenes of the Second World War under Ante Pavelic's independent Nazi puppet-state in Croatia[310], the Serbs were granted the status of one of the two constituent nations of the Socialist Republic of Croatia[311]. Although this constitution does not explicitly grant the rights of ethnic Serbs in Croatia, by the principles of equal representation and power-sharing in SFRY, they lived secure in Socialist Croatia. Ethnic minorities were granted the use of minority languages, the right to education in the first language, to cherish cultural identity, to establish minority organizations, to proportional representation in government bodies, to official use of minority languages before the court and administrative bodies, etc. (Art. 137-138; cited in MRG 2003: 8). Besides, these constitutional guarantees were also incorporated in the statutes of the 26 multiethnic municipalities and in three regional communities. (Dominim 1990: 97; cited in MRG 2003: 8) However, despite these extensive rights provided by the legal framework, the fact that deep ethnic cleavages were not resolved but rather tried to be frozen under the Titoist structure of governance, was going to reveal itself evidently like the other republics, following death of Tito in 1980. What's more, the Croatia has an additional factor to overcome, that is the legacy of the Ustasha state and the crimes committed against the Serbs.

Following the establishment of the Croatian Democratic Community (*Hrvatska Demokratska Zajednica*, *HDZ*) in 1989, the leader of this nationalist revival, Franjo

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[310] Under this Ustasa state, mostly in the summer of 1941, more than 500,000 Serbs were murdered, 250,000 were expelled and 200,000 were forced to convert to Roman Catholicisim. See, MRG (2003: 7).

[311] Article 1 of the Constitution of Croatia defines the sate as "the national state of Croats, Serbs in Croatia and other nationalities". The Constitution of Croatia, Zagreb, Radnicke novine, (1981: 214); cited in MRG (2003: 7-8).

Tudjman shed light what the world community, and the Serbs in Croatia could face in this newly independent state. At the first congress of the HDZ, he stated that, the Independent State of Croatia, so-called the Ustasha state had not only been a "fascist crime, but also an expression of the historic aspirations of the Croatian people for an independent state"[312]. Inevitably this approach evoked the memories of the Ustasha crimes in the minds of the Serbs in Croatia. Especially, as Caspersen pointed out, when it is considered that beside the government in Belgrade, the Serb minority is the second crucial obstacle to the plans of Tuđman and his dream of an independent Croatia.

After the first multi-party elections on 22 April and 6 May 1990, Croatia began his journey from a member of the Socialist Federation to an independent state. The elections highlight the rise of HDZ policies among the Croats: HDZ secured 42% of the vote, with 55 seats out of 80, while the Serbian party, the Serb Democratic Party (Srpska Demokratska Stranka, SDS) could only got electoral mandates in the Knin area in western Croatia.(Caspersen 2003: 3). Following his victory, Tudjman adopted a package of constitutional amendments on 25 July 1990. Accordingly, the use of "Socialist in its name was abandoned, the five pointed star in the flag of the Socialist Republic of Croatia was replaced by the Šahovnica symbol, instead of the former "President of Presidency" the office of "President of Croatia" was introduced, instead of the office of the Republican Secretaries, ministries were formed, Croatian language was recognized to be the only official language and the former principle of the requirement of a two-third majority in decisions on inter-ethnic issues was removed.(Hislope 1998: 73; Goldstein 2001: 218).

However, the intensive nationalism of HDZ was going to reflect itself in a two-fold dimension. These policies led the radicalization of both the Croats and the Serbs of Croatia. As mentioned above, the SDS could not get a considerable support in 1990 elections, while the Serbian population was continued to be represented by the Serb representative in non-ethnic parties such as the SDP. However, as the nationalist policies started to diminish the position of the Serbs and led the conflict to be intensified, the

[312] Večernji List, 25 February 1990, p.5; cited in Caspersen (2003: 3). Similarly Wiberg indicated a question in the Croatian identity's strong linkage to state identity, which was described as sanctity of state (1993: 103). For the state traditions of the Croats, see, Isakovic (2000: 37-55).

support of the Serbs were also started to shift from the reformed communist gather under the Party for Democratic Change (*Stranka Demokratskih Promjena*, SDP) to SDS. This was also reflected in the policies of the SDS, while initially it had a moderated position, advocating cultural autonomy (Caspersen 2003: 3), by the rise of the radical wing headed by Milan Babić, the mayor of Knin, against relatively moderate Rašković, the demands for territorial autonomy started to be voiced. Although defended by Raškovic to reflect a basis for cultural autonomy rather than a territorial autonomy (Rašković 1990: 311; cited in Caspersen 2003: 5), this was first realized by the establishment of the Community of (Serb) Municipalities of Northern Dalmatia and Lika in April 1990 (Caspersen 2003: 5).

Not surprisingly, on the day the constitutional amendments were passed by the Croatian Sabor, the Serb National Council was founded in the village of Srb in Krajina. Rejecting the changes made by the Croatian Parliament, *Sabor*, it passed the "Declaration on the Sovereignty and Autonomy of Serbs in Croatia" stating that the "Serbia people in Croatia have the right to autonomy. The Content of the autonomy will depend on either federal or confederal order in Yugoslavia" adding that "the future of Yugoslavia could not be determined without the participation of the Serb people" (Caspersen 2003: 5). Subsequently, although it was declared to be illegal by the Zagreb Government and followed by the banning of the Community of Municipalities (Caspersen 2003: 6), the Serbian leaders Babić and Rašković proclaimed their decision for a referendum on Serb "sovereignty and autonomy" in Croatia at the end of August.[313] On the day of the referendum, 17 August 1990, following the riot of groups of Serbs outside the police station in Benkovac, claiming that the Croat authorities were coming to take away the guns stored inside, Tudjman decided to deploy a "special" police unit to Knin to stop the Serb 'rebellion' from spreading. The plan was to land in Knin and to seize the town hall and the police station. However, although the army of the Socialist Federal Republic of Yugoslavia (*Jugoslavenska Narodna Armija*, JNA) forced them back, this was presented by Babić as the return of the Ustasha. He declared "a war situation" (Tanner 1997: 233). A People's Defence Council was founded and the roads and railway lines in and out of Knin were barricaded by barricades of logs. Although there had not occurred any serious incidents, the *balvan revolujica ("log*

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[313] It was going to be held on 17 August 1990.

revolution") which began on 17 August 1990, was the beginning of both fighting with the Serbian rebels and Croatian government and the beginning of Yugoslav wars. (Goldstein, 2001: 218; Tanner 1997: 232-233). On 25 August Babić declared the birth of the Autonomous Province of the Serbian Krajina (Tanner 1997: 243)

Incidents then followed one another. In October 1990, the Serbs proclaimed the Serbian Autonomous Region of Krajina (*Srpska Autonomna Oblast Krajina,* SAO) (HRW 1997), which was immediately joined by five other municipalities with a Serbian-majority (Goldstein 2001: 219). In 22 December 1990, the Croatian Sabor adopted a new Constitution, which recognized the semi-presidential system but also denying the status of the Serbs as one of the constituent peoples. (Caspersen 2003: 6). Beside the tensions among the Serbian leaders in Croatia on the following months[314], on 18 March 1991[315], the National Council declared the independence of Krajina. Babić was appointed the President of SAO Krajina and Rasković was declared *persona non grata* in Knin. (Caspersen 2003: 8; Goldstein 2001: 219; HRW 1999).

Following the Ohrid talks on 19 April 1991, where a referendum on the future of the Federal Yugoslavia was agreed to be held, the referendum was held in Croatia in May 1991, by which 94 % voted in favor of an independent and sovereign Croatia. Meanwhile, the tensions rose between the Serb and Croat nationalists which were going to lead to an armed conflict, when the rebel Serbs in Borovo Selo, killed thirteen Croatian police officers who were seeking to rescue two police officers taken hostage by the Serbs at the end of April 1991 (HRW 1997; Goldstein 2001: 221).

Subsequently, on 25 June 1991, the Croatian Sabor passed the "Constitutional Act on Independence and Sovereignty of the Republic of Croatia".(MRG 2002: 9) Following the declaration of Independence, the para-military Serbian groups launched offensives to establish control of the regions with a majority of Serbian population, namely the counties within Eastern Slavonia. These regions were declared to be parts of

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[314] For details, see, Caspersen 2003, pp. 7-10. The same article also give details on this cleave throughot the whole process of conflict.

[315] It is recorded as 16 March in a HRW report (1997).

the Serbian Autonomous Region (SAO) of Eastern Slavonia, Baranja and Western Srem. (HRW 1997)

After the refusal of Tudjman's offer of local self-government to Knin (Woodward 1995: 182; cited in Caspersen 2003: 8) on 31 July, and the Carrington Plan in October 1991, offering extensive territorial and political autonomy to Serbs[316], on 19 December 1991, the Parliament of the SAO Krajina declared its independence from Croatia under the name of the Republic of Serb Krajina (*Republika Srpska Krajina*, RSK). Later, the other SAOs of Slavonia, Baranja, Western Srem and Western Slavonia had joined the RSK (Caspersen 2003: 10).

Throughout this period, since September 1991, the JNA and Serbian paramilitary groups from Serbia were obviously coming to the military aid of rebel Serbian forces in Croatia. Between August and November 1991, para-military Serbian forces from Serbia and the JNA jointly undertook the siege and destruction of Vukovar. By the end of 1991, local Serbian forces backed by the JNA eventually assumed control of over 30 percent of Croatia, including Eastern Slavonia and systematically persecuted, imprisoned or expelled Croats, Hungarians and other non-Serbs living in areas they had captured. By late 1991, Serbs had expelled over 80.000 ethnic Croats from Eastern Slavonia. [317]

Meanwhile, an intense web of diplomatic activity took part throughout the process: "up till the end of 1991 a total of sixteen ceasefires was signed, none of which lasted no longer than twenty-four hours"! (Golstein 2001: 231) Eventually, this phase of

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[316] Where they were majority, the plan was guaranteeingextensive rights such as the rights to establish their own parliament and administrative structures, a seperate education system, the use of national amblems and flags, etc. For a more detailed account of the provisions of the Carrington Plan, see, Silber and Little (1996: 192-193).

[317] The 1997 report of HRW indicates that There is a wide range of estimates for the number of displaced persons from Eastern Slavonia. The Croatian government's Office for Transitional Administration estimates that there are 80,000 to 90,000 displaced persons from Eastern Slavonia, 35,000 of whom live in Osijek. The Foreign Ministry claims that there are 96,000 non-Serbs displaced from Eastern Slavonia. Cited in "Foreign Ministry Statement on the Documents Program in the Danubian Region and on the Status of Serbs and Other Minorities in Croatia," Zagreb, February 6, 1997.(HRW, 1997)

the war ended when the parties agreed on a peace plan on 3 January 1992, by the mediation of UN negotiator Cyrus Vance since late 1991. The agreement put forward the creation of "UN Protected Areas", overlapping the areas in which Serbs had formed a majority or substantial minority before the war. The remaining Serb-held areas were authorized as "pink zones" and allocated for the eventual return to the control of the Croatian authorities. Furthermore, the plan urged the withdrawal of the JNA and the disarmament of the Serb militias. (Tanner 1997: 279). Accordingly, three areas came under the mandate of the UN forces (UNPROFOR): Sectors South and North, along the Croat-Bosnian border and including the towns of Glina and Knin; Sector West, around the town of Pakrac; and Sector East, comprising Eastern Slavonia. The UNPROFOR mission was initially authorized for twelve months but its mission was renewed and extended seven times. Following the end of the sixth extension in February 1995, the Croatian government declared that it would no longer agree to extend the mandate of UNPROFOR, by claiming that its presence in Croatia permitted the consolidation of rebel Serb territorial gains. (HRW 1997) However, on February 4, 1995, the Security Council approved a configuration for the new U.N. mission in Croatia. Under the new mission, named as the U.N. Confidence Restoration Operation (UNCRO), the U.N. troop presence was reduced from 14,000 to 8,000.[318] As suggested by the U.N. Security Council in February 1995, UNCRO's mandate was to include implementation of the 1994 cease-fire accord and facilitate the implementation of an economic agreement between the Croatian and RSK authorities. The number of UNCRO troops was eventually reduced even further, but the details of its mandate were not proposed due to disagreements between the Croatian government and RSK forces. (HRW 1997).

However, such debates became groundless when the Croatian army launched an offensive against Serb-populated "UN Protected Areas" in May 1995. By "Operation Flash", the Croatian army took Western Slavonia after a three-day offensive. In August, the Croatian army launched another attack against North and South sections ("Operation Storm") and recaptured the remaining areas outside Eastern Slavonia. This led to the exodus of some 200,000 Serbs. (MRG 2003; HRW 1999)[319] Approximately 60-70,000

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[318] U.N. Security Council Resolution 981, March 31, 1995.

[319] In its 1997 report, HRW cites that this is the single largest population displacement during the conflict in the former Yugoslavia.

of these displaced persons went to Eastern Slavonia, with the rest going to Serbia, Kosovo, Serb-controlled areas of Bosnia-Hercegovina, or third countries (HRW 1997). During the "Operation Storm", the exodus was also accompanied by the killings of Serb civilians and widespread fire-setting and dynamiting of Serb housing. (HRW 1999).

The threat of further conflict following the "Operation Storm", which would probably include the JNA, the international community intervened to the conflict on Eastern Slavonia to resolve its status. Following talks co-chaired by Thorvald Stoltenberg, the then U.N. negotiator for the former Yugoslavia, and Peter Galbraith, the U.S. ambassador to Croatia, the Serbian leaders of Krajina agreed, in principle, to return Eastern Slavonia to Croatian government control. In return, the Croatian government agreed to a phased transfer of authority and to the maintenance of an international presence in the area during and after this transition period. The agreements were set forth in the Basic Agreement on the Region of Eastern Slavonia, Baranja and Sirmium (also framed as the Erdut Agreement or the Basic Agreement), signed on 12 November 1995.[320] (HRW 1997).

According to the agreement, Eastern Slavonia would be demilitarized[321] and administered under a two-year temporary administration of the UN by its return to the control of the Croatian government in January 15, 1997. It was composed of three main parts: (1) the provisions for the establishment of a Transitional Administration by the UN Security Council to govern the region during a transitional period of 12 months (with the possibility of an extension for one year if either party demands it) in the interest of all those resident in or returning to the region (Articles 1-5 and 12), (2) the provisions for the protection of human and civil rights, and (3) provisions for the monitoring of human rights in Eastern Slavonia by the international community subsequent to the transition period (Articles 10-11) (MRG 2002: 10-11).

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[320] The Erdut Agreement was passed as a document of the UN General Assembly and Security Council (S/1995/951) at the Croatian government's request. For a detailed account on the events leading to the Basic Agreement, see Human Rights Watch/Helsinki, "Croatia: Impunity For Abuses Committed During Operation Storm and the Denial of the Right of Refugees to Return to the Krajina," *A Human Rights Watch Short Report*, vol. 8, no. 13(D), August 1996, p. 40-42.

[321] Accordingly, the demilitarization process was going to be carried out under the Serb's control. MRG 2003: 10.

Based on the Erdut Agreement, the UN Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES) was established on 15 January 1996. Its administrative body was composed of a military component (5,000 soldiers), civilian police monitors, a transitional police force and the other civilian staff (HRW 1997)[322]. Its mandate was primarily "to supervise and facilitate the demilitarization of the region within 30 days; to monitor the voluntary return of refugees and displaced persons; to contribute, by its presence, to the maintenance of peace and security in the region; to establish and train a transitional police force; to organize elections; and to monitor and facilitate the determining of territory within the region" (MRG 2003: 10). Following a one-year extension due the request of the local Serbs, on November 15, 1996, the UN Security Council extended the transition period and UNTAES's mandate to July 15, 1997. This resolution also raised the option of a reduced UNTAES mission which would remain after July 15, 1997 until January 15, 1998[323]. (HRW 1997) Eventually, subsequent to the expiration of the UNTAES mandate in January 1998, all the Croatian territory was brought under government control. A small U.N. police monitoring mission remained in Eastern Slavonia until October 1998, when it was replaced by police monitors from the OSCE mission.

In its "Letter of Intent" to the UN Security Council[324], the Croatian government provisioned a detailed plan on the implementation to the Erdut Agreement on 13 January 1997. The letter laid down basic assurances on general voter qualifications, provisions for cultural and educational autonomy for Serbs and other minorities and proportional representation in the police and the judiciary, provision of a two-year suspension from military service for Serbs, and the assurance of the allocation of several senior government posts to the Serbs (HRW 1997)

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[322] See, U.N. Security Council Resolution 1037, January 15, 1996; cited in HRW 1997.

[323] See, U.N. Security Council Resolution 1079, November 15, 1996; cited in HRW 1997.

[324] Letter Dated 13 January 1997 from the Permanent Representative of Croatia to the United Nations Addressed to the President of the Security Council, attaching the Letter from the Government of the Republic of Croatia on the completion of the peaceful reintegration of the region under the Transitional Administration, Republic of Croatia, January 13, 1997, S/1997/27. Cited in HRW 1997.

In principle, the Erdut Agreement seemed to offer a crucial contribution to the reintegration of Eastern Slavonia to Croatia and the Serbs to the broader Croatian society. Additionally, it proposed the foundation of essential institutions for the protection of the rights of the Serbs such as several autonomous organizations like the Serb National Council, and their representation in the Chamber of Counties (MRG 2003: 11). However, the Croatian authorities were often criticized by the local and international organizations for ignoring or manipulating the provisions of the Erdut Agreement, "particularly regarding human rights, property rights, the return of internally displaced persons, discrimination against people who lived in the region during the war, and the position and proportional representation of the local Serbian community" (MRG 2003: 11).

In this context, the next section will be devoted to the analysis of the minority rights in the post-1995 period, both in principle grounded on legal texts and in practice based on the reports of European Commission, and prominent international NGOs.

B. 2. EU in Croatia, Croatia in the Process of Europeanization

The positions of the minorities in the Republic of Croatia have been determined by two main factors: the process of nation-state formation and the relevant nationalist policies, and the wars between 1991 and 1995 and the massive forced migrations during these wars. What made it more fragile was the fact that these two processes overlapped, namely the Croats faced their own process of nation-building in the midst of a wave of ethno-nationalist wars which put the minorities in a post of "the other", or what is worst, the Trojan horses within the realization of an ethnically homogeneous motherland. Furthermore the Croatian governments had to reconcile the two developments with the third one, namely to establish contractual relations with the European Union, which was put forward as the strategic goal of the Republic of Croatia.[325]

Following the EU recognition of Croatia as a sovereign state in January 1992[326], the year 2000 marked the turning point for the relations between Croatia and the EU. Subsequent to the parliamentary elections in January 2000 and the election of Stjepan Mesic as President of the Republic of Croatia in February 2000, the new Croatian leadership immediately showed its commitment on the accommodation with democratic values and principles set out as a condition for EU integration. This commitment was responded by the EU primarily by the establishment of an EU Croatia Consultative Task Force, which has provided Croatia with expertise and technical assistance in preparation for the Stability and Association Process. Following the upgrading of the EU Office of the Special Envoy in Zagreb to a permanent delegation of the EC in March, in May 2000, the Commission adopted a positive Feasibility Report proposing the opening of negotiations for a Stability and Association Agreement.[327] In November, the autonomous trade measures (ATMs) were granted to Croatia.[328] In October 2001, The

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[325] See, http://www.mei.hr/default.asp?ru=215&sid=&akcija=&jezik=2

[326] Croatia declared independence on 25 June 1991. After a three months suspension, the decision was confirmed by the Sabor's decision on the abrogation of the state-legal ties with the former SFRY on 8 October 1991.

[327] In June, in Fereira Summit, the European Council declared that all SAP countries are "potential candidates" for EU membership.

Stabilisation and Association Agreement (SAA) was signed between Croatia and the EU. Accordingly, by the end of the year, the European Commission adopted a country strategy for Croatia covering the period of 2002-2006 and providing a framework for EC assistance under CARDS programme. Subsequently, an Interim Agreement (IA) was concluded in parallel with the SAA[329] covering the trade and relevant measures.[330]

The previous financial support from the European Commission to Croatia had mainly been shaped in response to the country's position in the conflict cycle: during the first phase of war and post-socialist transition between 1991 and 1995, the EC granted 244 million euros for humanitarian and relief assistance; subsequently during 1996-2000, the assistance was mainly focused on post-conflict reconstruction, mainly the return and the integration of refugees and internally displaced persons (IDPs). Totally, during this period EC co-operation assistance amounted to approximately 370 million euros.[331] However, by the introduction of the national programme for 2001, the financial assistance programme combined the previous post-conflict reconstruction aids, such as the issue of refugee return, with the stabilisation programme within the framework of SAA towards European integration, with the total amount of € 60 mil[332] (see, Table 9). During 2001, the Commission had also financed two schemes of micro-projects undertaken mainly by local NGOs: a strand of the European Initiative for Democracy and Human Rights (EIDHR) and the Small Scale Operations scheme (SSO). These projects supported nearly 30 projects with the main objectives of "(strengthening) the capacity of civil society to deal with issues related to the sustainable return of refugees, conflict resolution, peace building, protection of human and minority rights,

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[328] As a unilaterally declared grant by the EU to the countries included in the Stabilisation and Association Process.

[329] Entered into force on March 2002.

[330] The chronological developments mentioned hereinafter is cited in the web adress of the external relations of the European Union (http://www.europa.eu.int/comm/external_relations/see) and the European Union Opinion on the application for membership of the European Union, Brussels, 20 April 2004.

[331] See, European Commission Country Strategy Paper for Croatia, 2002-2006 CARDS, p. 67.

[332] See, ibid, p. 68.

participation of citizens in the decision making process, gender issues and sustainable economic development and market oriented initiatives.[333] In addition to that, the EU Member States and other donors' programmes are also engaged in the co-operation activities.[334]

Based on the aforementioned contractual relationship, the response strategy of the EC to these financial aid programmes was drawn on "an analysis of the political, economic and social situation in Croatia, and on an assessment of how Community can best contribute to the long-term goal of Croatia's integration in the European mainstream."[335] In this regard, based on the three critical objectives, namely "the direct policy goals of the SAP, "conflict prevention" and "poverty reduction."[336]

The EU implemented the same conditionality mechanism for Croatia in accordance with its policy towards the SAP countries. In fact, particularly during armed conflict and post-conflict reconstruction in the period of 1991-2000, the EU used this tool several times, although it was sometimes impeded due to different positions of EU members.[337]

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[333] Cited in ibid, p. 21. However, it is reported in the Strategy Paper that these project sometimes had to deal with problems due to the weak professional standards in reporting by these NGOs.

[334] For a detailed account of this co-operation schemes and their areas of intervention, see, ibid. pp. 22-23, 69-71

[335] Ibid. p. 23.

[336] Cited in ibid. 24. In this context, the priorities for co-operation were specified as (1) Democratic Stabilisation (return of refugees and internally displaced persons, establishing 'a well-developed and vocal civil society'), (2) Economic and Social Development (revision of trade policy and relevant legislation, enabling investment climate, social cohesion), (3) Justice and Home Affairs (modernization of justice, policing and organized crime, integrated border management, (4) Administrative Capacity Building (public administration reform, national, regional and local development, public finance, (5) Environment and Natural Resources. For details, see, ibid. pp. 24-30.

