

# ***008: from violent conflict to institutional conflict regulation***

by

*Zoran Ilievski, PhD*

## I. INTRODUCTION

Constitutional treatment of cultural and territorial pluralism in the Republic of Macedonia followed the dynamic of ethnic conflict in this deeply divided society. This case study aims to show how this issue became central in ethnic conflict management—how political battles were fought over the constitutional accommodation of rival ethnic claims and how they were settled. After giving the background to the ethnic conflict in Macedonia, the constitutional engineering of the Ohrid Framework Agreement (OFA) will be explored. Post-OFA developments regarding cultural and territorial pluralism in the Macedonian political system will also be analyzed in light of their theoretical foundations. The concluding analysis aims to define the character of the constitutional and political system of Macedonia and its prospects.

### *A. Background*

Macedonia has often been used as a case study of multiethnic peaceful coexistence, an “oasis of peace” in the heart of the problematic and warring Balkan Peninsula. Until 2001, this image was kept by different conflict management strategies: inclusion of ethnic minority parties in the government, involvement of the international community, as well as cross ethnic corrupt exchange between ethnic elites. However there were also short outbursts of violence. In 2001 the armed conflict from Kosovo and southern Serbia spilt over to Macedonia and grew to be an insurgency supported by parts of the the domestic ethnic Albanian population. The initial statements (in February 2001) and communiqués from the ethnic Albanian National Liberation Army (NLA), which led the insurgency, spoke about “targeting the uniform of the Macedonian

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occupier until the Albanian people are freed”.<sup>1</sup> However, in the next phase (March–May 2001), there were contradictory, confusing messages in official NLA communiqués and commanders’ statements. One said that “we do not want to endanger Macedonia’s stability and integrity, but we will fight a guerrilla war until we have won our basic rights, until we are accepted as equal people in Macedonia”,<sup>2</sup> whereas another simultaneously stated they were fighting for an “independent, separate Albanian state of Western Macedonia”.<sup>3</sup> In the final stage of the conflict (June–August 2001), the NLA’s rhetoric became more cohesive and coherent. It reverted to what one NLA commander formulated earlier, “Albanians to be considered as equal to Macedonians, Albanian to be recognized as an official language, [have] the right of higher education in Albanian language, [see] changes in the Constitution that guarantee equal status and treatment and a new census observed by international institutions to guarantee the legitimacy of the numbers,”<sup>4</sup> Although there were still evident divisions among NLA fighters regarding their goals, the latter position was most prevalent by the final stages of the conflict. As evidenced by the official communiqués and rhetoric of the NLA, these concepts had been intertwining throughout the conflict, although generally they could be distilled as “self-determination” or “territorial” aspirations—as the maximalist concept at the beginning of the conflict and as ethnic power sharing, cultural autonomy, language, and education rights as an achievable settlement at the finale of the conflict. The conflict settlement was achieved by the Ohrid Framework Agreement signed on 13 August 2001.

## II. THE OHRID FRAMEWORK AGREEMENT

The Ohrid Framework Agreement (OFA), the agreement settling the 2001 armed conflict in Macedonia was signed by the main ethnic Macedonian and ethnic Albanian political parties, as well as the representatives of the US government and the European Union. The strategy envisaged with the OFA is clearly stated in the agreement itself, under the first heading, “Basic Principles”. They comprise the following:

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<sup>1</sup> “Albanian guerrilla group surfaces in Macedonia”, *BBC News*, 26 January 2001, at <http://www.balkanpeace.org/hed/archive/jan01/hed2504.shtml>. Accessed in January 2008.

<sup>2</sup> Židas Daskalovski, *Walking on the Edge. Consolidating Multiethnic Macedonia 1989-2004* (Dominant, Skopje, 2005), 121.

<sup>3</sup> “Albanian guerrillas vow to fight for rights: Macedonia's president met with President Bush yesterday to ask for help with peacebuilding”, *The Christian Science Monitor*, May 3 2001, at <http://www.highbeam.com/doc/1G1-73991938.html>.

<sup>4</sup> Juliette Terzieff, “Macedonia: inside a rebel camp”, *Newsweek*, April 27 2001, at <http://listserv.buffalo.edu/cgi-bin/wa?A2=ind0104d&L=makedon&T=0&P=5800>. Accessed in January 2008.

1.1. The use of violence in pursuit of political aims is rejected completely and unconditionally. Only peaceful political solutions can assure a stable and democratic future for Macedonia.

1.2. Macedonia's sovereignty and territorial integrity, and the unitary character of the State are inviolable and must be preserved. There are no territorial solutions to ethnic issues.

1.3. The multi-ethnic character of Macedonia's society must be preserved and reflected in public life.

1.4. A modern democratic state in its natural course of development and maturation must continually ensure that its Constitution fully meets the needs of all its citizens and comports with the highest international standards, which themselves continue to evolve.

1.5. The development of local self-government is essential for encouraging the participation of citizens in democratic life, and for promoting respect for the identity of communities.<sup>5</sup>

Following the definition of the principles of the OFA, the agreement consists of the subsequent chapters:

2. "Cessation of Hostilities" The voluntary disarmament and disbandment of the "ethnic Albanian armed groups" under North Atlantic Treaty Organization (NATO) supervision and assistance;
3. "Development of Decentralized Government" Enhanced competencies in the areas of public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social welfare, and health care; revision of municipal boundaries under international supervision and the election of local heads of police by municipal councils from lists of candidates proposed by the Ministry of Interior;
4. "Non-Discrimination and Equitable Representation" The principle of nondiscrimination and equal treatment of all under the law, measures to assure equitable representation of communities in all central and local public bodies and at all levels of employment, election of one third of the members of the , three members

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<sup>5</sup> Framework Agreement, Basic Principles. 13.08.2001, at [http://faq.macedonia.org/politics/framework\\_agreement.pdf](http://faq.macedonia.org/politics/framework_agreement.pdf).

- of the Judicial Council, and the public attorney by a special parliamentary procedure that came to be known as “Badinter majority” (i.e., the majority of the total number of representatives in parliament, which includes a majority of the total number of representatives claiming to belong to the communities not in the majority in the population of Macedonia);
5. “Special Parliamentary Procedures” These procedures, i.e., the “Badinter majority” are to be used for adopting a number of constitutional amendments, the law on local self-government, as well as laws that directly affect culture, use of language, education, personal documentation, use of symbols, laws on local finances, local elections, the city of Skopje, and boundaries of municipalities;
  6. “Education and Use of Languages” State funding for university level education in languages spoken by at least 20% of the population of Macedonia and the principle of “positive discrimination” in the enrolment at state universities of candidates “belonging to communities not in the majority in the population of Macedonia”. Regarding the use of languages, any language spoken by at least 20 percent of the population is also an official language in Macedonia, which can be used in (1) municipalities in which at least 