[337] For instance, while EU -the then EC- involvement in Croatia within the UN's UNPROFOR mission beside its own monitoring mission in Serb-held areas of Croatia, it condemned the Croat government for supporting Bosnian Croats and in June 1993 it threatened to "initiate restrictive measures" if Croatia did not withdraw its military support from Bosnia which was also followed by the debates on diplomatic pressure in

Subsequent to the Croatian Army's offensive in Western Slavonia, the EU halted its initiatives to negotiate a trade and cooperation agreement. Furthermore, despite the warnings of the EU's General Affairs Council's on June 12 that it should respect human rights and work for peace in former Yugoslavia, and European Council of Minister's warning at the Cannes Summit of June 26-27 that it should not use military force to recapture Krajina, the Croatian Army launched an offensive to recapture Krajina. In response to that, the EU suspended negotiations with Croatia on trade and cooperation agreement and implementation of PHARE aid programme for Croatia on August 4, 1995.[338] As of mid-October 1996, the negotiations remained suspended.[339] In 1997, EU's frustration with Croatia was reflected in the EC's Presidency Conclusion of its Amsterdam Summit, stating that for an improvement of relations between the EU and Croatia "strict respect for human and minority rights throughout the country, including the return of displaced persons and refugees, remains an essential requirement".[340] With this "no compliance" rating, as cited in the 1998 Annual Report of the HRW on Croatia, EU again used the threat of trade sanction in case of lack of any improvement.[341]

The EU used this tool in 1998. While the relations between the parties were based on the aforementioned "Regional Approach" of the EU, due to Croatia's failure in meeting human rights criteria, the EC limited the aid to Croatia to 6.65 ECU for humanitarian assistance and 2.7 million ECU for supporting independent media. Besides, Croatia also remained ineligible for PHARE reconstruction aid. What's more, on April 27, 1998, the EC Council of Ministers threatened to suspend autonomous trade measures (ATMs) underlying that the Procedure for Return is inadequate. As a response

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July 19. However, Germany prevented the imposition of sanctions and the EC representatives only warned Croatia that such sanctions could be imposed in future. Cited in 1994 HRW Report.

[338] Cited in 1996 Human Rights Watch Annual Report on Croatia.

[339] Cited in 1997 Human Rights Watch Annual Report on Croatia.

[340] Presidency Conclusion of the Amsterdam European Council, 16-17 June 1997

[341] However, as cited in the same report, the EC continued to provide financial support for demining efforts and reconstruction of infrastructure.

to that threat, Croatia adopted its Mandatory Instructions and the Program on Return.[342] The EC welcomed these initiatives by urging that the Croatian government should "continue its efforts to implement fully all its commitments, notably on refugee return, media and the election law."[343]

1999 also marked disappointment for EU on Croatia's performance. Although in May 1999 the EU Foreign Ministers approved the Stability and Association process for Western Balkans, in June the EU foreign ministers concluded on Croatia's progress on human rights and democracy as "insufficient" for PHARE assistance for reconstruction, by adding that it could benefit if there is a progress. Subsequent to that, in September, due to lack of efficient cooperation with ICTY, the EU governments postponed a decision on a consultative task force on contractual relations. However, Human Rights Watch reported in its 2000 Croatia Annual Report that "the foreign ministers' statement in June and the resumption in July of an informal EU-Croatia political dialogue which was suspended in 1995 suggested that the EU may be willing to relax its previous human rights conditionality, a signal that is only likely to worsen Croatia's performance."

Despite this bad record, the aforementioned the silent democratic revolution in January and February 2000 led the EU to modify its policy towards Croatia. In March 2001, it upgraded its Office of the Special Envoy in Zagreb to a permanent delegation of the EC in March. Following the positive Feasibility Report in May 2000 which opened the way for negotiations for a SAA, in November it granted ATMs to Croatia within this framework.

In October 2001, The Stabilisation and Association Agreement (SAA) was signed between Croatia and the EU. Within this framework, in its 2002 SAP Report, the EC underlined that although there has been significant progress in the areas of democratisation, respect for human rights and compliance with obligations under the Peace agreements[344], the weakness of the judiciary and the nationalistic pressures are the

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[342] Cited in 1999 Human Rights Watch Annual Report on Croatia.

[343] Presidency Counclusion Vienna European Council, 11-12 December 1998.

fundamental challenges on the pace of the reforms, particularly affecting the policy of the government on return of refuges and the relevant measures, co-operation with ICTY and enhancement of regional co-operation[345] In this regard, the EC concluded its analysis on Croatia by arguing that "the implementation of the adopted legislation remains a major challenges and the administration needs to look at its own capacity to implement the reforms and address the deficit it finds" by adding that "although the Government appears to appreciate this, it continues to focus too much on the headline political objectives of Croatia's European policy rather than on the enormous effort that moving closer to European standards requires"[346] Nevertheless, following the resolution adopted by all parties in the Croatian Sabor in December 2002, determining EU membership as a strategic national goal and asking the Croatian government to submit the application for EU membership, the Government submitted its application for EU membership on 21 February 2003 beside its integration within SAP. In its 2003 SAP report, EU concluded that despite the achievements, such as a stable, democratic political situation in general, the enhanced regional cooperation and legislative amendments to facilitate refugee return, "not enough has been done to overcome the other short-term priorities identified in last year (2002) report", specifying that "the Government's attitude in the co-operation with ICTY remains lukewarm", by adding that "(i)n practice only limited progress has been achieved for the return process, and de facto integration of the Serb minority."[347] On 19 December 2002, a further step in minority rights protection was taken by the adoption of the "Constitutional Law on the Rights of National Minorities"[348], a longstanding commitment of Croatia since its accession to the Council of Europe in 1996. Although its adoption and the additional progress in the refugee return process and legislative steps to allow the reintegration of the Serbian minority were promising developments for the EU, it found it regrettable that "the Government excluded minority representatives from the work of the drafting

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[344] Dayton/Paris and Erdut Agreements.

[345] See, the Report from the Commission, the Stabilisation and Association Process for South East Europe, First Annual Report, Brussels, April 4, 2002, COM (2002), p. 19.

[346] Cited in ibid. p. 19.

[347] See, Croatia Stabilisation and Association Report 2003 (COM 2003), 139 final, Brussels, 26.3.2003, SEC (2003) 341, p. 4.

[348] NN 154/2002

group of this Law, and a compromise was reached only due to international pressure", adding that "it is now crucial that the CLNM be quickly and correctly implemented"[349] The report also recommended that the Law on Local Elections of April 2001, needs to be amended to implement provisions of the new CLNM, by adding that "(b)y-elections for minorities in local government were not held, and the deadline set by the Law has not been respected", which was required for appropriate representation of minorities.[350] It was also stated that although "the Government maintained its stated commitment to implementing all obligations related to the return of refugees and displaced persons contained in the Dayton/Paris Agreements (…) in practice there are still obstacles to the return of refuges and IDPs"[351] These deficiencies were reflected in the "priority areas needing attention in the next 12 months", the road map provided for Croatia:

> "Ensure full co-operation with ICTY[352]; (…) Ensuring implementation of the recently adopted Constitutional Law on National Minorities; holding of by-elections for national minorities for local government bodies according to the Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units; refugees: effective implementation of adopted legislation to complete the repossession of property, take administrative decisions for all pending application for reconstruction; design an operational system for compensation of lost tenancy/occupancy rights inside and outside the areas of special State concern; creation of social and economic conditions to improve the climate for returns and the acceptance of refugees by receiving communities[353]; (…) Adoption of Law on Elections to re-define the representation of the 'diaspora' and ensure appropriate representation of minorities[354]; Establishing a strategy for the protection and integration of Roma."[355]

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[349] See, Croatia Stabilisation and Association Report 2003 (COM 2003), 139 final, Brussels, 26.3.2003, SEC (2003) 341, p. 10.

[350] Ibid., p. 10.

[351] Ibid. p. 10.

[352] Declared to be basically not implemented, although stated included in 2002 SAP Report recommendations.

[353] Declared to be a recommendation of 2002 SAP Report which was partially implemented.

[354] Declared to be a recommendatio which was included in the 2002 SAP Report, and basically not implemented.

Despite the aforementioned deficiencies, Croatia had been granted CARDS financial aid programmes. However, different from the prior assistance, beside the already remaining post-conflict reconstruction assistance, such as the issue of refugee return (23.2 million euros), majority of the resources were allocated for the development and institution building needs (36.8 million euros) for meeting the commitments of the SAA.[356] Accordingly CARDS 2002 national programme was based on five priority areas: "Return of Refugees and Internally Displaced Persons and Civil Society; Trade, Investment Climate Development and Social Cohesion; Modernisation of Justice, Policing and Organised Crime and Integrated Border Management; Public Administration Reform, National, Regional and Local Development and Public Finance; Strategy for EU Environmental Law Approximation, Pilot Waste Management Strategy for Dalmatia, Water Information System (Standardisation and Monitoring) and Support to an Environmental NGO network."[357] The total amount mobilized for Croatia was 59 million euros. In addition to national programmes, Croatia also benefited from the programmes of CARD Regional Programme, the LIFE-Third Countries, European Investment Bank. The annual allocations for Croatia has also been gradually increased: while it amounted to 62 million euros in 2003, it was determined as 68 million euros for 2004[358]

The improving financial assistance had also been supported by enhancing political relations. Following the General Affairs and External Relations Council's (GAERC) request to prepare an Opinion on Croatia's application on 14 April 2003, the Commission prepared it on 20 April 2004. On the same day of the submission of its Opinion, the EC also presented it Decision on the principles, priorities and conditions contained in the European Partnership with Croatia, pointing out the required priorities for further integration. Regarding the protection of minorities, these priorities for short

[355] Ibid. p. 14-15.

[356] Ibid, p. 34.

[357] Ibid., 34-35.

[358] See, European Commission Country Strategy Paper for Croatia, 2002-2004 CARDS p. 66; For the individually mobilised on-going cooperation by the EU Member States and donors' assistance, see ibid., pp. 69-70.

term and medium term were mainly focused on the need to improve respect for minority rights, such as the implementation of the CLNM, equitable representation, the proper functioning of Minority Councils, protection and integration of Roma; speed up the process of refugee return and undertaking relevant reforms for short-term and the continued respect for minority rights, Roma at particular and the completion of the refugee return process for the medium term.[359]

Taking this into consideration, in its Conclusion of the Opinion, regarding the political criteria, The European Commission stated that:

> "Croatia is a functioning democracy, with stable institutions guaranteeing the rule of law. There are no major problems regarding the respect of fundamental rights. In April 2004, the ICTY Prosecutor stated that Croatia is now cooperating fully with ICTY. Croatia needs to maintain full cooperation and take all necessary steps to ensure that the remaining indictee is located and transferred to ICTY. Croatia needs to make additional efforts in the field of minority rights, refugee returns, judiciary reform, regional co-operation and the fight against corruption. On this basis, the Commission confirms that Croatia meets the political criteria set by the Copenhagen European Council in 1993 and the Stabilisation and Association Process conditionalities established by the Council in 1997."[360]

In the light of these evaluations, the Commission recommended the opening of negotiations. Accordingly, the European Council, in December 2004, decided that accession talks can start with Croatia on the 17th March 2005, provided there is full cooperation with the International Criminal Tribunal for the former Yugoslavia. Subsequently, the SAA with Croatia entered into force on 1 February 2005. However, the European process has been delayed with a disappointing decision for Croatia on 16 March 2005: the European Union delayed the planned start of negotiations with Croatia, due to its failure to find a key figure as an evidence for cooperation with the ICTY. But,

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[359] Council Decision on the principles, priorities and conditions contained in the European Partnership with Croatia, p. 6 and 11.

[360] Ibid, p. 119-120. Regarding the assessment of the minority rights and refugee issues, which is more or less identical to the previous SAP Report, see pp. 24-30

it was emphasized that the door of the EU will be open to Croatia as soon as it provides "full cooperation" with UN prosecutors in the Hague.[361]

In fact, although improving in a promising pace, cited in the Opinion of the EC as one of the issues that "Croatia needs to make additional efforts", minority rights has been one of the contentious issues for Croatia on the way to both regional stability and further integration with the EU. In this context, as the first legally binding international instrument, the Framework Convention for the Protection of National Minorities has been one of the key documents for the assessment of the protection of national minorities.

Croatia signed the Framework Convention on 6 November 1996 and subsequently ratified it on 11 October 1997 and the Convention entered into force on 01 February 1998. The monitoring process was initiated by the submission of the first State Report on 16 March 1999, which was due to 1 February 1999. This was followed by the publication of the Opinion of the Advisory Committee on 6 April 2001, drawing on their visit to Croatia in the period of 16-18 October 2000. The Croatian government has published its Comment on the Opinion on 6 February 2002, on the same day of the Council of Ministers' Resolution on the Opinion. This was followed by the follow-up seminar on 21 March 2002. After the completion of the first cycle of monitoring, Croatia submitted its second State Report on 13 April 2004, which was due to 1 February 2004. Upon its submission, the AC adopted its 2nd Opinion on 1 October 2004 and published it on 13 April 2005. On the same day, Croatia presented its 2nd Comment on the Opinion of the AC.

According to the 2001 census, 7.5% of the Croatian population consists of 16 *national minorities.* The most sizeable and territorially concentrated minority is the Serbs with 4.5% of the total population, followed by Bosniaks (0.47%), Italians (0.44%), Hungarians (0.37%), Albanians (0.34%), and Slovenes (0.3%). Although the

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[361] "EU delays talks with Croatia, but keeps door open", Michael Thurston, 03.16.2005, available at www.turkishpress.com

proportion of Roma was registered as 0, 21% in this statistics, the actual figure is probably significantly higher.[362]

Table 9: Ethnic structure of the population in Croatia, 1981-2001
Source: Statiscal Almanac of Croatia, 1991, p.64; Croatian Governmental Office for Statics Census 2001, www.dzr.org; cited in MRG 2003, p.5

Nationality	1981		1991		2001	
Croats	3,454,661	75,1	3,736,356	78,1	3,997,171	89,6
Serbs	531	11,5	581,663	12,2	201,631	4,5
Non-determined	17,133	0,4	73,376	1,5	89,130	2,61
Bosniaks	-	-	-	-	20,755	0,47
Italians	11,661	0,3	21,303	0,4	19,636	0,4
Hungarians	25,439	0,6	22,355	0,5	16,595	0,37
Slovenes	25,136	0,6	22,376	0,5	13,171	0,3
Albanians	6,006	0,1	12,032	0,3	15,082	0,3
Yugoslavs	379,057	8,2	106,041	2,2	-	-[363]
Muslims	23,740	0,5	43,469	0,9	-	-[364]
Unknown	64,737	1,4	62,926	1,3	17,975	0,4
Others[365]	593,366	1,3	102,368	2,1	46,314	1,05
Total	4,601,467	100	4,784,265	100	4,437,460	100

The following framework elucidates the legal framework for the protection of national minorities in Croatia in the light of the Framework Convention.

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[362] Cited in the European Union Opinion on the application for membership of the European Union, Brussels, 20 April 2004, p. 24.

[363] Probably recorded under "others".

[364] During the Socialist Federation of Yugoslavia, the Bosniaks were recorded as "Muslims in the ethnic sense". Thus, to a great extent, it is probable that they decalred themselves as Bosniaks.

[365] 17 ethnic groups are recorded under the category of the others. For the detailed list, see the referred source above.

Today, Croatia is party to a full range of minority rights obligations which has been a part of the domestic legal system (Art. 134).[366] Furthermore by the adoption of the "Constitutional Law on the Rights of National Minorities" on 19 December 2002, a longstanding commitment of Croatia since its accession to the Council of Europe in 1996,[367] the Republic of Croatia assured that

> "Apart from human rights and freedoms which are recognized by constitutional provisions, the Republic of Croatia also recognizes and protects all other rights foreseen in the international documents as per Article 1 of this Constitutional Law, depending on the exceptions and limitations foreseen in these documents, without discrimination on the basis of sex, race, the colour of skin, language, professing of religion, political and other conviction, national and social origin, connection with a national minority, ownership, the status inherited by birth or pursuant to some other basis, in compliance with Articles 14 and 17, Paragraph 3 of the Constitution of the Republic of Croatia."

(CLNM Art. 2). Furthermore, by the Art 6 of the same law, the Croatian government declares that it "may conclude international agreements with other countries

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[366] For the full list of the international documents regarding human and minority rights, of which Croatia is a party to, see, the "Report submitted by Croatia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities", received on 16 March 1999.

[367] On March 1996, Croatia confirmed that in order to fulfill the requirements for admissioın to the Council of Europe, it would *inter alia* implement the recommendation of the Venice Commission on the Constitutional Law on National Minorities. See, Opinion No. 195 (1996) on Croatia's request for membershio of the Council of Europe, paragraph 9. vii. Calls for its fulfillment had been made in the Resolution of the Council of Ministers in February 2002, the SAA Report on Croatia in April 2002, the OSCE Mission's Report in June 2002, statement of NATO Secretary General in August 2002 for Croatia's accession to NATO, 2003 SAA Report on Croatia in March 2003, Council Decision on the principles, priorities and conditions contained in the European Partnership with Croatia in April 2004, European Commission Opinion on the application of Croatia for membership of the European Union in April 2004.
As declared in its Art. 44, on the day of coming into effect of the Constitutional Law on ...., the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia ("Official Gazette", No. 65/91, 27/92, 34/92- consolidated text, 51/00 and 105- consolidated text), which was the former fundamental legal instrument of minority protection in Crotia, ceased to be valid.
For a detailed on the adoption process of the Constitutional Law on National Minorities, see, OSCE Mission to Croatia Headquarters, Background Report Constitutional Law on National Minorities, 20 August 2002.

whereby it shall regulate the issues of the rights and freedoms of members of national minorities in the Republic of Croatia."

In the EC's Opinion on the application for membership of the European Union, the EC found it promising that "Croatia has ratified all the Council of Europe conventions which it had signed", in addition to bilateral agreements of protection of national minorities with Hungary, Italy, and Serbia and Montenegro.[368]

Definition of minority (Article 3)

The concept of national minority is not exactly defined by the Croatian Constitution. Rather than using a strict, restrictive approach on the minorities within Croatia, Chapter 1 ("Historical Foundations"), Paragraph 3 of the Constitution defined as autochthonous minorities Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ruthenians, Ukrainians and others who are citizens of the Republic of Croatia:

> "Considering the presented historical facts and universally accepted principles in the modern world, as well as the inalienable and indivisible, non-transferable and non-exhaustible right of the Croatian nation to self-determination and state sovereignty, including its fully maintained right to secession and association, as basic provisions for peace and stability of the international order, the Republic of Croatia is established as the national state of the Croatian nation and the state of members of autochthonous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians and Ruthenians and the others who are its citizens, and who are guaranteed equality with citizens of Croatian nationality and the realization of national rights in accordance with the democratic norms and standards of the United Nations Organization and the countries of the free world."

Therefore, their recital is not *numerus clausus*. However, the concept of authochthonousness is not been defined.[369]

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[368] Cited in the European Union Opinion on the application for membership of the European Union, Brussels, 20 April 2004, p. 24. The agreement with Serbia and Montenegro was signed in 15 November 2004.

[369] "Report submitted by Croatia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities", received on 16 March 1999.

This confusion was removed with the adoption of CLNM. In its Article 5, "national minority" is defined as

> "a group of Croatian citizens [*drzavljani*], whose members have been traditionally settled in the territory of the Republic of Croatia, and who have ethnic, linguistic, cultural and/or religious characteristics which are different than those of other citizens [*gradjani*], and who are guided by the wish for the preservation of those characteristics."

Under the Constitutional framework, a citizen of the Republic of Croatia can exercise his right to identify or not to identify himself as a member of national minority, in many different manners, such as the electoral process. As regulated by the "Law on Voters' Registers" (Official Gazette, no.19/92), nationality is defined by Article 9 of this law as one of the data required for registering Croatian citizens with a right to vote. This enables the persons belonging to national minorities to exercise their electoral right and to elect their representatives to the Croatian Sabor on the basis of national identity. However, a person belonging to a national minority can also choose not to exercise his electoral right on the basis of his nationality. In Article 15 of the Constitution, it is stated that "Members of all nations and minorities shall have equal rights in the Republic of Croatia. Members of all nations and minorities shall be guaranteed freedom to express their nationality, freedom to use their language and script, and cultural autonomy."

General Provisions (Articles 4, 5, 6)

The Constitution of the Republic of Croatia ensures the equality of all its citizens (Articles 14, 15, and 26). Furthermore, a special protection of minority rights is guaranteed in a way that the Constitution provides for a special procedure, namely the requirement of a two-third majority of all representatives in the House of Representatives of the Sabor, for passing legislation regulating minority rights. (Article 83). In addition, the Constitution also provides that such laws shall be passed only after an opinion has been obtained from the House of Counties. (Article 81).

The respect for national minority rights is determined in a more precise approach in the CLNM. In Article 3 of the CLNM, it is stated that

> "(1) The rights and freedoms of persons who belong to national minorities, as basic human rights and freedoms, shall be an

inseparable part of the democratic system of the Republic of Croatia and shall enjoy necessary support and protection, including positive measures to the benefit of national minorities. (2) Ethnic and multicultural diversity and spirit of understanding, mutual respect and tolerance shall contribute to the promotion of development of the Republic of Croatia."

In the subsequent article, the principle of the equality of the citizens of Croatia is emphasized, followed by the acknowledgement of non-discrimination principle. (Article 4) In the concluding chapter of "Rights and Freedoms", guarantees for the exercise of the basic rights of the members of national minorities are ensured (CLNM, Articles 9-22)

In addition, the Constitution of the Republic of Croatia ensures the full observances of the principle of non-discrimination (Article 6, paragraph 1) and proposes penalties for the breach of the equality of its citizens (Article 106/1) and exercise of their rights for the preservation of their national characteristics, such as to freely express his or her national belonging or the right to cultural autonomy (Article 106/2), the use of language and script (Article 106/3), association of citizens to form political parties or other associations to advance their national, cultural goals (Article 109). This provisions also includes penalties for the promotion of the idea of racial superiority or any forms of racial discrimination (Article 39; Article 174/2, Article 174/3)

Furthermore, "in order for national minorities to participate in the public life of the Republic of Croatia and especially to discuss, propose, regulate and resolve issues related to the exercise and protection of rights and freedoms of national minorities", the CLNM proposed the establishment of the "Council for National Minorities. (CLNM, Article 35, paragraph 1) With its goal specified in Article 35, it was added that "the Council shall co-operate with the competent state bodies and bodies of self-government units, councils of national minorities or minority representatives, associations of national minorities and legal persons performing the activities, through which minority rights and freedoms are exercised.(CLNM, Article 35, paragraph 1)

As an institution for the protection of human rights, the Ombudsman's Office has also been established in accordance with Article 7, Paragraph 5 of the Ombudsman Law (1992) Official Gazette 60/92): "The Ombudsman may submit his admonitions,

information, proposals and reports to the media, who have the obligation to make them public." The Ombudsman also submits his annual activity report to the Croatian Parliament (Article 8) on the status of constitutional and legal civil rights.

Territorial Provisions (Article 16)

The main principles of local and regional self- government in the Republic of Croatia are defined and established in the sixth chapter of the Constitution under the title "The Law on Local Self- Government and Administration". The units of self-government are proposed to

> "carry out the affairs of local jurisdiction by which the needs of citizens are directly fulfilled, and in particular the affairs related to the organization of localities and housing, area and urban planning, public utilities, child care, social welfare, primary health services, education and elementary schools, culture and physical education and sports, customer protection, protection and improvement of the environment, fire protection and civil defence. Units of regional self-government shall carry out the affairs of regional significance, and in particular the affairs related to education, health service, area and urban planning, economic development, traffic and traffic infrastructure and the development of network of educational, health, social and cultural institutions" (Art. 134).

They are proposed to have their own revenues and have the right to free disposal in performing affairs within their jurisdiction (Art. 137).

The basic provision which regulates the new district organization of the Republic of Croatia is the "Law on District Areas, Cities and Municipalities in the Republic of Croatia", which was passed on December 30, 1992. It went through a number of amendments where "utmost thought was given to respecting the homogenous of the area in which national minorities are the majority". Eventually, the territorial organization was revised before the second local elections in the Republic of Croatia by passing the "Law on the Territories of Counties (Zupanije), Cities and Municipalities in the Republic of Croatia". The law was passed by the House of Representatives of Croatia on January 17, 1997, and published in "The National Gazette" No. 10/97, on January 30, 1997 and went into effect on February 7, 1997. [370]

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[370] See, the "Report submitted by Croatia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities", received on 16 March 1999; Article 16, Narrative, paragraph 2-3.

In additional to these legal provisions, in paragraph 5 of Art. 4 of the CLNM, it is guaranteed that "The undertaking of measures which change the proportion among the population in the areas inhabited by persons who belong to national minorities and which are directed at hindering the exercise or restricting the rights and freedoms stipulated by this Constitutional Law and special laws, shall be forbidden."

Political Participation (Articles 7, 17)

By the Constitution of the Republic of Croatia (Articled 42) all citizens are guaranteed the right to peaceful assembly and public protest aimed at protection of their interests or promotion of their social, economic, political, national, cultural, and other convictions and objectives. Furthermore, these rights are regulated by the "Act on Public Assembly." By Article 15 of the CLNM, national minorities were granted the right to establish associations, endowments and foundations.

In addition to that, the CLNM also guarantees the right to establish contacts with their kin-states. (CLNM, Article 16, paragraph 1) In this context, several bilateral agreements were signed with the states in the region.[371]

In addition to the guarantee of Article 18 of the Constitution regarding the allocation of seats in the Parliament for the participation of national minorities in the decision-making process both at the national and local level, the CLNM takes explicit assurances by its Articles 19 and 20. In these articles, the members of national minorities are guaranteed the right to representation (Article 19; paragraph 1); with a guaranteed quota of "a minimum of five and a maximum of eight of their representatives in special electoral units" (Article 19; paragraph 2), the minorities with a population less than 1,5% are also guaranteed a minimum of one and a maximum of

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[371] 9 bilateral cooperation agreements are cited in the State Report on the Framework Convention for Protection of National Minorities to the Council of Europe. Recently in February 2005, an official agreement was also signed with Serbia and Montenegro. See, the "Report submitted by Croatia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities", received on 16 March 1999; Article 17.

three representative seats (Article 19; paragraph 3). The subsequent article ensures the same rights for representation at local self- government units (Article 20).

Furthermore, the CLNM introduces the establishment of Councils for National Minorities under the chapter of "Councils and Representatives of National Minorities (Articles 23-34). The representation mechanisms provided for the members of national minorities are stipulated in details in Article 24 of the CLNM.

The CLNM also proposes the establishment of a broader institution, namely the "Council for National Minorities" "in order for national minorities to participate in the public life of the Republic of Croatia and especially to discuss, propose, regulate and resolve issues related to the exercise and protection of rights and freedoms of national minorities." (Art. 35, paragraph 1)

Language (Articles 10, 11)

The Constitution of the Republic of Croatia and the CLNM distinguish the private, public and official use of a minority language. The official use is realized exclusively in the work of the bodies of local self-government units and administrative authorities, where local authorities authorized to introduce a minority language and script into the official use on its area and form of its application shall be determined by the law (Article 12).[372] The CLNM sets out the various dimensions of the right to use of own language for the minority languages from the personal level to the acceptance of it as an official language alongside Croatian language: use of surname and name, the identification card in his/her own language (Article 9); use of language and script privately and publicly (Article 10); the equal use of the language and script used by members of a national minority in a local self-government unit, "when members of a particular national minority comprise at least one third of the population of such a unit" (Article 12, paragraph 1 and the subsequent paragraphs); use of language and script of a

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[372] However, at the time of the Republic of Croatia's submission of his Report on Framework Convention to the Council of Europe, the relevant law has not been passed by the Parliament, thus the process of application has also been determined by the local self-government units, which of course cause differences.

national minority in traditional names and signs; in settlements, streets and squares (Article 13); the use of signs and symbols of national minorities (Article 14).

Furthermore, the Law on General Administrative Procedure set out the details of the use of minority language in administrative procedures (Article 15). This right is also extended to the judicial processes (The Law on the Civil Proceeding, Articles 7, 102, 103, 104, 105, 367/3; The Court Standing Orders/Rules/Rules of Procedures, Article 88, and paragraph 2).

In addition to these, local self government units have the authority to arrange official use of minority language involving the use of the names of cities, streets, topographical indications etc, in the minority language. These units arrange these questions by their statutes, in dependence with local circumstances and tradition on an individual area. The state by its regulations or jurisdictions does not intervene this right of the local self government unit.[373]

Furthermore, the Law on the First Name determines the scope of the selection and change of the first name (Article 6, 8).

Education (Articles 12, 13, 14)

Croatian laws permit national minorities to request education in their languages, and contributes organizationally, financially and other ways of acquiring knowledge such as the curriculum reflecting their literature, culture and history. While the Constitution guarantees cultural autonomy (Article 15), by underlying the obligation of the Croatian government to ensure education in the language and script which the national minorities use (CLNM, Article 7), CLNM specifically determines the procedure of education in the language of a national minority.

The education of minorities is organized through the accomplishment of various aspects of schooling such as the professional training of primary teachers and

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[373] See, the "Report submitted by Croatia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities", received on 16 March 1999; Article 11, paragraph 3, narrative.

professors (Law on Education, Article 13), additional curricula relevant to their nationalities, textbooks written in the language of minorities. Subsequently, in its State Report on the Framework Convention to the Council of Europe it was emphasized that "a smaller number of pupils is tolerated in classes than the required number for classes attended by pupils of Croatian nationality. Teachers in these classes are usually members of national minorities and have an adequate degree for the corresponding school level." The Ministry of Education and Sport also ensures to cover the increased costs for minority schools.[374]

The Law of Preschool Education", the "Law of Elementary Schools" and the "Law of High Schools" do not address the education of minorities in detail. However, it must be stated that by Article 65 of the Constitution, everybody regardless of his of her race, color of skin, national or ethnic origin or religious beliefs, has the right to primary, secondary and higher education according to the abilities. Furthermore, as proposed in Article 11, paragraph 3 of the CLNM the Croatian government also implements affirmative actions.

Culture and Media (Article 9)

Beside the general recognition of the freedom of thought and expression (Article 38), through the CLNM, the Republic of Croatia guarantees the members of national minorities, the right to access to media and cultural matters in general (CLNM, Articles 17; 18). The Law on Telecommunication also provides for broadcast in languages of ethnic and national communities, with limits (Article 64). İn its report on Framework Convention, the Republic of Croatia also ensures that "all national minorities are entitled under the same terms to access and freedom of expression in the program and broadcast of (the state television) HTV", [375] which are proclaimed in the Law on Croatian Radio-Television (Article 6, paragraph 2; 8).

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[374] See, ibid, Article 12, paragraph 2, Narrative from the jurisdiction of the Ministry of Education and Sport.

[375] Ibid, Article 9, paragraph 3.

The Constitution of Croatia ensures the freedom of conscience and religion (Art. 40, 41). Pursuant to Article 106, and regarding Article 41 of the Constitution, the President of the Republic of Croatia has set up a State Commission for the relations with religious Communities and appointed its members. The Commission is responsible for considering the regulation of relations between the state and the church, co-operating with the competent commission of the Croatian Bishops' Conference and representatives of other religious communities, as well as submitting Joint proposals to the state commissions and executive bodies.[376] In this context, religious communities have the right to association set forth in Art. 43 of the Constitution, supported by the "Act on Associations".

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[376] Ibid, Article 6, paragraph 1, from the Jurisdiction of the State Commission for the Relations with Religious Communities."

B. 3. Factual Situation on the Exercise of National Minority Rights

The Parliamentary and Presidential elections in January 2000 marked a turning point in the Croatian democratization process, particularly regarding the respect for the rights of national minorities. Following the victory of a centre-left, pro-European six-party coalition, the Parliament amended the 1991 Constitution in May 2000 which reintroduced some of the suspended provisions regarding the Serbian minority and adopted a longstanding commitment to the Council of Europe, namely the "Constitutional Law on National Minorities" in December 2002. These developments provided considerable improvements has been achieved with respect to the protection of the rights of national minorities, however, the implementation of the Framework Convention in Croatia is still strongly affected by the legacy of the 1991-1995 conflict. Although this affects the exercises of the national minorities in general, it specifically affects the rights of the members of the Serbs and the Roma.

Today, there are still crucial problems that the Croatian government had to overcome. These can be summarized as follows:

Refugee Returns: Between 300,000 and 350,000 ethnic Serbs in Croatia left their homes during the 1991-95 war and fled to Serbia and Montenegro, and Bosnia and Herzegovina (AI 2005; HRW 2005). By August 2004, the government had registered 112,162 Serb returnees (HRW 2005). However, as reflected in the HRW's 2005 Annual Report on Croatia, "the actual number of returns is significantly lower because many Croatian Serbs leave again for Serbia and Montenegro or Bosnia after only a short stay in Croatia" (HRW 2005; MRG 2003: 32). This is especially due to legal and administrative obstacles and the intolerant attitudes of some central and local officials (CERD 2002).[377]

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[377] In this regard, in its 2002 Conclusion, CERD reported inconsistencies and the lack of transparency in the National Programme for Return: "The insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter related issues of residency and citizenship rights." See, CERD Concluding Observations, 21 May 2002; cited in MRG 2003, p. 31.

The fact that inadequate conditions at the local services and economy "discourage potential returnees to flee once more" (UNHRC 2002) was confirmed by the US State Department's report that the administrative obstacles continued to exist, such as "delays in 'covalidation' of legal and administrative documents" tracing back to the war, "to make it difficult for ethnic Serbs both to return and remain" (USDS 2003)[378] Furthermore, in its study in Knin in 2003, UNHCR showed that only 62 per cent of the return could be considered as sustainable, while 27 per cent were "commuters" moving between their place of origin and where they fled. This required an effective resettlement programme guaranteeing mainly the repossession of houses, tenancy rights, status rights, employment and the essential social benefits. In this context, although gradually the legal framework has been set up for an effective resettlement, the international organizations have reported an evident, lengthy process for returnees pursuing to hold their rights, which requires the political will.

In 2003, the government adopted several documents regarding the implementation of the return process, property repossession and reconstruction of damaged homes of the ethnic Serbs. The ministry for Public Works, Reconstruction and Construction regarding destroyed residential properties and in July adopted three additional laws.[379] However, during the parliamentary process of adopting these laws, The Croatian Helsinki Committee criticized several discriminatory processes, such as the one stating that refuges of Serb ethnicity could not apply for compensation if they did not possess Croatian citizenship, or the one ordering the compensation process only in cases of responsibility for damage caused by terrorist acts (IHF 2004: 8). Although some were deleted in the later stages, it still has provisions violating some articles of the Constitution.[380] Furthermore, the process of the repossession of property continues at a

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[378] US State Department Country Report on Human Rights Practice Croatia 2002. In its *2002 Global Report*, UNHCR also cited that inadequate conditiond at the local services and economy "discourage potential returness to flee once more".

[379] The Law on the Responsibility for Damage Caused by the Terrorist Acts and Public Demonstrations, the Law on the Responsibility of the Republic of Croatia for Damage Caused by Members of the Croatian Armed Forces and Police During the Homeland War and the Law on Responsibility of the Republic of Croatia for Compensation Resulting from Damage Caused in the Former FRY for which the Former FRY Responsible. Cited in, IHF 2004 Croatia Annual Report, p.7.

[380] See, IHF (2004).

very slow pace (AI 2005). The main reason behind that was "the inefficiency of the judiciary and the fact that it tended to favor the occupants over the legal rights of owners" (IHF 2004: 8; HRW 2005) In its 2005 Annual Report on Croatia, The HRW reported that the process is eventually nearing completion by citing the government data that 1,800 houses were returned to their owners in the first seven months of 2004, with only 1,700 occupied houses still to be returned (HRW 2005). However, AI also reports that the repossession rate remained slow, adding that "lengthy, and in some cases unfair, proceedings, particularly in lower levels, remained a major obstacle for returnees pursuing their rights in court" (AI 2005). Furthermore, the positions of the Serb refugees contrast with that of former tenancy rights-holders with returnee status, especially the Croats returning to the former UNTAES mission.[381]

While the same violations have also been witnessed regarding the tenancy rights, the government introduced some set of measures. For instance, in October 2002, the Minister for Public Works proclaimed that former occupancy/tenancy rights-holders who return to the Areas of Special State Concern can receive temporary accommodation in collective centres, as a temporary solution to the problem.[382] In a more recent initiative, in June 2003, the government proposed a series of provisions which enabled former tenancy right holders, outside the Areas of Special State Protectorate, i.e. former Krajina, to rent or purchase the government-built apartments at below-market rates (HRW 2005; IHF 2004). However, many of ethnic Serbs refuges are still unable to regain their rights. As HRW reported, in August 2004, the government admitted that the implementation of the aforementioned plan in June 2003 had yet to begin. (HRW 2005)

In contrast to these, reconstruction assistance by the state given to returning Croatian Serbs, which was initiated first in 2002 (MRC 2003: 33) has continued at a satisfactory pace (HRW 2005)

Beside these initiatives targeted to the infrastructure, the last, but not the least, problem is the status rights of the returnees. According to the Return Program of 1998, it was recognized that all people considered under the 1952 Geneva Conventions should

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[381] See, MRG (2003: 32).

[382] OSCE Mission to Croatia Status Report, No.11, p.16. Cited in MRG 2003, 33.

be able to return. However, in practice, the ethnic Serbs who could not confirm his or her Croatian citizenship face problems regarding the recognition of their status as residents. What's more, under the 1991 Law on Croatian citizenship, which is based on ethnic criteria, provides ethnic Croats, even if they have not been the resident of Croatia, to obtain citizenship, but makes it much difficult to acquire permanent residence status and citizenship, for the persons who were the resident of Croatia in pre-war period but have not registered as Croatian citizens (ICG 2002: 5)[383]. In this regard, while obtaining documents and the process of application may cause considerable delay (MRG 2003: 33; ICG 2002: 5), additional problems may arouse when these are not confirmed by the Ministry of Interior ("no-MOI" cases) (ICG 2002: 6). In this context, many returnees, although being residents of Croatia for long time, have been treated as immigrants (ICG 2002: 6). To avoid the emergence such problems, the Joint Working Group on Legislation recommended on September 2002, the incorporation of lesser requirements (MRG 2003: 33), which was agreed by the Croatian authorities that "the permanent residence would be reinstated on the basis of habitual residence on 8 October 1991, with no other conditions being attached" (ICG 2002: 6).

As cited, the issue of the refugee return has been one of the key elements of the EU conditionality. Underlying its interest on the issue in its 2002[384], and 2003 SAP Reports which indicated a "limited progress in its achievements for the return process and de facto integration of the Serb minority."[385], EU recommended Croatian government in its European Partnership Decision, to speed up the return for the shot term and complete it for the medium term.[386]

Accountability for War Crimes and Cooperation with the ICTY: The issue of cooperation with the ICTY has been a persistent cause of instability both within the government and the international relations of Croatia which caused continuing international pressure, especially by the European Union, which eventually led the annulment of the initiation of the negotiation talks for membership. While this was the

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[383] For the process of obtaining citizenship for those refugess, see, ICG 2002, pp. 9-10.

[384] See, 2002 SAP Report, p. 50.

[385] See, 2003 SAP Report, fn. 221.

[386] For details, see, p. 6 and 11.

case for the retired General Janko Bobetko, the former Chief of Staff of the Croatian Army[387], it was not implemented by the Racan government by the end of 2002, arguing that then indictment contravened the Croatian Constitution (HRW 2003) and excuse grounds of his health (AI 2003), the recent crisis is on the custody of Ante Gotovina, the retired Croatian Army General. Although he was indicted for crimes against humanity and war crimes against the Serbs of Krajina in 1995 during the "Operation Storm", "he had gone into hiding after the charges against him were published, although reportedly the authorities had been given prior warning by the Tribunal." (AI 2003) Despite repeatedly criticizing of the Tribunal Prosecutor (AI 2004) and the proclamation of formal assurances (AI 2005), backed up the EU's warnings through its SAP Reports 2002, 2003, European Partnership Decision and Opinion of the EC on its application for membership, Croatian authorities continued to keep on their vague approaches on cooperation with the ICTY. Furthermore, to make matters worse, in October 2004, the Prime Minister Ivo Sanader publicly stated his belief in Gotovina's innocence (AI 2005).

Employment Discrimination: Discrimination in employment is undoubtedly one of the major problems for a variety of sectors in the Croatian society, but especially for ethnic Serbs. As early as 1993, the UN Committee on the Elimination of All Forms of Racial Discrimination (CERD) expressed its concerns over "the circulation in Croatia of ethnic lists of persons considered non-Croatian in origin, which were used for discriminatory purposes, particularly concerning employment opportunities.". In its Opinion on Croatia, adopted on 6 April 2001, the Advisory Committee on the Framework Convention, pointed out that

"the extraordinarily low representation of national minorities within the executive and in the judiciary is partially a result of past discriminatory measures (often related to the conflict of 1991-1995) aimed at curtailing, in particular, the number of persons belonging to the Serb minority in various bodies, including in courts."[388].

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[387] The indictment against whom was made by public by the ICTY in September 2003 for war crimes and crimes against humanity committed against Serbs in 1993.

[388] The Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities on Croatia, Art. 15, item. 56.

A government statistics in July in 2000 evidently affirmed the discrimination: "only 2,8 per cent of the state administration employees (excluding the Ministry of Interior and the Ministry of Defence) belonged to the Serb minority and (...) there were only two Roma employed in all of these bodies"[389] Although the December 2002 Constitutional Law on Minority Rights obliges the state to ensure proportional representation in the administration and the judiciary, at the state, county and municipal levels (HRW 2004), which was repeatedly emphasized by the EU in 2003 SAP Report, European Partnership and EC Opinion the violations of these provisions continues to be reported (HRW 2005; HRW 2004; MRG 2003: 23; AI 2005)

Religious Rights: Although there has not been any violation on the exercise of the freedom of religious affiliation, the problem exists rather due the position of the Catholic Church in respect to the official authorities. By the adoption of the Law on Legal Status of Religious Communities in June 2002, all "traditional" confessions were permitted to develop freely, found schools and carry out humanitarian work on an equal basis" (IHF 2004; IHF 2003, 2003 SAP Report). The Croatian government signed contracts with the Holy See (The Catholic Church), the Serbian Orthodox Church, and the Islamic Community in Croatia, which determined their activities within institutions such as the armed forces, prisons and schools, which guarantees the principle of equality in respect to their relations state institutions and the allocation of state funds. In this context, the Serbian Orthodox Community was proposed to receive 7,5 million kuna, and the Islamic Community 2,1 million kuna annually from the state budget. (MRG 2003: 27; 2003 SAP Report: 9). However, beside the fact that these contracts do not regulate the repossession of property to the religious communities (MRG 2003: 27; IHF 2004), it is also noted that the agreements did not guarantee similar privileges to those communities, when compared with the Holy See. (IHF 2004). For instance, according to the Agreement, the Roman Catholic Church achieved the right to offer religious education in schools and kindergartens, excluding the other communities (IHF 2003). The problems regarding infrastructure also violates the principle equality. Although religious instruction is optional in primary and secondary schools since 1992, "the lack of financial resources, the limited number of pupils belonging to small religious

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[389] See, the Croatian State Report on the implementation of the Framework Convention, 1998.

communities and the lack of qualified teachers has meant that Roman Catholic Church religious education prevails."(MRG 2003: 26)

The Issue of Tolerance in Public Media and Society: As pointed out by the MRG Report (2003) "as early as 1995 the UN expressed its concern over the way in which the mass media was aggravating ethnic tensions, and over the state's failure to take action against the print media for promoting ethnic hatred against Serbs."[390] Since then intolerance, racial discrimination and the relevant issue such as xenophobia and hate speech have been one of the common human rights violations reported by the international NGOs, Croatian Helsinki Committee at particular. In its annual reports 2002 and 2003, IHF emphasized that there was not a comprehensive legislation explicitly prohibiting racial discrimination in public life, although Croatia is a party to the International Convention on the Elimination of all Forms of Racial Discrimination which stipulates the relevant measures (IHF 2002, 2003).

In this period hate speech was mainly observed in demonstrations in support of the generals accused of committing war crimes(IHF 2002), during the electoral campaign in November 2003 (IHF 2004), on printed media, i.e. the cases of Slobodna Dalmacija, the weekly Focus, and Hrvatska slovo (IHF 2002), on radio broadcasting, i.e. Radio Rijeka and Plavi Radio cases (IHF 2002)

Beside these, it was also reported that numerous citizens and foreigners have been attacked by the skinheads (IHF 2002, IHF 2003, IHF 2004). While these incidents took place, a public opinion poll in October 2002 clearly displayed the potential of intolerance especially towards the ethnic Serbs who were seen as the cause of the war between 1991 and 1995 and the Trojan horse within Croatia: one in four Croatian adults stated that he or she would expel ethnic Serbs from Croatia.[391]. This was even higher in Dalmatia and Slavonia, which was severely affected by the war: 44 and 35 per cent respectively.[392] The hate towards the Serbs was also revealed in a poll on in April 2002, with the results that 35% of the interviewed stated that they hated Serbs; while only 7%

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[390] CERD Conclusions, 22 September 1995; cited in MRG 2003, p. 28.

[391] This was one in seven for the Bosniaks and Montenegrins, and one in 10 for the Slovenes.

[392] Vecernji list, 30 October 2002; cited in MRG 2003, pp. 29-30.

expressed that he/she think to marry with a member of a minority group[393]. In another poll, made public on 22 November 2002, 75 per cent of the respondents stated that the government should not accelerate the return of the Serbs.[394] CERD strongly urged the Croatian government to undertake measures for non-discriminatory measures in all sectors of public life (IHF 2003), the greater motivation and political seems to be needed for the accommodation of inter-ethnic tolerance.

In this regard, as reflected in the Second Opinion of the Advisory Committee on the FCNM, although relations between the Ombudsman and the relevant governmental bodies improve, it still has financial problems mainly due to limited resources. The reality that it is especially the members of the national minorities who face significant human rights violations, its course of service should be extended to the areas where the minority groups hold significant population, through the establishment of regional offices.[395]

In this context, it is quite interesting that, despite its emphasis on the adoption of legal procedures and their implementation, the EC does not explicitly deal with the intolerance within society and media towards minorities, except its statement in EC Opinion on application for membership that "(a)lthough hate speech is constantly decreasing, national minorities are perceived and presented as a separate entities and not as an integral part of the society"[396]

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[393] Reported by Radio92, Belgrade on 29 April 2002. Available at http://www.csees.net

[394] Jutarnji list, 22 November 2002; cited in MRG 2003, pp. 30.

[395] Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Croatia, adopted on 1 October 2004, ACFC/INF/OP/II(2004)002, Strasbourg, 13 April 2005, Art. 15, 55-58.

[396] European Commission Opinion on the application of Croatia for membership of the European Union," Brussels, 20 April 2004, p. 26.

B. 4. Implementation of the EU Vision of Good Neigbourhood Relations

Supplementary to the promotion of democratic governance and the protection of human and minority rights, the Stabilisation and Association Agreements provide the model for the level and type of cooperation that the EU expects to be followed between the countries of the Western Balkans. Furthermore, it requires each signatory state to conclude a bilateral convention on regional co-operation with other signatories.[397] In this framework, as a "cornerstone of the European Union's policy for the region"[398], Croatia has been expected to normalize and strengthen its regional and bilateral cooperation with neighbouring countries, as a key element of the SAA conditionality.

In this context, in its 2002 SAA Report, the EC warned that "nationalistic pressures affect the attitude of the Government to increased regional co-operation". It added that although "at the bilateral, practical, level there have been important steps forward there is a persistent tendency to over-politicise and over-estimate the impact of and intentions behind regional initiatives". To conclude, it recommended that "Croatia needs finally to overcome regional and historical frictions and take a more open approach to addressing outstanding political questions with its neighbours."[399]

In fact, although the diplomatic relations between the two countries were established in 1996, the relations remained problematic mainly burdened by the heritage of the war. The regime changes in 2000 in both Croatia and Serbia marked a turning point in the adjustment of bilateral relations. Following the meetings between political leaders and top officials such as the meeting between President V. Koštunica and President S. Mesić at the summit of the EU and Western Balkan countries in November 2000; meeting between President V. Koštunica and President S. Mesić at the World Economic Forum in Davos, Switzerland in January 2001; and the one between President V. Koštunica and President S. Mesić at the Forum of the Heads of State of Central

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[397] See 2002 SAP Report, p. 11-12.

[398] Report from the Commission, The Stabilisation and Association process for South East Europe, Second Annual Report, Brussels, 26. 03. 2003, COM (2003) 139 final, p. 12.

[399] See 2002 SAP Report, p. 19.

European Countries in Verbania in June 2001,[400]finally at their first official meeting in November 2001 in New York, the two Foreign Ministers of the two countries agreed on the priorities for further normalization of bilateral relations.[401] Since then the relations between the two countries intensified through regular contacts.[402] The first concrete reflection of this normalization process was the Free Trade Agreement on 23 December 2002[403], in accordance with the implementation of the Memorandum of Understanding on liberalizing and facilitating trade under the auspices of the Stability Pact, which had been identified in the 2002 SAP Report as a priority[404]. The progress in bilateral relations was also reflected to 2003 SAP Report on Croatia as "improving". It was stated that "(a)lthough the Croatian political class is still to some extent reluctant to develop closer political and economic ties, relations have improved in quality and regular contacts on working level have been established." Among these were Border demarcation of the Danube River, an agreement for a temporary border regime of the Prevlaka peninsula in December 2002, the establishment of joint police patrols in March 2003, an inter-state agreement on minority rights conditional on resolving the problem of Serb refuges from Croatia, some initiatives for the liberalisation visa regime, cooperation regarding the search for missing persons, readmission agreement in April 2002, ratification of the agreement on social and pension issues by the Croatian Parliament in April 2002, an agreement on cooperation in fighting organized crime in May 2003, and the negotiations for an agreement on minorities[405] However, the EC also noted in the same Report that "(b)ilateral relations continued (…)(to) be burdened by the minority issue and refugee return, as well as FRY reluctance to cooperate with ICTY

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[400] See, http://www.mfa.gov.yu/Policy/Bilaterala/Croatia.

[401] See the "European Commission Opinion on the application of Croatia for membership of the European Union," Brussels, 20 April 2004, p. 33.; and fn. 15 in the same page.

[402] For a detailed account of these official contacts, see, ibid, p. 32-34; http://www.mfa.gov.yu/Policy/Bilaterala/Croatia and http://www.mvp.hr

[403] The Croatian Parliament ratified the Agreement on 7 May 2003. Serbia and Montenegro has not ratified it yet.

[404] 2003 SAP Report on Croatia, p. 12.

[405] Cited in ibid. p. 12. This agreement was signed recently on 15 November 2004.

regarding war crimes committed in Croatia, especially Vukovar."[406] However, in its "priority areas needing attention in the next 12 months", there were not any explicit requirement on bilateral relations within the framework of regional cooperation, rather what was needed were the "conclusion of negotiations on the bilateral regional convention with former Yugoslav Republic of Macedonia. Work to find definitive solutions to the pending bilateral issues, in particular with Slovenia"[407]

Furthermore, although problems to be resolved were recorded by the EC's Opinion on Croatia's application for membership in April 2004[408], due to both the requirements of the Stability Pact on trade measures such as the establishment of FTAs, and the SAA conditionality within the process of European integration, the bilateral relations continues to gradually improve. After the two countries had abolished visa regimes in May and June 2003,[409] an important psychological obstacle had been

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[406] Ibid., p. 12.

[407] Ibid. p. 15. These were among the recommendaditon of 2002 SAP Report, which were basically not implemented. In fact, the level of cross-border cooperation as a dimension of bilateral cooperation between the two countries was among the weakest ones in the region. In their swot analysis, the COE and ISIG determined 5 dimension of cross-border cooperation among the weakest marks. These were the level of propensity towards co-operation, cross-border relation by sector of activity, incisiveness of economic obstacles, Institutional factors for co-operation and administrative factors for co-operation. (COE & ISIG 2002: 158-159). In this 2002 report, by pointing out that cross-border co-operation between Croatia and Serbia is "necessary and wished for", the factors that stands as an obstacles to this co-operation is noted as "lack of funds, low economic and technological development rates, extreme labour market protection and tax and customs restrictions".(COE & ISIG 2002: 115)

[408] These were "the border demarcation at the Danube river and at Prevlaka, succession related issues, the problem of missing persons, Croatia's claim for compensation for war damage, return of refugees and restitution of their property, in particular property restitution to business entities and the ratification of the FTA. For detailed information, see, the "European Commission Opinion on the application of Croatia for membership of the European Union," Brussels, 20 April 2004,, pp. 32-33.

[409] In May 2003 Serbia and Montenegro abolished visas for citizens from the EU and neighbouring countries, including Croatia. Subsequent to that, in June 2003 Croatia abolished temporarily the visa regime for the citizens of Serbia and Montenegro for the period of 10 June to 31 December 2003. This was later extended to 30 June 2004. The Croatian Government outlined three political conditions for the permanent abolition of the visa regime: (i) return of registers of births, marriages and deaths of Croatian citizens which were taken to Belgrade in 1995; (ii) replacement of SaM military at the

overcome on 10 September 2003. During the visit of Mesic to Belgrade, the Presidents of Serbia and Montenegro and Croatia, Svetozar Marovic and Stjepan Mesic, apologized to one another on behalf of their two countries for all the evil or damage the two countries' citizens have done to each other, underlining that the responsibility for the committed crimes must be individual. In this regard, as cited in EC's Opinion[410], although the issue of minorities and the regarding war-related issues has been "one of the most sensitive questions in normalization of relations", concrete policies have been applied in the last two years, such as the exchange of the ratification instruments for the Social Security Agreement between the Republic of Croatia and the Federal Republic of Yugoslavia, signed on Sept 15, 1997 on April 2004[411], signing of a Protocol on Cooperation in the process of European integrations[412] in May 2004, an agreement on the protection of minority rights in the two countries[413] and an agreement on the transfer of the convicted Serbs from the Lepoglava prison to the state union[414] in November 2004, and recently an agreement on the protection of minorities in February 2005.

In this regard, the statements of Croatia's top officials, particularly the President Stjepan Mesic and the Prime Minister Ivo Sanader reveal that the main reference point in the strengthening of bilateral cooperation is the prospect of European integration (see, Annex 3)

Danube border by police; (iii) full cooperation regarding the search for missing persons. Cited in, ibid, p. 33.

[410] Ibid., p. 33.

[411] The Agreement, which came into force on July 2004, regulates pension and health security rights, dole for the unemployed, and is valid for to persons who realized the right to a pension in Croatia, i.e. Serbia-Montenegro before and after Oct 8, 1991, as well as to persons who regulated their pension status via decrees.

[412] Signed by the President of Croatia, Stjepan Mesic and the Prime Minister Ivo Sanader in Zagreb.

[413] Signed by the Serbia-Montenegro Human and Minority Rights Minister, Rasim Ljajic, and Croatian Justice Minister Vesna Skare Ozbolt.

[414] Signed by the Croatian Justice Minister Vesna Skare Ozbolt and the Serbia-Montenegro Human and Minority Rights Minister, Rasim Ljajic.

In this regard, the phrases indication a positive relationship with the Croatian officials' and political leaders' will on bilateral cooperation can be stipulated in such a statiscal framework out of total 37 entry:

European prospects and the objective to be closer to the EU > 9

The fact that there is no alternative to that > 6

Traditional neighbourhood > 3

The interest of mutual relations between states and peoples > 3

The stability of the region > 3

Encourage pro-European forces > 2

Protocol on Cooperation in European Integration Processes > 2

Intensification of reforms > 1

A stable neighbourhood > 1

Example to other countries > 1

Message to citizens > 1

Applying European standards > 1

Agreement on the Protection of Ethnic Minorities > 1

Transnational integration process > 1

To cluster these, transnational integration process seems to be the source of main motivation for the Croat leaders for bilateral cooperation with Serbia (32.4%). Although not directly refer to expressed the objective of such integration process, when we add the phrases regarding "encouraging pro-European forces" and "applying European standards", the European Union and the prospect for integration with it becomes the main motivation (40.54%). In this context, although not directly referring to national minorities, "The interest of mutual relations between states and peoples" holds 8.1%; while the only entry that directly refers to the protection of national minorities, namely "Agreement on the Protection of Ethnic Minorities" holds 2.7% with 1 entry.

In this framework, taking European integration prospect as the main reference point, since 1994, the two states signed 33 treaties and acts governing further

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cooperation between the two countries.[415] Furthermore, currently Croatia continues to play an active role in several regional and sub-regional initiatives, such as the Stability Pact, the Adriatic–Ionian initiative, the "Quadrilaterale"[416], the Central European Initiative (CEI), South-East Cooperation Initiative (SECI), the Alps-Adriatic initiative, the Danube Commission. It is an also observer in the South-East European Cooperation Process (SEECP).[417]

In view of that, in its European Partnership Decision, EU implemented policies to implement for the short- and medium-term as:

(1) "*Enhance regional co-operation.* Work to find definitive solutions to pending bilateral issues, in particular border issues with Slovenia, Serbia and Montenegro and Bosnia and Herzegovina. Ensure implementation of all regional free trade agreements. Conclude and implement a set of agreements with neighbouring countries in the fields of fight against organised crime, border management and readmission. Start implementing the MoU on the Development of the South East Europe Core Regional Transport Network and in particular take measures to set up the cooperation mechanisms, i.a. the Steering Committee and the South East Europe Transport Observatory (SEETO). Make progress in meeting commitments under the 2002 and 2003 Memoranda of the Athens process on the Regional Energy Market in South East Europe;
Ensure proper implementation of the Stabilisation and Association Agreement in the field of regional co-operation. Conclude negotiations with the Former Yugoslav Republic of Macedonia on the bilateral convention on regional cooperation"

(2)"(w)ith regard to the Athens process on the Regional Energy Market in South East Europe, prepare for the establishment of an integrated regional energy market in 2005" in the medium term under the framework of "European Partnership".[418]

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[415] For a list of the treaties signed between Croatia and Serbia since 1994, see http://www.mfa.hr/MVP.asp?pcpid=1620

[416] Between Italy, Slovenia, Hungary and Croatia.

[417]In addition to that, in December 2002, Croatia signed the Sava River Basin Framework Agreement with Slovenia, Bosnia and Herzegovina and Serbia and Montenegro. In February 2003 the Memorandum of Understanding on Regional Electricity Market in South East Europe (REM) and in December 2003 its addendum was signed. Cited in Opinion, p. 32.

[418] See, Council Decision on the principles, priorities, and conditions contained in the European Partnership with Croatia, Brussels, 20. 04. 2004, COM (2004) 275 final, pp. 7 and 11.

What must be underlined here is Croatia's position in the midst of EU membership and regional schemes. As evidently reflected in "European Commission Country Strategy Paper for Croatia 2002-2006 CARDS", it is possible to witness acts of resistance for intensifying cooperation within regional framework. In view of that, it has been reported that "Croatia tends to reject regional initiatives, which it fears might strengthen the regional identity at the expense of closer integration with central European countries and EU Member States, which is its primary aim". While this anxiety was reflected several times in the statements of Croatia's top officials by reminding that the two processes are not mutually opposed.[419] However, its position as a model for the other countries of the region, particularly Serbia and Montenegro, has also been severally declared s a contributing factor for the intensification of bilateral relations within the EU integration process.

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[419] See,for instance Mesic's speak at SEECP summit in Tirana, in 28 March 2002, reported by Hina.

C. Hungarian Question in Vojvodina, Serbia

C. 1. Historical Background: Vojvodina and the Ethnic Hungarians

In terms of ethnic and religious pluralism, Vojvodina is not just one of the most heterogeneous regions of Yugoslavia, but also Europe (CMK & VHRC 2003). Vojvodina became a part of the "Kingdom of Serbs, Croats and Slovenes" in 1918. Although their rights were relatively restricted until 1968 despite the constitutional system of Tito's Socialist Federal Republic of Yugoslavia, ensuring equal representation and power-sharing of all national groups, until 1968, the autonomy of the two Socialist Autonomous Provinces (SAP) Vojvodina and Kosovo achieved considerable rights under the Constitution of 1974, through which "in many respects they were de facto republics until 1989" (König 2001: 6) In 1989, alongside the other SAP Kosovo, the autonomy of Vojvodina was abolished by the-then leader of the Serbian Communist Party, Slobodan Milosevic.

As mentioned, Vojvodina has been one of the most ethnically heterogeneous regions in Yugoslavia, which experienced substantial changes in this ethnic composition due to wars, conflicts, shifts in borderlines, and migration. (CMK & VHRC 2003)[420] It is also worth mentioning that along with Bosnia and Herzegovina, Vojvodina has registered the largest increase in the percentage of people declaring themselves as "Yugoslavs" between the early 1970s and the early-to-mid 1980's (Devic 2001: 5); and a substantial mixed marriages (CMK & VHRC 2003) which probably clarifies the reason of the large number of 'Yugoslavs'. Having experienced a new wave of demographic changes in its ethnic structure, today, alongside the Serbian majority (65,1 %), Hungarians compose the largest national minority group in Vojvodina (14,3%). (See, Table 12)

Vojvodina achieved to be secured from the violence erupted in the early 1990s. To some extent it also has not seen an open and systematic discrimination against national minorities as fiercely experienced in other parts of Yugoslavia. However,

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[420] For a brief history of these demographical flows, see CMK & VHRC (2003).

particularly the Vojvodinian Croats has been an evident exception to this relatively optimist account. Indeed, the regime was sometimes criticized for "(taking) a low-key approach to dismantling previously 'granted' minority rights"; and thus "employing, in effect, a politics of creeping assimilation of Vojvodina's minorities." (Guzina 2000: 29).

Table 10: Ethnic Composition of Vojvodina, 1948-2002
Source: Table on "Changes in ethnic structure of the population of Vojvodina in the 20th century", CMK & VHRC 2003.

Ethnic group	1948	1953	1961	1971	1981	1991	2002
Serbs	827633 50,4%	865538 50,9%	1017713 54,9%	1089132 55,8%	1107375 54,4%	1143723 56,8%	1321807 65,1%
Hungarians	428554 26,1%	435179 25,6%	442560 23,9%	423866 21,7%	385356 18,9%	339491 16,9%	290207 14,3%
Germans	28869 1,8%	- -	- -	7243 0,4%	3808 0,2%	3873 0,2%	3154 0,2%
Croats	132980 8,1	127027 7,5%	145341 7,8%	138561 7,1%	109203 5,4%	74808 3,7%	56546 2,8%
Slovaks	69622 4,2%	71153 4,2%	73830 4,0%	72795 3,7%	69549 3,4%	63545 3,1%	56637 2,8%
Romanians	57899 3,5%	57218 3,4%	57259 3,1%	52987 2,7%	47289 2,3%	38809 1,9%	30419 1,5%
Montenegrins	30531 1,9%	30516 1,8%	34782 1,9%	36416 1,9%	43304 2,1%	44838 2,2%	35513 1,8%
Ruthenians	22077 1,3%	23038 1,4%	- -	20109 1,0%	19305 1,0%	17652 0,9%	15626 0,8%
Macedonians	9062 0,6%	11622 0,7%	15190 0,8%	16527 0,8%	18897 0,9%	17472 0,9%	11785 0,6%
Yugoslavs	- -	- -	3174 0,1%	46928 2,4%	167215 8,2%	174295 8,7%	49881 2,5%
Others	33530 2,1%	78254 4,6%	65116 3,5%	47969 2,5%	63471 3,2%	95383 4,7%	160417 7,6%
TOTAL	1640757 100,0%	1699545 100,0%	1854965 100,0%	1952533 100,0%	2034772 100,0%	2013889 100,0%	2031992 100%

Today, ethnic Hungarians are the largest national minority group in Vojvodina. According to the census of 1991, they figured 16,85 % of Vojvodina's population (339,491). Regionally, a massive population live in Backa (75,63%), followed by Banat

(21,56%) and Srem (2,81%) (Briza 2000: 15). However, when it is considered their population numbered less than 300,000 in 2002, the numbers indicate an emigration with an estimated 35,000-38,000 Vojvodina Hungarians since 1991 (Nasa Borba 15-16 August 1998; cf. Briza 2000: 15). Briza indicates a series of reasons for this flow of emigration such as "the continuing fear of war and mobilization, a feeling of in security in an environment of 'quiet ethnic cleansing' of national minorities in Serbia (under the pressure of extreme nationalists and the regime's passive attitude to it) and economic problems" (Briza 2000: 15).

The same risk is even more threatening for the Croats which are officially denied the status of a national minority until the adoption of the Law on National Minorities in 2002[421]. Due to the growing pressures of the Serbian nationalists, although there is not accurate numbers, it is estimated that approximately 30,000 Croats left Vojvodina since 1995.[422]

In the next part, having given an account of the EU-Serbian relations which is repeatedly determined by the position of minorities within its boundaries, Belgrade's policy and performance on the protection of the rights of national minorities will be evaluated in the legal and factual context within the framework of the FCNM.

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[421] Although the Croats in Yugoslavia achieved the status of a 'national minority' with the signature of the Inter-Governmental Agreement on the Normalization of Relations between the Republic of Croatia and FRY in 1995, their rights and freedoms have been legally recognized by the Law on National Minorities alongwith the other national minority groups. For details, see, Stojkovi (2003).

[422] See, Humanitarian Law Centre (1977: 9-12); cited in Briza (2000: 15).

C. 2. EU in Serbia, Serbia in the Process of Europeanization

From 1991 to 2001 the relations between the EU and Serbia and Montenegro had been mostly constructed with negative expressions, such as sanctions, embargo, restrictions or at least the threat of the use of these tools against the Government in Belgrade. Indeed, the first years of this period was remembered with an evident of failure of the-then EC policies. After its failure in preventing the outburst of the conflict mostly due to its slow, weak and divided body to give a unified and coherent response, the EC sought to act as a mediator in peace talks first by its own, then under a joint initiative by UN. However, as noted in the 1994 report of the HRW, beside "the lack of good faith by the parties, especially by Serbian forces", "the failure of the EC conference (…) lies, in part, with the EC negotiators, who were more interested in reconciling the various parties than in ensuring that pledges were fulfilled and that gross abuses were denounced and punished"[423] In fact that was one of the most 'consistent' policies of the EC –and EU- during the war and peace talks: the decision to implement UN sanctions against Yugoslavia was repeatedly broken by some countries[424] including member states such as Greece[425], lack of strict sanctions towards Milosevic's continuous economic and military support to the Bosnian Serbs despite his opposite claims since 1993[426], reluctance to deal with the human rights record or the violations of other

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[423] See, HRW 1994 Annual Report on the former Yugoslav Republics.

[424] Such as Greece, Bulgaria and Macedonia, reported by 1995 HRW Annual Report on Federal Republic of Yugoslavia.

[425] See, ibid..

[426] What was more interesting is the European Unions's peace negotiator, David Owen's report to the UN in early October that "controls of borders have been adequate", while at the meantime it was reported by the US and German press that "massive cross-border commercial traffic, including black-maket fuel and light weaponry" continues through the border. Cited in 1995 HRW Annual Report on Federal Republic of Yugoslavia. See also, 1996 HRW Annual Report on Federal Republic of Yugoslavia, 1997 HRW Annual Report on Federal Republic of Yugoslavia. As reported in 1996 Report, Milosevic also continued his support to the Serbs in Croatia, which was reported to be "carried aout in the presence of UN troops mandated to demilitarize the zone, who were ordered by their Russian commander not to block the movement.

international sanctions of the Yugoslav Government for the possibility of a peace agreement[427]

On July 20, 1994, the EC accepted that the state formed by Serbia and Montenegro could not be regarded as the successor state to the former Yugoslavia and thus required to apply to the UN and the other international bodies.[428] Following the signing of the Dayton peace agreement in November 1995, the European Union's General Affairs Council agreed on the decision that long-term economic assistance is conditioned on "the implementation of the Dayton Agreement, respect for human and minority rights, cooperation with the ICTY, and with respect to FRY at granting of a large degree of autonomy within it for Kosovo."[429] Subsequent to that, in late December 1995, as a 'reward' to Milosevic's role in bringing about the Dayton peace agreement, the UN Security Council suspended the sanction imposed by the Security Council Resolution 757 (1992).[430]

Since the signing of the Dayton Agreement, the EU's policy has mainly targeted at the democratization of FRY. While EU condemned the violations in human rights mainly during the post-election demonstrations in 1997, as soon as Milosevic recognized the results of the election the EU welcomed the Yugoslav government. Subsequent to that, in April 1997, it granted the FRY preferential trade status, by adding that its status "will be reviewed" if there is no progress in democratization such as improvement in legislative regarding media, reform of the judicial system or signs of improvement in Kosovo. However, in its first visit of an EU delegation to FRY, in October, the ongoing violations especially for the Albanians in Kosovo were witnessed, which led the sanctions to be remained in place throughout 1997.[431]

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[427] Such as the open violations of the UN-imposed "no-fly" zone over Bosnia by the Serbs See, 1996 HRW Annual Report on Federal Republic of Yugoslavia, 1997 Annual Report on Federal Republic of Yugoslavia.

[428] Cited in ibid.

[429] Cited in ibid.

[430] Cited in 1997 HRW Annual Report on Federal Republic of Yugoslavia. These were mainly involved to cease trading in any commodity, maintaining air traffic links, participating in sport or cultural events with the FRY.

The embargo was declared to be tightened during the outburst of Kosovo crisis in mid-1998 and 1999, such as the banning of investment in Serbia and flights by Yugoslav Airlines, freezing Serbian and Yugoslav government funds abroad, oil embargo against Yugoslavia, and visa ban on Milosevic's political, economic and military allies[432] However, in general EU was still suffering similar failures of the recent wars. As reported in the 2000 Annual Report of HRW on Federal Republic of Yugoslavia, "the EU was slow to adopt even relatively weak measures and was particularly slow to implement and enforce the measures adopted."[433] For instance, the aforementioned measure of asset freeze could be put into force 45 days after the adoption of the Common Position. Similarly, the decision to stop new investment in Serbia was annulled at the meeting of the EU General Affairs Council on 25 May 1998, in light of the Milosevic-Rugova meeting in Belgrade. However, in the same week Belgrade launched a major offensive, by breaching international humanitarian law.[434]

After the ending of the war in Kosovo following the NATO bombing in April 1999, the EU openly applied its 'carrot-and-stick" policy. The FRY was excluded from the Stability Pact for Southeastern Europe as long as Milosevic remained on power. However, in the meantime the EU continued its support to Montenegro and Kosovo, both in economic and political terms. Furthermore, in September 1999, EU announced aid programmes to the Serbian cities run by opposition forces,[435] such as "Energy for Democracy" through which 17.513 tons of fuel oil was delivered to 7 cities governed by the opposition forces and aid to media and NGOs suppressed by the Government.[436]

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[431] Cited in 1998 HRW Annual Report on Federal Republic of Yugoslavia.

[432] Cited in 1999 HRW Annual Report on Federal Republic of Yugoslavia.

[433] 2000 HRW Annual Report on Federal Republic of Yugoslavia

[434] See, 2000 HRW Annual Report on Federal Republic of Yugoslavia

[435] Cited in 1999 HRW Annual Report on Federal Republic of Yugoslavia. As cited in the same report, Montenegro was granted aproximately a total amount of 55.7 million euros in 1998-1999, while the EU provide 37.4 million Euro to Serbia for humanitarian assistance and 137 million euro for the reconstruction of Kosovo.

[436] Cited in 2001 HRW Annual Report on Serbia and Montenegro. In the meantime, EU also continued its recent support to Montenegro.

This was followed by the annulment of oil embargo and ban on international flights to and from Yugoslavia, except the ones implemented against the allies of Milosevic[437].

October 2000, marked by the fall of Milosevic, has been the start of the normalization process between Serbia and Montenegro - the then FRY- and the European Union. The initial progress had been the visit of FRY President Vojislav Koštunica to the EU Summit in Biarritz, France, in October 2000. In the same month, the EU provided 200 million euros to help Serbia for tackling with hard winter conditions such as providing electricity, heating fuel and food payments.[438] The visit of Kostunica was responded by the visit of the President of the European Commission, Romano Prodi, to FRY on 25 November 2000. The product of Prodi's visit was the signing of the "Framework Agreement FRY-EU", focusing on the provision of assistance and support by the EU to FRY was signed. The relations acquired a new dimension, when FRY joined the Stability and Association Process in October 2000.[439]

On February 27, 2001, the EU Foreign Ministers agreed on to lift all sanctions imposed since 1998, except the ones on firms and individuals in cooperation with the Milosevic regime. On April 10, the EC allocated the first part of the aid program for Yugoslavia, amounts to 240 million euros. In addition to that, in July, the Council of Ministers invested 300 millions euros in macro financial aid for the FRY[440] In October 2001, the European Council decided to repeal the arms embargo and the prohibition against exports of equipment for internal political and economic repression. In addition to the improving political relations, an increasing economic cooperation was initiated, of which the EU financial support programs is at the center. The statiscal data presents the prominence of the financial assistance by the EU: while for the period 1991-99 of conflict prevention and crisis management, financial assistance by the EU was

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[437] See, ibid.

[438] Cited in 2002 HRW Annual Report on Serbia and Montenegro.

[439] It was initially introduced in 1999, as a new mechanism for the enhancement of further relations with the EU and the countries in Western Balkans. The chronology regarding the development of political relations between the EU and the Serbia and Montenegro is mainly derived from the website of the Ministry of Foreign Affairs of the Serbia and Monetenegro.

[440] It consists of 225 million euros in loans, and 75 million euros in grants. For details, see 2002 HRW Annual Report on Serbia and Montenegro.

approximately 675 millions €[441], only between 2000 and 2001 which marks EU efforts and post-conflict reconstruction and stabilisation[442] , it amounted to approximately 1700 millions €[443]

Following necessary preparations of European integration by the FRY, in cooperation with the EU Commission to discuss several topics including democracy, human rights, minority issues, regional cooperation and fulfillment of its international obligations[444], a Consultative Task Force of FRY and the EU was set up.[445] In its third meeting held on 21 February 2002, by reviewing the situation in industry, competition, intellectual property, enterprises, social policy and employment; The Consultative Task Force called for the elaboration of a "Feasibility Study" as the basis for starting negotiations on the Association and Stabilisation Agreement between the EU and Serbia and Montenegro. Within a month, the EC declared its first Annual Report on SAP. In its section on Serbia and Montenegro, the EC identified police reform, eradication of corruption, improvements in freedom of expression, and cooperation with the ICTY as the main issues to be addressed,[446] adding that "as the pace of transition picks up in 2002, there should be deepening structural reforms throughout the FRY."[447] To assist the implementation process, for 2002-2004, the EU had allocated a total amount of

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[441] 401,66 million euros allocated to the Serbian government in Belgrade and 272, 76 million euros for Kosovo.

[442] Especially under the mandate of the European Agency for Reconstruction.

[443] 838,94 millions euro for the Government of Belgrade and 859,04 for Kosovo. See, EC SAP Report 2002, Brussels, April 4, 2002, COM (2002) 163 final, p. 24; See also, European Commission External Relations Directorate General Directorate Western Balkans, Federal Republic of Yugoslavia Country Strategy Paper 2002-2006, European Commission, DG RELEX, pp. 39-40.

[444] See, 2003 HRW Annual Report on Serbia and Montenegro.

[445] It is a technical working group, co-chaired by the President of the Council of the EU, the European Commission and representatives from the Serbia and Montenegro -the-then FRY. It held its first meeting in Belgrade, on 23 July 2001.

[446] Cited in 2003 HRW Annual Report on Serbia and Montenegro.

[447] See, 2002 SAP Report, pp. 20-21.

904.9 millions Euro -515 millions Euro only for Serbia, in addition to 28.2 millions Euro for Integrated Border Management from the CARDS Regional Programme[448]

In September 2003, Serbia and Montenegro adopted its own Action Plan.[449] In its SAP Report in April 2004, in addition to highlighting that there was some progress, the EC mostly focused on the effective implementation of the official adoptions and international requirements beside the possible problems regarding the "lack of clarity of the new constitutional arrangement and a lack of coordination with the parallel Montenegrin institutions" [450] In this regard, following the constitutional reform in 2002-2003 achieved through the mediation of EU's CFSP High Representative Javier Solana, in the negotiations between the Serbian and Montenegrin authorities[451], the EU has continued its relations with Serbia, on the basis of monitoring the reform process outlined in the conditionality of SP, SAP and CARDS programme as a concrete form of this conditionality. In its European Partnership with Serbia and Montenegro on adopted by the EU Council on June 14, 2004, it detailed a list of short- and medium-term priorities for further integration with the EU under the same headlines applied to the other countries of the SAp[452]. Regarding refugees, displaced persons and minorities, the

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[448] See, Federal Republic of Yugoslavia, Country Strategy Paper, 2002-2006, European Commission, DG RELEX, Annex 3. p. 78.

[449] For the analysis of the capacities of the legislative bodies of Serbia and Montenegro for the integration process to with the EU, see, European Movement for Serbia (2004).

[450] European Commission Staff Working Paper, Serbia and Monetengro Stabilisation and Association Report 2004, {COM (2004) 206 final}, Brussels, xxx, SEC (2004) 376, p. 11. These will be assessed in details in the following section on factual situation in Serbia.

[451] Belgrade Agreement was signed on 14 March 2002 under the auspices of the mediation of Javier Solana. The Agreement laid down the framework of the State Union, in which the two republics were united under a loose 'Union' structure with a single international representation and a number of joint institutions such as the unicameral parliament, presidency, the ministerial council, court and a common market between them. The Agreement left the specific issues to be negotiated in a Constitutional Charter and an Economic Harmonization Plan, under the supervision and arbitration of the EU. For a detailed account on this secession conflict and the role of EU in its resolution, see, Noutcheva and Huysseune (2004. "Serbia and Montenegro: 1-29).

[452] These are Political Situation including Democracy and Rule of Law, Human Rights and Protection of Minorities, Regional and International Cooperation/Obligations;

priorities for the short-term were declared mainly on the settlement of "adequate cooperation" between the republics at the Union level, regarding "the legislative basis and practical protection of the rights of refugees, displaced persons, and minorities; and amending "legislation to repeal all discriminatory provisions", adding that cooperation with Bosnia and Herzegovina, Croatia and Pristina should be ensured regarding the problems of the return of refugees and displaced persons.[453]

For the medium-term, it specifically underlined that both republics should "ensure full respect of their human rights, including access to health services, and easy access to personal documents; ensure right of a real choice between sustainable return and integration; facilitate integration for those who choose not to return", while explicitly recommending the adoption of a "new legislation on refugees" and "continue to implement the National strategy."[454]

Regarding regional and international cooperation the priorities set down by the EC for the short-term were mainly on the need to "comply with the SAP requirements and Thessaloniki commitments" and the ratification, enforcement and the implementation of the relevant free trade agreements, the Memorandum of Understanding on the development of South East Europe Core Regional Transport Network, the Steering Committee and the South East Europe Transport Observatory and 2003 Athens Memorandum of Understanding on the Regional Energy Market in South East Europe", beside "full cooperation with the ICTY" and dialogue with Pristina[455] For the medium term, the regional cooperation was required to be further improved, such as the deepening of regional trade liberalisation on the basis of the

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Economic Situation including Market Economy and Structural Reforms, Management of Public Finances; European Standards including Internal Market and Trade, Sector Policies, Cooperation in Justice and Home Affairs.

[453] For Montenegro, it was recommended to "abolish legal prohibition for refugees to work and amend restrictive provisions to allow them possibility to apply for citizenship" See, Proposal for a Council Decision on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo defined by the United Nations Security Council Resolution 1244 of 10 June 1999 presented by the Commission, Brussels, xxx, COM (2004) yyy final, pp. 8-9.

[454] Ibid, p. 15.

[455] Ibid., p. 9.

FTAs in force, while preparing itself for an integrated regional energy market in 2005 and implementing the MoU on the part of South East Europe Core Regional Transport Network.[456]

On 11 October 2004, the Commissioner for External Relations, Chris Patten announced that the European Commission will launch the Feasibility Report on a Stabilisation SAA with Serbia and Montenegro. Subsequently, on April 2005, the European Commission has approved the Feasibility Report assessing the potential of Serbian and Montenegro to start negotiations for a SAA with the EU, which would be the first official contractual relationship between the two based on the prospect of Serbia's integration with the European Union.

Throughout these integration processes, the issue of the implementation of the minority rights has been one of the key issues for accommodation with international norms, and thus "a major area of concern for the Council of Europe's dialogue with the FRY." (König 2001: 53). In fact, the status of national minorities in Serbia is an old, much-debated issue, having the legacy of Tito's Yugoslavia. The legal framework regulating the freedoms and rights of national minorities is formed by a series of hierarchical mechanisms of judiciary, namely some of the rights are regulated by federal and republic laws including the recently adopted Constitutional Charter of 4 February 2003[457], some by laws of a lower rank such as decrees, decisions, regulations, municipal statutes, or the other specific political and legal documents such as the "Law on the Protection of Rights and Freedoms of National Minorities" (LPRFNM)[458] and "Charter on Human and Minority Rights and Civil Liberties" (CHMRCL)[459].

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[456] Ibid. p. 15.

[457] Avavilable at http://www.cesid.org/english/zakoni/SaM/ustav.thtml
The Constitution of the FRY was announced on April 27, 1992; the Constitution of Serbia on September 28, 1990; the Constitution of Montenegro on October 12, 1992; the Statute of the Autonomous Province of Vojvodina on June 29, 1991.

[458] Adopted in February 2002.

[459] On 28 February 2003, It was adopted as a component part of the Constitutional Charter (Part II, Article 8). Available at http://www.humanrights.gov.yu/files/doc/Povelja_Engleski.doc

As a reflection of its political will on the improvements in the conditions of national minorities and integration with the international community, the Parliamentary Assembly of the FRY had already adopted a law ratifying the Framework Convention on 3 December 1998, although it is not a member of the Council of Europe.[460] Following the debates on this confusion, finally the FRY entered the Council of Europe with the status of a Special Guest to the Parliamentary Assembly on 11 May 2001. Drawing on this accession, the Framework Convention was accepted to enter into force on 1 September 2001. The following steps has been realized as follows: the first State Report was received on 16 October 2002, which was due to 1 September 2002; following its visit in Serbia during 27 September-3 October 2003, on 27 November 2003 the AC presented its Opinion; eventually the Committee of Ministers had submitted its Resolution on 17 November 2004. The following section will be on the examination of this first cycle of the implementation process, of which Serbia and Montenegro has recently approached to the end.

International Cooperation (Article 1)

The Republic of Serbia and Montenegro is a party to several international initiatives, which are ensured to be incorporated to the internal legal order (FRY Const. Article 16; Constitutional Charter, Article 10.) In Article 7 of the CHMRCL, Serbia and Montenegro underlines that "the human and minority rights guaranteed under generally accepted rules of international law, as well as by international treaties in force in the State Union, shall be guaranteed under this Charter and be directly applicable".

Definition of minority (Article 3)

Although there has not been any definition in the Constitution, the Law on the Protection of Rights and Freedoms of National Minorities (LPRLNM)[461] proposed the definition of national minority as

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[460] For the relevant discussions, see, König (2001: 53-54).

[461] Adopted in February 2002. However, as cited in 2004 SAP Report on Serbia and Montenegro p. 11, it de facto applies on in Serbia, as Montenegro is preparing its own act.

> "a group of citizens of the Federal Republic of Yugoslavia sufficiently representative, although in a minority position on the territory of the Federal Republic of Yugoslavia, belonging to an autochthonous group of the population with a lasting and firm connection with the Federal Republic of Yugoslavia and possessing some distinctive features, such as language, national or ethnic belonging, origin or religion, upon which it differs from the majority of the population, and its members should show their concern over preservation of their common identity, including culture, tradition, language or religion."

Additionally, the citizens are respected for their right to choose either to be treated as a member of a national minority group or not (LPRLNM Article 2, paragraph 2; FRY Const. Article 45, paragraph 2) This is also under the guarantee of Article 48 of the CHMRCL, underlying that "the freedom to express ethnic affiliation shall be guaranteed (and) no one shall be bound to declare his/her ethnic affiliation."

General Provisions (Article 16)

In Article 47 of the CHMRCL, it is stated that "the rights of members of national minorities shall be exercised in accordance with provisions of international law dealing with the protection of human and minority rights.[462] Members of national minorities shall have individual and collective rights, rights that are exercised individually or together with others, in conformity with law and up to international standards." In Article 56 of the same Law, it is highlighted that "the State Union of Serbia and Montenegro and the Member States shall encourage a spirit of tolerance and multicultural dialogue in the fields of education, culture and the media, and apply efficacious measures towards upgrading mutual respect and understanding and co-operation among all people living in its territory, irrespective of their ethnic, cultural, linguistic or religious identity."

The equality of citizens is guaranteed by a general provision of the Constitution of the FRY (FRY Const Article 20, Point 1) and by the Constitution of the RS[463] (Article 13). Equality before the law is guaranteed to all citizens by the Constitution of the FRY (Article 20, point 2); more specific guarantees of equality before the law are

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[462] See also, Art.9 of the Constitutional Charter.

[463] Republic of Serbia.

determined in Articles 26 and 29. The constitution of the RS explicitly ensures equal protection of citizens before the law in Articles 13, 22 and 24. Having guaranteed the freedom to express national identity (Article 48) CHMRCL stipulates the rights of the members of national minorities.

In case of violations, it ensures prohibition against discrimination (Article 49), forcible assimilation (Article 50) and provoking racial, ethnic and religious hatred (Article 51).[464] The Constitution of the FRY also includes provisions prohibiting discrimination (Article 50) and "activities of political, trade-union or other associations aimed at instigating national, racial, religious intolerance or hatred" (Article 42, point 1). The Constitution of the RS does not contain explicit provisions prohibiting discrimination, but it specifies prohibition of "activities of political, trade-union or other associations …aimed at instigating or perpetrating national, racial and religious intolerance or hatred" (Article 44, point 2) and predicts restrictions in dissemination of the "press and other information" if their contents "are aimed at inciting and instigating national, racial, or religious intolerance or hatred" (Article 46, point 6). The same guarantee is also explicitly stated in LPRLNM, which stipulates that "discrimination against persons belonging to national, ethnic, racial or linguistic minorities shall be prohibited" (Article 3).

For the monitoring of the exercise of these rights, The Assembly of AP Vojvodina adopted the decision to establish the Ombudsman on 22 December 2003, composed of five deputies.

The criminal legislation procedures ensure the punishment of the breach of the equality of citizens. Within this legal structure, "instigating and perpetuating of national, racial and religious hate, conflicts or intolerance among nations and national minorities living in Yugoslavia" is determined as a criminal act (The Criminal Code of FRY, Article 134). Article 60 of the Criminal Code of the Republic of Serbia specifies the provision on violation of equality of citizens as a criminal act, referring to all cases of violation or restriction of rights of citizens as determined by the constitution, law or legal regulation, or as determined by any legal act or ratified international legal

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[464] See also Articles of 3-5.

document, and also refers to providing conveniences or benefits to the citizens on whatever legal grounds provided by legal provisions (nationality, race, religious affiliation, belief, ethnic background, gender, language, education or social status).

Territorial Provisions (Article 16)

Article 22 of the LPRLNM prohibits changing of the structure of the population in areas inhabited by national minorities as well as of undertaking measures aimed at impeding the implementation of the rights of persons belonging to national minorities.

Political Participation (Articles 7, 17)

The citizens of the Republic of Serbia have the right to freedom of assembly and association (FRY Const. Article 41; Const. of Serbia, Article 44; CHMRCL, Article 53). In addition to that, Article 52 of the CHMRCL guarantees

> "a certain number of seats in the Assembly of the Member State concerned and in the Assembly of the State Union, based on the principle of direct representation, in accordance with the laws of the Member States; to be adequately represented in public services, state authorities and local self-governance authorities; to be fully and impartially informed in their own language, including the right to express, receive, send and exchange information and ideas."

Furthermore, Article 48 of the Constitution of FRY and Article 6 of the LPRLNM ensures the right of the persons belonging to national minorities to establish and maintain free and peaceful contacts within the FRY and abroad, especially with persons with whom they share common ethnic, cultural, linguistic and religious identity or common cultural heritage and to participate in the work of international NGOs not to the detriment of FRY or its member state. "Cooperation with compatriots in other states" is also ensured by Article 54 of the CHMRCL.

Language (Articles 10, 11)

The right to official use of the language and alphabet of persons belonging to national minorities is granted by the constitution of FRY and the provisions of

LPRLNM (Article 15, paragraph 2; Article 45, paragraph 1; Articles 46, 49; LPRLNM, Article 10). However, this does not represent a general character, that is to say, the right to official use of minority languages is granted "in areas of FRY inhabited by national minorities" (Article 15, paragraph 2), which must be exercised in "accordance with the law" (Article 12, paragraph 2 in fine). With general provisions, the same rights are also highlighted by Article 52 of the CHMRCL. These are "the rights to use their symbols at public places; to freely use their language and script; to proceedings being conducted by the authorities in the communities having a considerable minority population also in the language of the minority population concerned."

The same right is also provisioned in the Constitution of the Republic of Serbia, which stipulates the right to official use of the mother tongue and alphabet of "nationalities"[465] (Article 8, paragraph 2; Article 49). The constitutional guarantee, again, is not of general character and thus, it is not applicable uniformly throughout the Republic of Serbia. Namely, the right to official use of minority languages is granted only "in territories of the Republic of Serbia inhabited by nationalities" (Article 8, paragraph 2). Languages and alphabets of nationalities are in equal use alongside the "Serbocroat language and Cyrillic alphabet" (Article 8, paragraph 1).

The LPRLNM confirms the right to use of language and alphabet of national minorities in both private and public communication (Articles 9, 10, 11, 13, 14, 15, 16 and 17). This is also specified in several laws, such as the right to be informed one's own language in public proceedings guaranteed by Article 49 of the Constitution of FRY and Article 123 of the Constitution of the Republic of Serbia. The right to use of language is also guaranteed by the 'Act of Proceedings of the Parliament of the Republic of Serbia' (Article 226).

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[465] Constitution of the Republic of Serbia does not use the term "national minority" but the term "nationality". The latter was used in the constitutional system of former SFRY, in 1974 Constitution. In the time of adoption of the Constitution of the Republic of Serbia (1990), the Constitution of SFRY was in force in Yugoslavia. It has already been mentioned that the Constitution of R. Serbia has not been harmonized with the federal Constitution adopted in 1992, so that the difference in terminology is the consequence of not harmonized constitutional acts.

The Statute of the Autonomous Province of Vojvodina (APV) also determines the official use of languages of national minorities in the institutions of the APV. Along with the Serbian language and Cyrillic alphabet are Hungarian, Croat, Slovak, Romanian and Ruthenian languages and their alphabets are guaranteed to be in official use (Article 6). The exercise of this right is determined by the Law on the Official Use of Languages in details, such as: the official use of languages and alphabets of nationalities (Article 10, points 3 and 4); education (Article 13) and information (Article 15); the right of MPs to "use the language and alphabet whose official use is determined by the Statute" (Article 26); and the publication of the regulations adopted by Assembly of APV and the Executive Council in national minorities' languages (Article 46, paragraph 3).

Furthermore, the 'Law on Determining the Competencies of Autonomous Province of Vojvodina" specifically organizes the official use of languages and alphabets of national minorities living in Vojvodina, including the monitoring process of the implementation (Article 18). The right to use of language is also guaranteed by the 'Act of Proceedings of Assembly of APV' (Articles 3, 4, 51 and 160). In the local level, the Statutes of municipalities in the territory of APV[466] also coordinate the official use of languages and alphabets in their local communities, which also regulates the display of topographical names by their provisions, in accordance with the law.

Education (Articles 12, 13, 14)

Persons belonging to national minorities are granted the right to education in their mother tongue as determined by Article 46, paragraph 1 of the 'Constitution of FRY' in accordance with the law and 'Constitution of the Republic of Serbia', provided by Article 32, paragraph 4 and Article 12. The CHMRCL also grants national minorities both to receive education in their language in state institutions and establish private educational institutional at all levels" (Article 52). As provisioned by Statute of APV

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[466] Statutes of local self-governments were adopted in the first half of 2002, after passing of the Law on Local Self-Government, according to which the municipalities were obliged to pass their statutes determining the organization of local authorities and exercising the competencies of municipalities.

(Article 13), APs shall undertake the responsibility for the education of persons belonging to national minorities in their mother tongue, in accordance with the law.

As determined by Article 4 of the 'Law on Higher Education' and Article 23 of the 'Law on Universities', education in the languages of national minorities treated as equal with education in any foreign languages. Instruction in minority languages in higher education institutions depends on an opinion provided by the Government of the Republic of Serbia, while at university level this depends on an assessment provided by the faculty and agreement by the Government of the Republic of Serbia (CMK & VHRC 2003). It is guaranteed by the 'Law on Elementary Education' (Article 5, point 1) that instruction in minority language or bilingually, may be held if at least 15 pupils enroll in the first grade. As specified in paragraph 2 of the same article, such an instruction may be organized for a lesser number of pupils only upon agreement issued by Minister of Education.

By the introduction of LPRLNM, the APV may regulate issues related to the rights of national minorities that had existed before 1992 (Statute of APV, Article 13), which includes the issue of the education of national minorities in their mother tongue in accordance with the law. As determined by the 'LPRLNM (Article 13, paragraph 7), in areas where the minority language is in official use, teaching of minority languages may be initiated in education facilities where the instruction is in Serbian.

As determined by the LPRLNM (Article 14, paragraph 3), the state is responsible for providing professional assistance in teacher training for instruction in the mother tongue of national minorities. Furthermore, as determined in paragraph 4 of the same article, the state is responsible to foster international co-operation with the aim of enabling members belonging to national minorities to study at the universities in their kin states and to recognize their certificates acquired there. In the subsequent article of the LPRLNM (Article 15), the right to the establishment and maintenance of private educational institutions, schools and universities in which instruction is in either minority languages or is bilingual, is recognized. The Law on Secondary Education and the Law on College and University Education respectively, grants the right to establish educational institutions to municipalities, provinces and republic and individuals.

Culture and Media (Article 9)

Article 53 of the CHMRCL provides the members of national minorities the right "to establish educational and cultural organizations and associations, the financing of which is carried out voluntarily". The previous article of the same document also ensures them to establish their own public media. The same rights are also guaranteed by Article 46, paragraph 2 of the Constitution of the FRY ensures the right to receive information in minority languages. By the Statute of the APV, this right is applied to Hungarian, Slovak, Romanian and Ruthenian languages. Furthermore, the 'LPRLNM' as well as the law concerning radio broadcasting gives minority groups the right to media in their mother tongue (CMK & VHRC 2003)

Religion (Article 8)

Freedom of religious beliefs is guaranteed by Article 43 of the 'Constitution of FRY' and Article 41 of the 'Constitution of the Republic of Serbia'. The Article 27 of the CHMRCL also ensures that the "religious communities shall have equal rights and be separate from the state. Religious communities shall be free to independently regulate their internal organisation, religious activities and religious rites. Religious communities shall have the right to establish religious schools and charity organizations, in accordance with the law.."

Besides, the same provision ensures the separation of the Church and the State; the freedom to practice religious ceremonies and the possibility of a provision of state support to religious communities. Furthermore, by Article 18, point 2 of the 'Constitution of FRY', all churches are recognized as equal and free to exercise their religious services and ceremonies.

"Law on Elementary School" provides religious instruction as an optional subject for traditional churches and religious communities (Article 22).

C. 3. Factual Situation on the Exercise of National Minority Rights

When compared with the pre-2002 period, there has been a steady progress in the protection of minority rights in Serbia. In his examination of the situation of minorities in the FRY in 2001 regarding the implementation of the Framework Convention, König stated that "evaluated in the light of the standards of the Framework Convention, the factual situation is clearly inadequate and, in some cases, even alarming."(König 2001: 52). Although the situation is still not very promising for the Southern Serbia, namely Sandjzak or the central Serbia, generally it may be argued that when compared with these regions, ethnic minorities in Vojvodina enjoy the rights to the greatest extent in Serbia. However, although the situation is less problematic in respect to the improvements, instances reflecting ethnic intolerance still occasionally occur, which reflects the nationalist legacy of the past decade under Milosevic's rule.

In this context there are two key documents. The first document is the "Law on Rights and Freedoms of National Minorities which was adopted on in February 2002 as one of the main preconditions of the FRY's membership in the Council of Europe (IHF 2002)[467], which enabled the establishment of National Councils" for the minority groups, with the mandate of "(representing) a national minority in the fields of use of language, education, informing in the language of the national minority and culture, participates in decision-making or decides on questions belonging to those fields and establishes institutions working in those fields." (LRFNM, Art. 19). These Councils were ordained to form the Federal Council for National Minorities[468], with the mandate of "preserving, promoting and protecting the national, ethnic, religious, linguistic and cultural specificity of persons belonging to national minorities, and for the sake of implementing their rights" (LRFNM, Art. 18). In this context, 11 National Councils were established in 2002 and 2003.[469] Although these marked considerable progress

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[467] Serbia and Montenegro became a member of the Council of Europe on 3 April 2003

[468] Founded in October 2004; cited in the "Report on the preparedness of Serbia and montenegro to negotiate a Stabilisation and Association Agrement with the European Union" by the EU Commission Staff, published on 12.04.2002, p.15.

[469] Namely, the Hungarian (constituted on 21.09.2002 and entered into the Register of the Ministry of Human Rights and Minority Rights on 23.12.2002), Ruthenian, Romanian, Croatian (constituted on 25.01.2003 and entered into the Register on

such as the use of minority languages[470], the general economic insufficiency of the country also affects the funding of these Councils which were ensured to be promoted by the Federal Fund, proclaimed in Article 20 of the aforementioned law.

The second fundamental document is the "Charter on Human and Minority Rights and Civil Liberties", adopted on in February 2003, as a complementary document to the Constitutional Charter of Serbia and Montenegro which provided comprehensive provisions and mechanisms for the protection of minorities. Its significance had been expressed by a member of the sub-committee for drafting the Constitutional Charter, Ferhat Dinosa:

"This charter on human and minority rights would ensure protection for human and minority rights in line with documents and standards of Europe and international community. This is what we have been advocating since the very beginning and the third things which one should stress here is the fact that the issue of securing, ordering and protecting human and minority rights remains the issue of the member states."[471]

The recent legislation process, including the ratification of the European Convention for Human Rights (ECHR) in March 2004, and the institutional backings by the State Ministry for Human and Minorities Rights continues to be promising,[472] including the preparation of an Anti-Discrimination Act which led Serbian government to be subjected to criticisms.

In this regard, although the previous reports of the international NGOs cited several criticisms on the exercise of the rights of national minorities such as the official use of language and script (Briza 2000: 9, 16; Guzina 2000: 30), education (Briza 2000:

12.02.2003), Slovakian, Bunjevac, Bulgarian, Ukrainian, Roma, Bosniak and Greek National Councils. For details, see, http://www.humanrights.gov.yu/english/sektori/manjinska/nacionalnisaveti.htm

[470] See, the "Report on the preparedness of Serbia and montenegro to negotiate a Stabilisation and Association Agrement with the European Union" by the EU Commission Staff, published on 12.04.2002, p.15.

[471] Reported by TV Crna Gora, Podgorica, on 29 October 2002, available at, http://www.csees.net

[472] See, the Stability and Association Report on Serbia and Montenegro 2004, pp. 11-12.

14-15; Guzina 2000: 30-31; IHF 2001; IHF 2002), access to media (Briza 2000: 16; Guzina 2000: 30; IHF 2001), representation in public administration (IHF 2001), and even the denial of the status of national minorities, i.e. for Croats and Muslims (Bosniaks) (IHF 2001), since 2002 these incidents decreased with a considerable pace, police abuses, particularly during the *Operation Sabre*, the post-assassination investigation of Zoran Djindjinc and the discrimination against Roma population in Serbia as an exception (AI, 2002, HRW 2002, IHF 2002, AI 2003, HRW 2003, AI 2004, HRW 2004, IHF 2004, AI 2005, HRW 2005).

This was mainly due to the international pressure for resolving the status of national minorities, after The Democratic Opposition of Serbia (DOS) of Kostunica came to power. As reported in IHF 2002 Report on FRY, one of such first visits by the international actors, the OSCE High Commissioner for National Minorities, Max van der Stoel proposed his expectations on this issue through several meetings. This was responded by the Serbian government by the adoption of a draft Law on the Protection of The Rights and Freedoms of National Minorities and the establishment of a Federal Ministry of Human and Minority Rights, under the Ministry of Rasim Ljajic, who himself belongs to the Bosniak minority (IHF 2002)[473]. However, despite the progress in minority legislation and its positive effects on the conditions for the exercise of these aforementioned rights, more progress is needed to overcome the potential roots of tensions in the social climate. Its urgency was proved by the incidents in 2003. Following the victory of SRS in Serbian parliamentary elections in December 2003, the number of the incidents of ethnic violence strikingly increased[474]. In fact, as noted in the 2004 Annual Report of IHF, although considerable progress was made following the democratic revolution in 2000, various forms of discrimination toward national minorities continue to be manifested on the ground (IHF 2004), in its 2005 Annual Report, the HRW reported that:

> "There have been dozens of incidents against ethnic minorities in Vojvodina since January 2004. The violence ranges from tombstone desecration and painting of nationalistic graffiti to confrontations involving young persons of different ethnicities. The government initially claimed that the incidents were not ethnically motivated. In the face of mounting

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[473] See also http://www.humanrights.gov.yu

[474] In June, the Helsinki Committee for Human Rights in Serbia reported that there has been 40 such attacks following the elections in December 2003. Cited in AI 2005.

evidence that most incidents had an ethnic motivation, and European Union and Council of Europe condemnations of violence, the government eventually acknowledged there was a problem. In September, Serbian Prime Minister Kostunica and the Minister of Serbia and Montenegro for Human and Minority Rights Rasim Ljacic visited Vojvodina and vowed to end ethnic intolerance. By October there had been only one case in which a court charged perpetrators with ethnically motivated crimes. Most other cases have either not reached trial, or resulted in minor penalties for disturbing peace." (HRW 2005)[475]

In 2005 Report of the AI, the report of the of the Helsinki Committee for Human Rights in Serbia was reiterated that there had been 40 such attacks since the Serbian Radical Party won a victory in general elections in December 2003. This atmosphere of intolerance underlines the necessity for the implementation of measures promoting tolerance within the ethnic communities at the societal level, in addition to the finalizing the preparation of the aforementioned the Anti-Discrimination Act as soon as possible with a zero tolerance implementation.

In this regard, in its feasibility report of April 2005, the European Commission noted that although improvements can be observed such as the signing of international agreements with countries in the region including Hungaria, the adoption of the Charter on Human and Minority Rights, described as providing "comprehensive guarantees and mechanisms for protection", and developments in the use of minority languages, ethnically motivated incidents can still occur, which were described to reflect "the legacy of the past decade and systemic issues in the implementation of existing standards". It was explicitly stated that particularly in Vojvodina and against "notably" ethnic Hungarians, "the situation significantly deteriorated, while it was added that "the reaction of the authorities was belated and insufficient"[476] These events have not deteriorated the inter-ethnic accommodation in Serbia, but also spoiled the traditional good-neighbourhood between the two countries.

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[475] See also, The United States Department of State, Country Reports on Human Rights Practices 2004; Amnesty International 2005 Annual Report on Serbia and Montenegro.

[476] Commission Staff Working Paper, Report on the prepardnes sof Serbia and Monetengro to negotiate a Stabilisation and Association Agreement with the European Union, Brussels, 12. 04. 2005, SEC (2005) 478 final, p. 15. It has also been indicated that the establishment of National Councils has continued, but "in Serbia only and with occasional difficulties", such as their financial situation.

C. 4. Implementation of the EU Vision of Good Neigbourhood Relations

Although there are significant gaps between Serbia and Hungary, due to the delayed political and hence economic developments, when the relations of Serbia with its neighbour are considered, the co-operation level between Serbia and Hungary is among the most promising ones alongside Romania and Bulgaria. There has been already a tradition of bilateral co-operation in the post-socialist era between the two countries since the 1960's.[477] The good relations between the two states were also confirmed with several visits exchanged by top political leaders and officials[478]. These visits were concluded by the signing of 12 agreements targeted at mutual cooperation, which was also extended to the protection of minority rights to a significant extent such as the signing of the Free Trade Agreement on 08 March 2002[479], bilateral agreement on the protection of the rights of national minorities on 13 May 2002[480], a minority protection agreement on 28 December 2002[481], agreement on the protection of minorities and the conditions of travel of Hungarian and Serbian citizens signed on 21 October 2003[482]. These are expected to be followed by seven agreements in the negotiations.[483] As publicly stated by the signatories, these agreements do not underline that the parties "complied with both (their) international obligations and with maintaining good-neighbourly relations, taking care of (their) national minority",[484] but

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[477] For the agreements in cross-border cooperation, see, Cited in COE & ISIG, 2002, p. 130; and http://www.mfa.gov.yu/Policy/Bilaterala/Hungary/agreements_e.html

[478] See, http://www.mfa.gov.yu/Policy/Bilaterala/Hungary/basic_e.html

[479] Reported by Hungarian Report, on 8 March 2002, available at http://www.csees.net

[480] Reported by Radio B92, on 5 May 2002, available at http://www.csees.net

[481] Signed by the State Secretary in the Prime Minister Office, Vilmoz Szabo and the Minister for Human and Minority Rights, Rasim Ljajic. Reported by Duna TV on 28 December 2002, Available at http://www.csees.net.

[482] Signed by the Hungarian Prime Minister Peter Medgyessy and Serbian Prime Minister Zoran Zivkovic. Reported by Duna TV and BKTV on 21 October 2003, available at http://www.csees.net

[483] See, http://www.mfa.gov.yu/Policy/Bilaterala/Hungary/agreements_e.html and http://www.mfa.gov.yu/Foreinframe.htm

also that "it is a good message for Europe because it indicates that two neighbouring countries have agreed with one another over an issue which generally arouses most disputes, the issue of minorities."[485] This was explicitly stated by the Serbian Prime Minister Vojislav Kostunica that "Hungary was Serbia's traditional friend and a valuable ally on the Serbian voyage towards the Euro-Atlantic integration"[486] This perspective was reiterated by the Serbia-Montenegro Minister for Human and Minority Rights Rasim Ljajic, who indicated that Hungary is "one of the most important foreign policy partners"[487]

The same positive results can also be seen in the Annual Reports of the EC, of which regional cooperation is one of the variables of the conditionality of the SAM with the EU. In its 2004 SAP Report, the EC reported that:

> "Very good co-operation continued with Hungary, including the successful outcome of talks concerning the introduction of the visa regime by Hungary in force as of November 2003. An agreement was signed on the mutual protection of minorities. This is being followed by talks concerning the conditions of dual (i.e. Hungarian) citizenship for the Hungarian national community in Serbia (Vojvodina). An FTA is in force, but will be abrogated once Hungary accedes to the EU."[488]

The variables towards bilateral cooperation is also supported by statiscal data revealing the cross-border cooperation: in their classification of the border zones and the assessment of cross-border cooperation with *swot* analysis according to the aforementioned ten dimensions, border between Serbia and Montenegro and Hungaria was reported by the COE and ISIG with the highest marks in three dimensions, namely

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[484] Statement of the Hungarian Prime Minister, Peter Medgyessy on 21 October 2003 on the two agreements signed in the Serbian Prime Minister Zoran Zivkovic's first official visit to Hungary. The two Prime Ministers also indicated that the Serb minority in Hungary and the Hungarian minority in Serbia were factors which improved relations between Belgrade and Budapest. Reported by BKTV, Belgrade available at http://www.csees.net

[485] Vilmos Szabo, state secretary in the Prime Minister's Office, reported by Duna TV, on 28 December 2003, available at http://www.csees.net

[486] Reported by FoNet, on 14 September 2004. Available at http://www.csees.net

[487] Reported by B92, on 12 February 2005. Available at http://www.csees.net

[488] 2004 SAP Report, p. 18.

the incisiveness of socio-cultural obstacles, economic factors for co-operation, and linguistic, cultural and historical factors for co-operation.[489]

Furthermore, the possible obstacles have been gradually overcome by recently implemented projects and by the introduction of new bi-lateral and regional projects. Among these the Euro-region formed on the Danube-Kris-Mures-Tisza region (DKMT), signed on 23 May 2001 between Serbia, Hungary and Romania, has been one of the most important interlocutors for enhanced cooperation.[490] Beside its contribution on the improvement of co-operation in the region, the DKMT has also significant importance as, for the first time, the local authorities acted autonomously on both sides, which would probably facilitate the overcoming of the strict administrative and political centralism in the region, which is one of the main obstacles for further co-operation.[491] EU has also launched several initiatives targeted at bilateral cooperation in the region especially in the fields of education, civil society and economy, such as the programmes of "Schools for Democracy", "Cities and Schools for Democracy" and "Energy for Democracy".[492]

In this regard, while Serbian-Hungarian relations is the most-promising case, when compared with the previous two cases, it also slightly represents different results in respect to the reference points for Serbia's motivation for cooperation with Hungary. While the EU prospect is the most important reference point for the enhancement of bilateral cooperation in the previous cases, regarding cooperation with Serbia and Hungary, references to the "Serb minority in Hungary and Hungarian minority in

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[489]Drawn on these statiscal variables, they recommended the strategy with the most promising variables, namely the strategy of international-external coalition to control the context, which involves the "mobilization of strengths (S) and opportunities (O) (which is considerable) to face the threats (T) (equally considerable); this is possible because the internal weaknesses (W) are basically irrelevant." What is cited as threats are limitations of both countries on deficit and controls on the budgets of local bodies due to their subjected position to international authorities and administrative centralization, while the weaknesses are mainly different level and pace of technological development, the lack of inadequate financial resources and the high rate of aging of the population side due to migration. See, COE & ISIG (2002: 168, 131-2).

[490] For detailed information on DKMT, see, http://dkmt1.regionalnet.org/indexE.html

[491] COE & ISIG, op.cit, p. 130.

[492] For more information, see, ibid. p. 131.

Serbia", "Vojvodina", and "the agreement on the protection of minority rights represent the most important reference points in the statements of Serbian leaders (53.8% with 7 results out of 13), while the reality of the "traditionally good neighhbourhood" holds 30.7 % the Hungary's experience towards EU membership and their position as an ally towards Euro-Atlantic integration holds only 15.3% with 2 entry out of 13 (see Annex 4)

In addition to that cooperative schemes on bilateral level, since the fall of Milosevic's regime in October 2000, the normalization of Serbia's relations with the international community has also paved the way for further cooperation within regional organizations in accordance with the conditionality of integration with the EU. Today, Serbia is a full fledged member of the following regional initiatives: Stability Pact for South-Eastern Europe, South-Eastern Cooperation Initiative (SECI)[493], Central European Initiative (CEI)[494], South-Eastern Europe Cooperation Process (SEECP)[495], Black Sea Economic and Cooperation Council[496], Adriatic-Ionian Initiative, and the Initiative for the Danube Cooperation (Austro-Romanian Initiative). Furthermore, it is a member of the International Commission for the Protection of the Danube River[497] and a depository of the Belgrade Convention on the Free Navigation on the Danube. Regional cooperation in the transport and energy fields was improved with regard to the SEE Transport Core Network and the Regional Energy Market (signature of a revised MoU

[493] Serbia is the Chairman of the Working Group for the Danube within the SECI. For more information, see, http//www.mfa.gov.yu

[494] Serbia is the Co-Chairman of the Working Group for media and information and for youth and culture. For more information, see, http//www.mfa.gov.yu

[495] Serbia was the chair of its summit in Belgrade in April 2003.; See, Stability and Assocation Report 2004 on Serbia and Montenegro, European Commission, Brussels, 2004, p.16.

[496] Joined in April 2003.

[497] Joined in August 2003. Furthermore, the final conference of the Working Union of Danube countries hasd took place in Belgrade in October 2003; cited in Stability and Assocation Report 2004 on Serbia and Montenegro, European Commission, Brussels, 2004, p.16.

on 8 December 2003). Recently, an official application has also been submitted for the accession to the NATO Partnership for Peace (PfP).[498]

Taking these into consideration, the statement given in the website of the Ministry of foreign Affairs reflects the perspective of Serbia regarding bilateral and regional cooperation, which clarifies its approach towards Hungaria at particular:

> "Multilateral regional cooperation falls within the priorities of foreign policy and international relations of Serbia and Montenegro as an instrument and substance of our cooperation with the neigbours in the region as well as within the context of the Serbia and Montenegro inclusion in European integrations, Euro-Atlantic structures and EU."[499]

In this context, Hungary's membership in the European Union has been declared repeatedly by the top officials of Serbia and Montenegro by referring its support as "a valuable ally on the Serbian voyage towards the Euro-Atlantic integration"[500]

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[498] See, http//www.mfa.gov.yu and the Stability and Assocation Report 2004 on Serbia and Montenegro, European Commission, Brussels, 2004, p.16.

[499] See, http//www.mfa.gov.yu

[500] Statement by the Prime Minister Vojuslav Kostunica, Reported by FoNet, on 14 September 2004. Available at http://www.csees.net

Chapter 3.

Conclusion: Analysis of Europeanization as a Tool for Conflict Resolution in the Western Balkans

Assumptions, Objectives and Instruments

The European Union has been an active third party in the former Yugoslavia since the early 1990s. However, despite its multilateral strategy ranging from the economic incentives to military sanctions, it could not prevent the collapse of the federal Yugoslavia, and the subsequent wave of violence between 1991 and 1995. In this period, the mechanisms that it implemented were mainly the post-conflict reconstruction programmes ECHO and OBNOVA, allocated for humanitarian aid and funding reconstruction and rehabilitation initiatives respectively, which were further strengthened by PHARE in 1997. Especially following the end of the war in Bosnia-Herzegovina, and the subsequent Dayton accords in November 1995, the EU has further strengthened its position in the region by taking the responsibility of economic and political post-war reconstruction. In this context, although it had the disadvantage of the lack of a unified, coherent strategy formulated by an effective institutional framework during the conflict, since then the EU formulated a more comprehensive and future-oriented strategy, namely regional cooperation and integration with the European Union, particularly guided by its success in the Central Eastern Europe.

By introducing the Royaumont Process and the Declaration of Regional Approach towards the Western Balkans in 1997, the EU formulated its strategy on the intensification of regional cooperation accompanied by a detailed political and economic conditionality guided by the premise that integration would ensure peace. During this period, the EU presence in the Western Balkans was mainly through the EC Monitoring Mission (ECMM) and the Special Representatives in Bosnia and Herzegovina (Anastasakis and Bojicic-Dzelilovic 2002: 23)

This initiative was strengthened by the introduction of two fundamental institutional and infrastructural mechanisms in 1999, namely the Stabilisation and

Association Process (SAP) (May 1999) and the Stability Pact for Southeastern Europe (June 1999). By these instruments, the EU added membership conditionality alongside the promotion of regional cooperation within the broader framework of conflict prevention for the Balkans. The main reference point for the adaptation of EU's strategy was explicitly stated in the first paragraph of the first Annual Report of the SAP in 2002, that "a policy of emergency reconstruction, containment and stabilisation was not, in itself, enough to bring lasting peace and stability to the Balkans: only the real prospect of integration into European structures would achieve that."[501] In this context, the European Union was presented as a "symbol of structural peace and reconciliation among ancient enemies", which has to be adopted as a model until the parties reached the same level of 'maturity' to join it[502] To facilitate the implementation of the required reforms, the EU was going to add a supplementary financial assistance programme of CARDS (Community Assistance for Reconstruction, Development, and Stabilisation in December 2000.

By the Feira Council of the European Council in June 2000, the European Council recognized "all" the countries of the Western Balkans as "potential candidates" for EU membership and confirmed that "its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through the Stabilisation and Association Process political dialogue, liberalization of trade and cooperation in Justice and Home Affairs."[503]. This perspective was strengthened in the subsequent Councils, particularly EU-Western Balkans Zagreb Summit on 24 November 2000, The Copenhagen European Council on 12-13 November 2002, and the Thessaloniki Summit on 21 June 2003 in which The European Council emphasized the position of the SEE countries as "potential candidates"[504] and acknowledged that "the Stabilisation and Association process (SAP) will remain the

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[501] SAP 2002 Annual Report, p. 4

[502] Ginsberg, cited in Feldman (1999: 78).

[503] The European Council, Santa Maria de Feira, 19-20 June 2000, V. External Relations, D. Western Balkans, Art. 67.

[504] Cited in EU-Western Balkans Thessaloniki Summit Declaration.

framework for the European course of the Western Balkan countries"[505], while "rapprochement with the EU will go hand in hand with the development of regional co-operation."[506] To sign the SAA, the conditionality principle was mainly based on three categories of priorities, 1) the Political Situation, including the democracy and rule of law, human rights and protection of minorities, regional cooperation; (2) the Economic Situation, including the current economic situation, existence of free-market economy and structural reforms and management of public finances, and (3) the Implementation of the Stabilisation and Association Process, including a general evaluation, internal market and trade, sectoral policies and cooperation in justice and home affairs.

Since then the Annual Reports prepared by the Commission has been the main instrument that determined the course of this contractual relationship. After the assessment of the general situation and specific issues regarding each title and the relevant sub-title including the performance based on the recommendations of the previous Annual Report, the Commission proposes a kind of a 'homework' in accordance with the principles and priorities of the SAP by outlining further requirements for improvement or deficiencies to be overcome, under a specific title of "priority areas needing attention in the next 12 months" if needed.[507] While these assessments and recommendations draw the road-map of the contractual relations, it also determines the allocation of major incentives such as funds under the CARDS programme and the prospect of EU membership, which has been strengthened by the introduction of European Partnerships in 2004 as an additional means to intensify the SAP.[508],

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[505] Article 4 of the the Thessaloniki Summit Declaration; available at http://europa.eu.int/comm/external_relations/see/sum_06_03/decl.htm

[506] In this context, beside the Stability Pact for South-eastern Europe, which was underlined to be a complementary initiative in the implementation of the agreed fundamental objectives, the EU declared that it supported regional co-operation initiatives such as the South-East European Co-operation Process (SEECP), the Adriatic-Ionian Initiative, and the Central European Initiative. Article 9 of the Thessaloniki Summit Declaration; available at http://europa.eu.int/comm/external_relations/see/sum_06_03/decl.htm

[507] See, SAA 2003 Annual Report on Macedonia.

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In this context, since the Zagreb Summit in 2000, the EU utilized its "compulsory impact" directed at the level of political leadership, which was guided by a 'carrot-and-stick' policy with the final goal of the EU membership through the fundamental principle of conditionality.[509] Furthermore, it strengthened this by using its "enabling impact" in the words of Diez, Stetter and Albert (2004), by introducing the adoption of EU's structural framework (*acquis communautaire*) through the Stabilisation and Association Processes, in order to provide the framework which is hoped to lead the resolution of aforementioned domestic and regional conflicts.

In terms of CR literature, this revealed EU's transition in its role as a third party actor aimed at peacemaking and post-conflict reconstruction to a broader ideal of peacebuilding tied strongly to being a part of a general framework of a so-called 'security community'. In this context, rather than an active involvement in the conflicts between the actors of the conflict, EU presented itself as a 'framework' to be adopted by the implementation of the requirements of the SAP within the context of 'Europeanization', and use mainly sanctions towards the governments, which are the conflicting parties in these ethno-political conflicts, for persuading them to come to an agreement. This put 'Europeanization' at the center of conflict resolution perspective of the EU as a conflict prevention and peacebuilding mechanism.[510]

What the question at this point is that whether this conditionality based on the adoption of "European practices and standard" both at the domestic[511] and regional

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[508] In its Regulation No 533/2004 the Council (EC) stated that the follow up of the implementation of the European Partnerships will be ensured through the mechanisms established under the Stabilisation and Association process, notably the Annual Reports.

[509] See, Diez, Stetter and Albert (2004).

[510] This reality was stipulated by Mungiu-Pippidi in a stricter/Assertive phrase that "there is no alternative project, neither on the table, nor in the social imagination." See, Alina Mingiu-Pippidi, "The Balkans and Europe: abond with an ambigious past", available at http://www.indiana.edu/~iupolsci/euconf/M_P.pdf

[511] In the Copenhagen EC Presidency Conclusions, of June 21-22, 1993, it was stated that "Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the

level[512], could facilitate the settlement of ethno-territorial cross border conflicts. In this context, this dissertation has been drawn on the idea that, taken the aforementioned specific characteristics of these conflicts, in order to regard Europeanization as an efficient to tool for the settlement of these conflicts, it has to meet the following conditions:

1) It should persuade the parties to come to an agreement on a legal basis, which would improve the status of national minorities, when compared with the previous experiences,

2) It should facilitate the resolution of the conflict between the host-nation and the external minority,

3) It should foster cooperation between the kin-state and host-state, in which minorities have a constructive impact, in order to lead a sustainable resolution drawn on trust.

Effects

In the context of the first condition for the effectiveness of Europeanization, regarding our framework of minority protection, it can be argued that EU has succeeded on imposing the adoption of legal standards. In general, assessing them within the context of the FCNM as a general picture for the protection of minority rights, all governments seem to fulfill the legal requirements.

For Macedonia, the EU monitored the process mainly through the full implementation of the Ohrid Framework Agreement, which has been signed under its

capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union." See, the part 7 on "Relations with the Countries of Central and Eastern Europe", A. iii., p. 13.

[512] In the same Report, in p. 11, it was stated that these countries should "demonstrate that they are willing and able to interact with their neigbours as EU Member States do."

joint mediation by the US. In this context, Macedonia has adopted most of the required legislation, namely the amendments to the Constitution required by the Ohrid Framework Agreement in November 2001 and the relevant laws such as the Law on Local Self-Government in January 2002, [513] Law on Citizenship in Dec. 2003, and the Territorial Organization Act in August, 2004[514].

Following the election victory of a centre-left, pro-European coalition in January 2000, the Croatian Sabor also amended the 1991 Constitution in May 2000 which reintroduced some of the suspended provisions regarding the Serbian minority and adopted its "Constitutional Law on the Rights of National Minorities" on December 2002, which was already a longstanding commitment since its accession to the Council of Europe in 1996. This was also under the monitor of the EU through annual SAP Reports.

After a similar political evolution, Serbia and Montenegro also adopted two main legislative acts. The first document is the "Law on Rights and Freedoms of National Minorities, adopted in February 2002 as one of the main preconditions of the FRY's membership in the Council of Europe, of which he joined in April 2003. In this context, it must be underlined that, as Hofmann and Friberg pointed out (2004: 141), in its relationship between the European Commission of the EU, the Council of Europe has been the "implementing partner" in planning and agenda setting in the areas of common concern.[515] The second fundamental document is the "Charter on Human and Minority Rights and Civil Liberties", adopted in February 2003, as a complementary document to the Constitutional Charter of Serbia and Montenegro following the re-establishment of the fundamentals of the union between the two states under EU mediator Javier Solana, which provided comprehensive provisions and mechanisms for the protection of minorities.

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[513] However, although it was passed by the Parliament, the referendum on its approval failed due to low turn-out rate.

[514] The last package of the provisions of the Ohrid Agreement.

[515] The cooperation betweeen the teo institutions has intensified particularly after the adoption of the April 2001Joint Declaration on Cooperation and Partnership.See, Council of Europe (2002: 4), as cited in Hofmann and Friberg (2004: 141). For a detail account, see, Hofmann and Friberg, (2004: 127-147.

To sum up, regarding the adoption of legal framework, either in the initiation or in its intensification, the Europeanization process seems to be successful through EU's "compulsory" and "enabling impact" within the terminology of Diez and his colleagues (Diez, Stetter and Albert 2004).

However, regarding the second level Europeanization at the domestic level, several poll results and the incidents reveal lack of the aimed inter-ethnic reconciliation and thus lack of social integration in contrary to the premise of the EU integration. Several incidents in all the three countries reflect how the inter-ethnic relations are still fragile[516] For instance in Macedonia, results of the surveys conducted in May 2001, June 2002, January 2003 indicate that people do not accept to share the same living areas with the members of the other ethnic community (see, Table 10). Although it may be argued that these results refers to the period that the effects of legal adoptions can not be observed, it must be noted that as presented in 2005 Early Warning Report on UNDP on Macedonia, over 54% of the ethnic Macedonians still perceive interethnic relations as very bad or a bit better than that. The same attitude is presented by 23 % of the ethnic Albanians.[517] (2005a: 50). While the survey conducted 2 months later reported that it was reduced to 41.8 % for ethnic Macedonians, it increased to 25 % for the Albanians (UNDP 2005b: 63) (See, figure 2). Furthermore, although the legal developments have been initiated by the succeeding governments, especially ethnic Macedonians do not support these developments[518] (Table 9). This highlights how inter-ethnic relations may be disrupted by this resentment, such as the polarization of the young population of ethnic communities in educational institutions. These reveal that despite the policies of the government, inter-ethnic reconciliation can not be observed in the societal level,

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[516] See the sections in the previous chapter on the parts on factual situation.

[517] What is more interesting is the fact that, in March 2005 while 88.6 % of ethnic Macedonians of those interviewed stated that he/she "like Macedonia", that was only 9.7 % for ethnic Albanians while it was 81.5 % for other persons belonging to a national minority group other than Albanians. The percentages of those who stated as "I do not know this song" were 8.7 % for ethnic Macedonians, 60.2 % for ethnic Albanians, and 12.0% for members of other national minority groups. See, UNDP Early Warning Report on Macedonia (2005: 51).

[518] This also affects the support for political channels. For instance, while 66.2% of the Macedonians do not have confidence in the government, this is 48.1% for ethnic Albanians; 70.3% of the Macedonians do not have confidence in the Parliament; this is 52.8% for the Albanians. See, UNDP Early Warning Report March (2005a).

which is the fundamental requirement for a stable multi-ethnic Macedonia. (2005a: 25) In this context, accepting Stern and Druckman's (2000: 44) the definition of success, the Macedonian case could not lead to "the weakening of actors opposed to the peace process vis-à-vis those engaged in it". Furthermore, the bi-ethnicization of the state in accordance with the Ohrid Agreement and the relevant over-politicization of the overall politics and state administration push smaller ethnic communities to a marginalized position. This also dangers the multi-ethnic character of Macedonia which will foster inter-ethnic reconciliation, emphasized by Katerina Blazevska in the Macedonian newspaper Dnevnik on 14 August 2004 as follows:

> "(...)The same applies to the Turks, Serbs, Vlachs, Romas and Bosniaks. They have been cheaply used in the Ohrid Agreement to cover item 1.3 of the Basic Principles. It notes: 'The multiethnic character of Macedonian society must be preserved and reflected in public life.' Who is implementing this principle and where? No one and nowhere. Not a single multiethnic corner has been left in the country, because the dual ethnicity principle has been raised high above the constitution."[519]

In Croatia, even the implementation process of the adopted legal acts continues at a slow pace, such as the repossession of property (AI 2005, HRW 2005). In this regard, discrimination can also be observed when compared with similar cases such as the former tenancy right-holders with refugee status, namely the Croats returning to Eastern Slavonia following the end of the mandate of UNTAES (MRG 2003: 32), employment discrimination (MRG 2003: 23; HRW 2004; HRW 2005; AI 2005) Furthermore, incidents indicating intolerance towards ethnic minorities can also be witnessed (IHF 2002, IHF 2003, IHF 2004).

In Serbia, following the democratic revolution, since 2002 such incidents decreased except police abuses and discrimination against Roma population (AI, 2002, HRW 2002, IHF 2002, AI 2003, HRW 2003, AI 2004, HRW 2004, IHF 2004, AI 2005, HRW 2005). However, following the victory of nationalist Serbs in the elections, the incidents in 2003 and 2004 against the Hungarian population revealed how the inter-ethnic relations still seems to be fragile (IHF 2004, AI 2005, HRW 2005).

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[519] Excerpt from commentary by Katerina Blazevska: "Sour-cheerful or cheerful-sour", published by Macedonian newspaper Dnevnik on 14 August 2004, available at http://www.csees.net

When analysed together, regarding the effects of Europeanization at the domestic level, all the three cases reveal that it is not as successful as the level of the adoption of the legal framework. This reveals the fact that although the Europeanization persuades the leadership through its "compulsory impact" to adopt the legal framework via its "enabling impact" (Diez et. al. 2004), it could not change the identity-scripts of the conflict parties, rather as indicated in Macedonia, further strengthened the process of the ethnicization of socio-political life, thus lacked its "constructive impact" on the parties at the societal level.

While revealing contradictory results in the two levels of domestic ethnic politics, for the third level, the Europeanization process reflects different results. As mentioned above, to reach a sustainable solution build on trust, it should foster cooperation between the kin-state and host-state, in which minorities have a constructive impact. In all cases, we can witness that the Europeanization process fostered the intensification of bilateral and regional cooperation which was reflected in the progress reports of the SAP. However, when we analyze the motivations behind this, a negative relationship can be witnessed between the presence of a past armed conflict and the position of ethnic minorities as a constructive factor in the intensification of bilateral relations. It rather directly refers to the role of the EU integration process for the enhancement of bilateral relations. In Macedonia, where an armed conflict was experienced in 2001, the biggest motivation for bilateral cooperation is the EU and Euro-Atlantic integration, while similar reference points in favor of being closer to the EU has also the prevailed in the discourses of the Croatian leaders on cooperation with Serbia. In this context, Serbian case is an exception regarding the fact that there has not been an armed conflict between the Hungarian minority and the Serbian state and the Serbs as the host-nation. In the statements of the Serbian leaders on cooperation with Hungary, this was reflected by drawing on the fact that the two ethnic communities are the main motivation for fostering relations.

To sum up, the Europeanization process has functionally fostered bilateral cooperation between the kin-states and the host-states. However, the reality that the main reference points for this intensification is the objective to get closer to the EU leads to the question that whenever the EU process is obstructed, how this would effect the bilateral relations regarding the positions of minority rights, taking it into

consideration that to a great extent, inter-ethnic reconciliation has not been owned at the societal level. In this regard, the call of the Bulgarian president to the different sectors of the Bulgarian society to facilitate on preserving social peace until Bulgaria enters the EU is thought provoking by reflecting the same mentality in another candidate state[520]

Underlying Problems and Possible Strategies

Both the adoption of the legal framework and the prospect of the EU integration on fostering bilateral and regional cooperation explicitly reveals that strategically the EU membership is the "only hope for a more positive future" (Anastasakis and Bojicic-Dzelilovic 2002: 56). However this approach has two main failures in our cases.

The first is the fact that fundamentally by proposing itself as a framework, the EU does not attempt to charge the difficult task to solve the problems in the region but rather prefers "to helping these countries help themselves"[521] by providing them framework to copy, which is formulated to resolve their problems. However, by directing itself primarily to political leadership, the process seems to fail in the societal level when the intolerant events and perceptions in the region are taken into consideration, although at this level a number of NGOs[522] are active within the process for the promotion of EU membership perspective.

The second failure is on the role of EU membership on bilateral relations. The analysis of secondary data reveals that except the Serbian case, bilateral cooperation is fundamentally approached in the context of European integration rather than having a significance of its own or what is more important regarding our cases, not grounded on

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[520] Reported by Anadolu Ajansı, on August 13, 2005, http://www.trt.net.tr/wwwtrt/hdevam.aspx?hid=129743&k=2, and http://www.zaman.com.tr/?hn=201873&bl=dishaberler&trh=20050814.

[521] 2002 SAP Report, p. 9.

[522] Such as the European Movement in Serbia, available at http://www.emins.org; the European Movement in Macedonia, available at http://www.europeanmovement.org.mk; Organization of Progressive European Forces in Macedonia, available at http://www.opes.org.mk ; Europe House in Zagreb etc.

the role and position of national minorities. Indeed, this has also been criticized by the EU in some instances. For instance in its 2002 SAP Report, the EC criticized the Croatian Government as "it continues to focus too much on the headline political objectives of Croatia's European policy rather than on the enormous effort that moving closer to European standards requires"[523]

What is more problematic is the fact that although the policymakers in Brussels believes that the success story in Central Europe will repeat itself, it is not as clear as that whether these policy makers are aware of the fact that the risk of failure is still there and the costs of such a failure would be higher. Anastasakis and Bojicic-Dzelilovic (2002: 57) reports that most of the academicians in the region believe that the approach towards the SEE is a delaying tactic of the EU. In this regard, it must be kept in mind that offering a one-way solution, namely the EU membership, includes the risk that encouraging false hopes may easily results in disappointment. In this regard, a Plan-B must be put on the table before offering any prospect of association.

In this context, the EU has to strengthen its perspective of an integrated, long-term approach towards the region including both strengthening its perspective of structural prevention within the broader perspective of conflict prevention and enriching it with active role of consultation in peacebuilding initiatives. The points to be focused can be summarized as follows:

(1) A more efficient way has to be framed to guarantee the implementation process of the required reforms

(2) The vision created in the minds of the elites has to be extended to the societal level to accommodate inter-ethnic relations

Before all else, the first question requires to narrow the process of EU integration, where the candidate countries should be aware of what this stage entails. In this context, beside their SP membership, the three countries are at their different point of their pace on the way to further EUropean integration. Macedonia is the first country

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[523] 2002 SAP Report, p. 19.

to sign a SAA on April 2001, which entered into force on April 2004, subsequent to its application for EU membership on March 2004. Croatia has been the second country signing a SAA with the EU on October 2001, which entered into force on February 2005. Furthermore, following Slovenia, it is the second country in the closest point to the EU membership. Having applied to EU membership on February 2003, Croatia achieved a positive Feasibility Report on April 2004 to start the negotiations. However, it was delayed due to the lack of cooperation with the ICTY, on March 2005. When compared with the previous two, Serbia is in its first steps on the way to integration. Having joined the SAP on October 2000, it recently achieved a positive Feasibility Report from the Commission to start negotiations on April 2005. In this regard, by establishing a direct relationship between the pace of these countries towards the EU membership and the increase in their positive record on the successful conflict prevention, one can expect that Croatia should be the best case, while Serbia is the weakest and Macedonia in the middle. However, it can be observed that regarding inter-ethnic reconciliation, Serbia seems to have positive results when compared with the other two.[524] This strengthens the idea that rather than success in the adoption of Europeanization process, the domestic peace, namely inter-ethnic reconciliation is due to the previous experiences. While the process presents more promising records in Serbia, where the parties had not encountered serious problems that would transform the conflict from an issue based conflict to a relational conflict, although achieved a more successful record of European integration pace, the Croatian and Macedonian experiences has stricter signs of weakness in the implementation process of the reforms and the weaker level of interethnic reconciliation. In EU's part this may have two explanations; the first is that it still experiences early-warning problem, while the second is that it tolerates lack of efficient implementation. In this regard, the first does not seem to have a ground as the international NGOs have already presented their narrative reports on the weakness of the implementation process which was supported by statiscal data provided by similar institutions that reveal the weakness of the degree of inter-ethnic reconciliation. This strengthens the second approach that it tolerates lack of full implementation by the governments to some extent, or to put it in a more positive frame, it applies a face saving strategy for the pro-European forces and avoids any strategic

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[524] It must be undelined that this argument is valid for Vojvodina. Serbia has the same weakest indicators in Southern Serbia.

error that would 'break the glasses'. The SAP reports also seem to support the second hypothesis.

Indeed the 2001 Macedonian conflict itself reveals the failure of this policy. While avoiding the data provided by the international NGO reports revealing inter-ethnic reconciliation in the name of not spoiling the dream of this 'island of peace' in the midst of 'the bloody' Balkans, the EU found itself in the midst of the latest ethno-political conflict of the Balkans. Regarding the last experiences, this is especially relevant to the Croatian case. The EC reported in its 2002 SAP Report, that the weakness of the judiciary and the nationalistic pressures are the fundamental challenges on the pace of the reforms, particularly affecting the policy of the government on return of refuges and the adoption of relevant measures, co-operation with ICTY and enhancement of regional co-operation[525]. It was later reflected in the 2003 SAP report with a frustrated stand towards Croatia's performance, noting that ""(i)n practice there are still obstacles to the return of refuges and IDPs"[526] These deficiencies were also reflected in the "priority areas needing attention in the next 12 months". In the same report, Croatia was strongly urged to cooperate with ICTY (see also HRW 2003). Despite an evident weak record of performance, particularly regarding the rights of refugees and cooperation with the ICTY, in its final report, the EC stated that

> "Croatia is a functioning democracy, with stable institutions guaranteeing the rule of law. There are no major problems regarding the respect of fundamental rights. In April 2004, the ICTY Prosecutor stated that Croatia is now cooperating fully with ICTY. Croatia needs to maintain full cooperation and take all necessary steps to ensure that the remaining indictee is located and transferred to ICTY. Croatia needs to make additional efforts in the field of minority rights, refugee returns, judiciary reform, regional co-operation and the fight against corruption. On this basis, the Commission confirms that Croatia meets the political criteria set by the Copenhagen European Council in 1993 and the Stabilisation and Association Process conditionalities established by the Council in 1997."[527]

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[525] 2002 SAP Report, p. 19.

[526] Ibid. p. 10.

[527] Ibid, p. 119-120. Regarding the assessment of the minority rights and refugee issues, which is more or less identical to the previous SAA Report, see pp. 24-30

However, 11 months later it annulled the decision to start negotiations for membership due to lack of cooperation with the ICTY. This is also applicable to the Serbian case. For instance, in its 2004 Annual Report on Serbia, the HRW explicitly stated that "the European Union has not used the Association and Stabilization Process to leverage improvements in Serbia's performance" on human rights and minority issues.[528] However, this indirect strategy based on using more carrots than sticks not to hamper the pro-European process, may indeed obstruct the integration process while constructing mirages of democracies in South Eastern Europe. In this regard, one can witness that the EC's decision on Croatia strengthened the image of the indicted Croatian General Ante Gotovina as a national hero, while it reached the biggest decrease in June 2005 for supporting EU process in Croatia with 53 %against Croatia's entry into the EU, while about one third (36 %) of poll participants remain in favour of joining the EU[529]. This indeed seems to prove the hypothesis that encouraging false hopes may easily result in disappointment. This becomes more important when it is considered that one can already see two basic approaches regarding the EU. While the public opinion in these countries represents their beliefs on the changes that EU membership will bring to their life, namely better standards with a considerable ratio; it is lower when the question is on whether EU could be trusted. It is seen that approximately half of the population in Macedonia and Croatia can be accepted as the supporters of the integration process. (Figure 3) Similar figures can also been seen in another poll held in 2003. Accordingly, 46 % of the Macedonians reflect their confidence in the EU, while this is 30 in Serbia.[530]

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[528] See, 2004 HRW Annual Report on Serbia and Montenegro.

[529] Reported by HRT 1 TV, Zagreb on 30 June 2005, available at http://www.csees.net
This indeed represent a continous decrease. Those supporting Croatia' entry was 45% on 31 May 2005, (reported by HRTV 1).

[530] The results are even lower in Montenegro with 17 % ratio.

Figure 4: Opinion on the EU

Source: International Commission on the Balkans (2005). The Balkans in Europe's Future, p. 52, figure. 19.
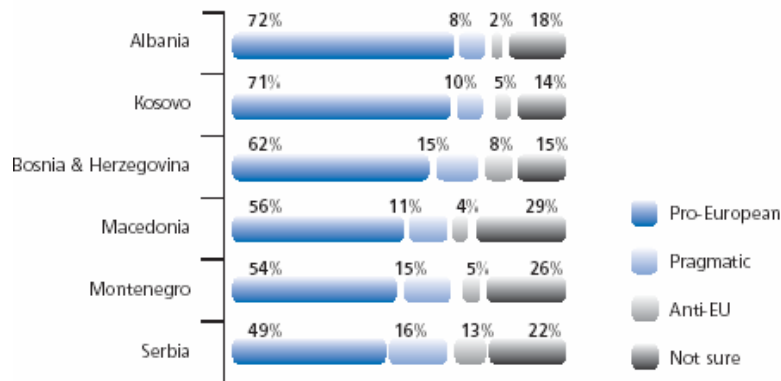
In the case of Macedonia, for instance, the difference between the above mentioned two attitudes can clearly be observed. While 65% of the ethnic Macedonians and 79.1% of the ethnic Albanians believe that they will have better conditions with an EU membership. When the question asked is whether they regard that what EU wants is best for this country, 40.4% of the ethnic Macedonians disagree, while this is 15.7% for the ethnic Albanians. These figures also reflect a shaky ground for the policy-makers who may be at face with a considerable number of against the exercise of further reforms towards accommodation with the EU norms.

These results underline the fact that the EU should utilize 'the sticks' properly and on time if it is required, which needs to be accompanied by the implementation of an effective communication strategy not to worsen its position in the minds of the elites and the people of these countries.

This makes it more important to on the aforementioned second point for an integrated, long-term approach for the EU, namely the fact that the vision created in the minds of the political elites has to be extended to the societal level to accommodate inter-ethnic relations. This underlines that in order to facilitate the level of integration at the societal level, EU should strengthen its focus on the social level, that is to say,

beside concentrating on regime-formation for the protection of minorities as a form of structural prevention addressing root causes (see Table 1) through its "enabling impact" (Diez et al. 2000), it should actively utilize its "constructive impact" in order to "promote multi-ethnic structures and loyalties" within the broader framework of a "culture of peace" (see Table 1). This requires a more intense application of CR theory and practice drawing on the perspective of peacebuilding, focusing on the relational dimension at particular. As Lederach highlighted, with the aim of minimizing poorly functioning communication and maximize mutual understanding (1997: 82) this approach is based on fundamental instruments of reconciliation, forgiveness, trust building and future imagining.

In this regard, followed by the principle of justice in the process of post-conflict reconstruction, it requires "the establishment of a new relationship based on mutual acceptance and reasonable trust" (Montville 1993: 112). Taking it into consideration that one of the main problems in the aforementioned cases is the lack of the desired societal basis on the vision of building sustainable peace, what are needed is more then elite agreements. In this context, as Lederach emphasized, what's needed is "to alter relationships among groups in a society through engagement of, and the need for fundamental reconciliation of, middle-range and grass-roots leaders and groups of citizens"[531] (Lederach 1997: cf. Ross 2000: 1020)

For the first step, this requires the adoption of a relation-based approach of which could constructively transform conflicts at both the elite and grassroots level, through bridge-building communication channels such as "traning sessions in methods of communication, negotiation and mediation; the organizations of programmes of encounter and exchange; the initiation of bi- or multi-ethnic projects designed to improve shared living conditions, and so on" (Ropers 1997: 8-11). By providing such platforms of open communication these initiatives can build trust and increase empathy among the members of the ethnic communities. In this framework, three main areas required to be focused on are: youth, education, and media.

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[531] See, the works of Project on Ethnic Relations (2000a, 2000b, 2002, 2003a, 2003b, 2004a, 2004b)

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Regarding integration of youth in the peace-building process, the initiatives such as "Youth Building the Future", a joint initiative of local activist in Tuzla, Bosnia and the Schüler Helfen Leben and the Berghof Research Center, provides valuable insights. Similar joints projects which are not directly related to the central issues of the conflict but rather motivated by shared interests could provide a means of consultation between the young members of ethnic communities. Furthermore, by providing community work which is oriented to training and employment could also strengthen local ownership[532]. Furthermore, alongside training of conflict resolution skills, initiatives of future imagining could be applied among the youth, drawing on the fact that the conflicting parties could often have more common points regarding their vision of future when compared with their shared, and sometimes violent past (Lederach 1997: 77)[533]

While these projects can also be adapted to the educational spaces, to overcome the tensions of ethno-cultural and linguistic divisions, which is a point of instability for the Macedonian educational system, special emphasis should be given to pre-school education. As experienced in the Search for Common Ground Project, such a cultural contact can provide them a common life space to realize and develop a more accurate perception of their commonality while preserving their own identity.

While the two strategies focus mostly on the young population in these countries, taking it into consideration that media has the potential to reach the largest number of population, it can provide to overcome prejudices among the ethnic communities by helping to build trust as the first step towards sustainable peace. In this context, beside strengthening local media to become self-sufficient and autonomous through technical and educational assistance, various forms of initiatives can be held such as joint media projects, workshops to help defuse provocative coverage, or trainings of local journalists and students in the universities in conflict resolution skills[534].

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[532] For an introductory essay on joint projects and a list of additional resources, see, McMoran (2003), at http://www.beyondintractability.org/m/joint_projects.jsp

[533] For envisioning as a tool for peacebuilding, see also, Dugan (2001).

[534] See, Melone, Terzis and Beleli (2002)and Dusan Reljic, "The News Media and the Transformation of Ethnopolitical Conflicts, available at http://www.berghof-handbook.net

Furthermore, while these projects could facilitate the inter-ethnic reconciliation in the domestic level, regarding the third level of bilateral cooperation, the projects like Euro-regions would also provide considerable achievements. In this regard DKMT may stand as a model for future programs, in which the local authorities act autonomously on both sides. In addition to strengthening local ownership and supporting to establish the aforementioned joint projects at the inter-state level by providing open communication channels, such initiatives would also facilitate to overcome the strict administrative and political centralism in the region, which stands as one of the main obstacles for further co-operation.

To conclude, today the European Union is strongly engaged in post-conflict reconstruction and stabilisation efforts in the Western Balkans within its integrated approach of conflict prevention, beside its civilian crisis management through its police forces in Bosnia and Macedonia. However, by pursuing this policy mainly through the Stability and Association Process and the European Partnership based on the principle of EU membership conditionality proposing a framework of structural prevention, it directs its efforts primarily towards the political leadership. In this context, although the adoption of the 'European' norms within the structural conflict prevention strategy at the domestic and inter-state level reveals that this policy is relatively successful at the structural level, lack of social integration drawing on interethnic reconciliation at the societal level[535] reveals that EU should extend its one-size-fits-all strategy of structural conflict prevention to peacebuilding, which is yet to be fully realized. Within this framework, as ironically stated in the webpage of the European Commission on "Conflict Prevention & Civilian Crisis Management", supplemented by a more improved and frequent peacebuilding initiatives, "it must be able to respond in a timely and tailor-made fashion, with an appropriate mix of instruments, to the specific situations as they arise" [536] In this context, in close cooperation with the other intergovernmental organizations, to foster local and regional ownership the role of the

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[535] Which may easily create potential spoilers.

[536] http://europa.eu.int/comm/external_relations/cpcm/cp.htm

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EU should be to support and facilitate, with an active third party involvement when required, rather than imposing a framework of structural prevention based on the formula of assistance and membership in return for reform, which currently creates dependency and may further continue to create an illusion of 'SAP democracies' in the Western Balkans.

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APPENDICES

Appendix 1. Framework Convention For The Protection Of National

Minorities

FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

The member States of the Council of Europe and the other States, signatories to the present framework Convention,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Wishing to follow up the Declaration of the Heads of State and Government of the member States of the Council of Europe adopted in Vienna on 9 October 1993; Being resolved to protect within their respective territories the existence of national minorities;

Considering that the upheavals of European history have shown that the protection of national minorities is essential to stability, democratic security and peace in this continent;

Considering that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity;

Considering that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society;

Considering that the realisation of a tolerant and prosperous Europe does not depend solely on co-operation between States but also requires transfrontier co-operation between local and regional authorities without prejudice to the constitution and territorial integrity of each State;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;

Having regard to the commitments concerning the protection of national minorities in United Nations conventions and declarations and in the documents of the Conference on Security and Co-operation in Europe, particularly the Copenhagen Document of 29 June 1990;

Being resolved to define the principles to be respected and the obligations which flow from them, in order to ensure, in the member States and such other States as may become Parties to the present instrument, the effective protection of national minorities and of the rights and freedoms of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and national sovereignty of
States;

Being determined to implement the principles set out in this framework Convention through national legislation and appropriate governmental policies,

Have agreed as follows:

SECTION I

ARTICLE 1
The protection of national minorities and of the rights and freedoms of persons belonging to those minorities form an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

ARTICLE 2
The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

ARTICLE 3
1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.
2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

SECTION II

ARTICLE 4
1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

ARTICLE 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

ARTICLE 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and cooperation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats of acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

ARTICLE 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

ARTICLE 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations an associations.

ARTICLE 9

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall
ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

ARTICLE 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority

language in relations between those persons and the administrative authorities.

3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his of her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

ARTICLE 11

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.

3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street

names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

ARTICLE 12

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.

2. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.

3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

ARTICLE 13

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.

2. The exercise of this right shall not entail any fi nancial obligation for the Parties.

ARTICLE 14

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.

3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

ARTICLE 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

ARTICLE 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

ARTICLE 17

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.

2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.

ARTICLE 18

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.

2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.

ARTICLE 19

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

SECTION III

ARTICLE 20

In the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.

ARTICLE 21

Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.

ARTICLE 22

Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.

ARTICLE 23

The rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.

SECTION IV

ARTICLE 24

1. The Committee of Ministers of the Council of Europe shall monitor the implementation of this framework Convention by the Contracting Parties.

2. The Parties which are not members of the Council of Europe shall participate in the implementation mechanism, according to modalities to be determined.

ARTICLE 25

1. Within a period of one year following the entry into force of this framework Convention in respect of a Contracting Party, the latter shall transmit to the Secretary General of the Council of Europe full information on the legislative and other measures taken to give effect to the principles set out in this framework Convention.

2. Thereafter, each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests any further information of relevance to the implementation of this framework Convention.

3. The Secretary general shall forward to the Committee of Ministers the information transmitted under the terms of this Article.

ARTICLE 26

1. In evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this framework Convention the Committee of Ministers shall be assisted by an advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.

2. The composition of this advisory committee and its procedure shall be determined by the Committee of Ministers within a period of one year following entry into force of this framework Convention.

SECTION V

ARTICLE 27

This framework Convention shall be open for signature by the member States of the Council if Europe. Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers. It is subject to ratification, acceptance or approval. Instruments

of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

ARTICLE 28

1. This framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which twelve member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 27.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

ARTICLE 29

1. After the entry into force of this framework Convention and after consulting the Contracting States, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article 27, has not yet done so, and any other non-member State.

2. In respect of any acceding State, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

ARTICLE 30

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary general.

ARTICLE 31

1. Any Party may at any time renounce this framework Convention by means of a notification addressed to the Secretary general of the Council of Europe.

2. Such renunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

ARTICLE 32

The Secretary General of the Council of Europe shall notify the member States of the Council, other signatory States and any State which has acceded to this framework Convention, of:

(a) any signature

(b) the deposit of any instrument of ratification, acceptance, approval or accession

(c) the date of entry into force of this framework Convention in accordance with Articles 28, 29 and 30

(d) any other act, notification or communication relating to this framework Convention.

Appendix 2. Statement of Macedonian Leaders on Bilateral Relations and Cooperation with Albania

18 April 2002	ATA news agency, Tirana	PM, Ljubco Georgevski	"*the big problems that Albania and Macedonia are left behind and now they are oriented towards common interest, integration into Europe*"
18 June 2003	MIA news agency, Skopje	Spokesman of Defense Min, Marjan Gjurovski	"The security situation at the border with Albania is stabile and *the intensive contacts between the defence and interior ministries are positively reflected on the stabilization of the situation in the region*"
18 June 2003	ATA news agency, Tirana	Deputy Premier, Musa Xhaferri	"*We are on the stage of opening concrete cooperation with Albania*, that has to do with *a better and more liberal communication in the interest of the two countries*".
11 July 2003	MIA news agency, Skopje	Defense Min, Vlado Buckovski	"With our activities we are building a mini-collective defence system i the region", adding that *Macedonia and Albania would be promoters of successful regional cooperation in the future in order to get closer to NATO*."
11 July 2003	MIA news agency, Skopje	Defense Min. Vlado Buckovski	"*the ongoing cooperation … could be used as a model of regional cooperation*"
1 April 2004	A1 TV, Skopje	Head of Border Crossing Dept., the Interior Min., Vangel Dimkov	"... *as a step forward in promoting not only bilateral, but also regional cooperation in general. This will be an impetus for more rapid EU integration*. Vangel Dimkov, head of the border crossings department at the Macedonian Interior Ministry, said that *this would contribute to preventing illegal crossings and other negative phenomena.*
19 April 2004	Albanian Radio, Tirana	Deputy Min. for European Integ, Radmila Sekerinska	Support of the Macedonian government and the willingness to *strengthen cooperation in the (EU) integration processes*.
			the Albanian community in Macedonia and the Macedonian minority in Albania are another reason for the strengthening of the friendly and neighbourly relations between the two countries.
			the cooperation in the framework of the integration processes in NATO continues to be one of the main areas of cooperation
17 May 2004	MIA news agency,	Pr., B.Crvenskovki	"Macedonia and Albania *have mutual interests and goals, they urge to accomplish their strategic determinations for EU and NATO membership and have many opportunities for cooperation*"

	Skopje		
			"*Successful regional cooperation is one of the key criteria for sooner integration of our countries in EU and NATO. We are neighbours and the excellent cooperation between Albania and Macedonia is a successful example for the other countries in the region,*"
18 May 2004	Macedonian Radio, Skopje	Pr, B. Crvenskovki	"*In any event I am convinced that our countries' cooperation in the coming period will be at the highest possible level. We have numerous common interests and goals. We aspire to the achievement of common strategic objectives, that is, joining the EU and NATO, which certainly offer a vast space for mutual cooperation.*"
			"I would only add that *successful regional cooperation is one of the key requirements for our countries' accelerated integration in the EU and NATO*. In this sense, we are being directed to each other. I therefore believe that *the cooperation between Macedonia and Albania is a really successful model for all other countries in the region*."
3 August 2004	Macedonian Radio, Skopje	Foreign Min. Ilinka Mitreva	Relations between the Republic of Macedonia and the Republic of Albania are at a very high level. We *both strive for our countries' strategic integration in the European Union and NATO. By cooperating between ourselves and encouraging dynamic regional cooperation, we are moving closer to our strategic goals.*
			A lot of work awaits us in the realm of EU integration. We are prepared to cooperate in this respect.
8 Sept. 2004	MTV 1, Skopje	Pr.B. Crvenkovski	"Today Macedonia has better relations with all its neighbours than at any other time in the past" (...) "*Good regional cooperation creates a better climate for taking care of Macedonians living in the neighbouring countries*. And finally, *the European orientation shared by all countries in the region is in fact the most powerful weapon in protecting minority rights. These countries have to do this for the sake of their own interests and realization of their own objectives, rather than as a result of pressure from neighbouring countries*"
23 Sept. 2004	ATA news agency, Tirana	Min. Of Justice, Ixhet Memeti	"There should be collaboration in expert level between such organs as police, customs and organs of justice, *in order to make as efficient as possible the state fight against organized crime*".
22 April 2005	Fakti	Pr. B. Crvenkosvki	"*... the cooperation between the two countries in fulfilling the obligations that stem from the Adriatic Charter, which will help both countries join the Euro-Atlantic structures*"

Appendix 3. Statements of Croatian Leaders on Bilateral Relations and Cooperation with Serbia

18 May 2002	HINA news agency, Zagreb	Prime Minister Ivo Sanader	"*Relations between Croatia and Serbia are of great importance to Central and Southeast Europe*"
			Sanader said that *a free trade agreement* would take effect on 1 July and that *it would further encourage economic cooperation with Serbia*.
11 June 2003	Croatian Radio, Zagreb	European Integration Minister, Neven Mimica	It is in our interest to *intensify the reforms* which we have initiated and they can be *intensified by implementing the reform process based on the EU model resolutely and jointly*, through *joint cooperation.*
16 December 2003	HINA news agency, Zagreb	Premier-Designate	The new Croatian government will advocate full *normalization of relations with Serbia-Montenegro* and Bosnia-Hercegovina *as there will be no united Europe without those countries*
			Asked how important was the exchange of apologies which the two presidents - Croatia's Stjepan Mesic and Serbia-Montenegro's Svetozar Marovic - had extended, the Croatian Democratic Union (HDZ) leader said "with or without it, the normalization of *Croatian-Serbian relations has no alternative*".
23 December 2003	Croatian Radio, Zagreb	Prime Minister-designate Ivo Sanader	We are prepared to *resolve the remaining disputed issues* with Serbia and Montenegro *in the interest of further development of the mutual relations between the states and the peoples*
14 January 2004	FoNet news agency, Belgrade	Prime Minister Ivo Sanader	"We all wish that this will be a pro-European government, a pro-democratic government, and on behalf of the Croatian government I am prepared to support such a trend as far as a normalization of relations between Croatia and Serbia-Montenegro is concerned," Sanader said.
22 January 2004	HINA news agency, Zagreb	Prime Minister Ivo Sanader	"*We want the normalization of relations* with Serbia-Montenegro, we want *a stable neighbourhood*"
27 January 2004	HINA news agency, Zagreb	Prime Minister Ivo Sanader	Sanader stressed that "*normalization of relations with Serbia and Montenegro has no alternative*"(...)

			"*We want normal relations*, and *the aim of this decision is to encourage pro-European and pro-reform forces in Serbia and Montenegro to form a government without the Radicals*, he said.
2 March 2004	Radio B92, Belgrade	Prime Minister, Ivo Sanader	"I believe that *there is no other way* but the way we are taking, *there is no alternative in Croatia*. Finally, *we have been neighbours for hundreds of years, Serbs live in Croatia and Croats live in Serbia, I am certain that we rely on each others*. Besides, *both countries have European ambitions.*
			Nevertheless, normalization of relations between Serbia and Croatia has no alternative.
			We have to follow the path of a full normalization of our relations. We are neighbours.
07 May 2004	HINA news agency, Zagreb	President, Stjepan Mesic	*Croatia's relations with Serbia should follow the example set by Germany and France*, he said adding that one should, however, be cautious as in Serbia power is now in hands of those who advocate the border along Virovitica-Karlovac-Karlobag line (namely the western border of a Greater Serbia).
20 May 2004	HINA news agency, Zagreb	President Stjepan Mesic	Croatian President Stjepan Mesic said in an interview for Serbia-Montenegro's media (...) that *relations between the two countries were good*, adding that *the remaining outstanding issues must be solved as soon as possible in order to improve those relations even more.*
24 May 2004	HINA news agency, Zagreb	President Stjepan Mesic	After meeting in private, the presidents held a joint press conference, saying that *the protocol (on cooperation in European integration processes) would encourage and materialise cooperation between the two countries in their efforts to draw closer to the European Union*.
			"As far as Croatia is concerned, *there are no obstacles to cooperation on European subjects*. I believe *the protocol that has been signed today will encourage and materialise that cooperation*,"
			The two presidents also agreed that *their countries had a continuity of good relations and that they could serve as an example to other countries in the region.*

			Asked about the return of refugees, Mesic said they agreed that *the return of refugees should be facilitated and accelerated, adding that this was in Croatia's national interest because it wanted to reaffirm itself as a mature democracy.*
2 June 2004	HINA news agency, Zagreb	Foreign Min. Miomir Zuzul	After a meeting in Belgrade, Croatia's Foreign Minister Miomir Zuzul and Serbia-Montenegro's Foreign Minister Vuk Draskovic agreed that *good neighbourly relations were the main task on a way towards the EU and that all past open questions between the two states would be solved in line with the EU future*
		PM, Ivo Sanader	The premier voiced hope the Serb representatives' announcement would not lead to big arguments and stressed there was *no alternative to the normalisation of relations with Serbia-Montenegro*
			Croatian Prime Minister Ivo Sanader sent a message to Serbs "to be aware of the fact that the war wounds in Croatia have not healed yet" and added that the *Croatian government will give full rights to national minorities in line with European standards, and it will ask for the same rights for Croats in Serbia-Montenegro*
8 June 2004	Croatian Daily, Nacional	Croatian Defence Minister, Berislav Roncevic	A recent meeting of Croatian Defence Minister Berislav Roncevic and Serbia-Montenegro Defence Minister Prvoslav Davinic was not informal and courteous but quite concrete and devoted to the talks on *the future cooperation with far-reaching consequences for the stability of southeastern Europe.*
11 October 2004	HINA news agency, Zagreb	President Stjepan Mesic	Speaking of Croatia's relations with Serbia and Montenegro, Mesic said a big step forward had been made and that *bilateral contacts had intensified, which he added was a strong message to citizens that the two countries could solve their issues alone.*
21 October 2004	Croatian Radio, Zagreb	Prime Minister, Ivo Sanader	Croatian Prime Minister Ivo Sanader was more concrete, saying that *dialogue between the countries of the former Yugoslavia was the only means of survival and that Croatia has turned a new leaf by cooperating with the Orthodox Church and the Serb community in Croatia. We are applying European standards in our relations*, he said.

31 October 2004	HINA news agency, Zagreb	Deputy Prime Minister and Veterans Minister, Jadranka Kosor	Kosor said she advocated "the full truth about the Homeland War" as well as "_the normalization of relations with Serbia and Montenegro on the principle of mutual recognition, respect and clear European prospects_".
11 November 2004	HINA news agency, Zagreb	Prime Minister, Ivo Sanader	"Croatia is developing as a multicultural society into which national minorities are fully integrated. _National minorities are valuable, not a problem, they are bridges which connect and not separate_," said Sanader.
			He thanked national minorities for their contribution to Croatia's process of integration with the European Union. "We want to enter the EU because we share the same values and not because we think it's an elite club."
			Sanader said _an agreement on the protection of ethnic minorities would be signed_ during his visit to Belgrade next week, adding _it would be a big step in the further normalisation of Croatia's relations with Serbia and Montenegro._
			"_There is no alternative to the normalization of relations between Croatia and Serbia-Montenegro._ The wounds from the past have to be healed. We must turn to the future, without forgetting the past," Sanader said in Thessaloniki last month, where he held talks with the Serbian PM and announced his first official visit to Belgrade.
15 November 2004	HINA news agency, Zagreb	Prime Minister, Ivo Sanader	He said that the restitution of property to Serb refugees was not a political, but a technical and financial issue, and announced that all property would be given back by the year's end in accordance with an agreement between the Croatian government and Serb minority representatives in the Croatian parliament.
			The two prime ministers underlined _the historic significance of the agreement on the protection of national minorities_ in the two countries, which was signed earlier today.

			Sanader said *he was optimistic about the development of good relations between Croatia and Serbia-Montenegro*, adding that *both countries wanted to join the European Union and transnational integration processes.*
			"*Relations between Croatia and Serbia-Montenegro are the key to peace and lasting political stability in this part of Europe*, and after 14 years of war and clashes, *the citizens of our countries deserve that*"
7 May 2005	HINA news agency, Zagreb	Former Foreign Minister, Miomir Zuzul	Miomir Zuzul said *the crucial questions arising now were why the European Union was so important for the process of stabilisation and reconciliation in the region and why the process of EU enlargement had to continue.* "If there is no reconciliation, there is no stability, and if there is no stability, there is no progress," Zuzul said.
18 May 2005	HINA news agency, Zagreb	Prime Minister, Ivo Sanader	The Croatian government strongly condemns and rejects attempts to rehabilitate the Ravna Gora Chetnik Movement, but *will continue to maintain bilateral relations with Serbia-Montenegro because "we believe that there are forces in that country that look at that movement as we do"*, "*If we can help those forces to win, it is worth trying to maintain bilateral relations and continue ensuring the stability of the entire region*"
6 July 2005	BKTV, Belgrade	President Stjepan Mesic	[Reporter] The return of Serb refugees to Croatia is a national and state issue of great importance, the Croatian president said. *If Serbs, citizens of the Republic of Croatia, return to Croatia, that defines Croatia as a safe country and a country which fulfils the conditions for joining the EU*, Mesic said
4 August 2005	HINA news agency, Zagreb	Government statement	The Croatian government reiterates that *it is committed to the development of good neighbourly relations with Serbia-Montenegro as well as to the promotion of the efficient regional cooperation particularly for the purpose of realization of the European perspectives of southeastern Europe.*

Appendix 4. Statements of Serbian Leaders on Bilateral Relations and Cooperation with Hungary

03 June 2003	Tanjug news agency, Belgrade	P.M. Zoran Zivkovic	"*Hungarian and Serbian minorities are the catalysts of the already good relations between the two neighbouring countries* and this fact should be kept in mind in future relations"
21 October 2003	BKTV, Belgrade	P.M. Z. Zivkovic	Medgyessy and Zivkovic stated that the *Serb minority in Hungary and the Hungarian minority in Serbia were factors which improved the relations between Belgrade and Budapest.*
			"I believe that their status is very good, but that there is room for improvement. *An agreement on dual citizenship can be a part of the mechanism for improving the status of both minorities.*"
28 May 2004	Kossuth Radio	Serbian Presidential Candidate, Chairman of the Democratic Party of Serbia, Boris Tadic	He said that *Vojvodina was bridge between the two countries.*
11 July 2004	FoNet, Belgrade	PM Vojislav Kostunica	He said that *Serbia-Montenegro and Hungary had traditionally good-neighbourly relations*, *which contributed to successful cooperation in all areas.*
			It was jointly assessed that *improving the status of the Hungarian minority in Serbia and the Serb minority in Hungary was extremely important, and would contribute to more diversified cooperation in the spirit of good-neighbourly relations.*
			It was also jointly assessed that *every attempt to upset good relations should be prevented through joint efforts, in the spirit of tradition of good relations*, the statement concluded.
14 september	FoNet, Belgrade	PM Vojislav Kostunica	"The agreement on the protection of minority rights is the best way

2004			for solving all conflicts."
			The premier said that *Hungary was Serbia's traditional friend and a valuable ally on the Serbian voyage towards the Euro-Atlantic integration*.
26 September 2004	Radio Belgrade	Democrat Party Leader Boris Tadic	"*The Vojvodina issue is of vital importance to Serbia, but also for regional stability and security*, keeping in mind the attitude towards minorities"
20 October 2004	FoNet, Belgrade	Serbian Speaker Predrag Markovic	Markovic said in Belgrade today that *a new chapter in the relations between Serbia and Hungary had begun*.
			Markovic told a news conference that he would do everything for economic relations and the investment of Hungarian capital into Serbia to improve, adding that the internalization of the Hungarian minority in Vojvodina's problems had slowed down investments.
12 February 2005	Radio B92, Belgrade	Min. For Human and Minority Rights, Rasim Ljajic	Serbia-Montenegro Minister for Human and Minority Rights Rasim Ljajic has said that *the agreement creates a more favourable social and political climate in relations between Budapest and Belgrade*. "*The agreement transcends the importance it has for the minorities as it is of great significance for the promotion of overall bilateral relations between the two countries*. Hungary is one of our most important foreign policy partners," Ljajic said.
			Ljajic added that the agreement's implementation lay ahead, which should significantly improve the position of minorities. "We do not want this to be a list of nice wishes, the minorities must feel the concrete advantage of the signing of such an accord," he said.
12 April 2005	FoNet, Belgrade	President Svetozar Marovic	Marovic and Somogyi assessed *relations between Serbia-Montenegro and Hungary as very good, expressing the readiness for their further improvement*,

			especially in the field of trade.
26 May 2005	FoNet, Belgrade	SAM President Svetozar Marovic	*Hungary will offer every support to Serbia-Montenegro during its journey towards the EU association*, but there are certain preconditions for that, Serbia-Montenegro President Svetozar Marovic and Hungarian Prime Minister Ferenc Gyurcsany agreed today.
			Speaking about the position of the Hungarian minority in Serbia and vice-versa, he said that individual incidents could not and must not endanger the good relations and European future of the two countries.

Appendix 5. Map of Macedonia

Appendix 6. Map of Eastern Croatia

Appendix 7. Map of Serbia and Montenegro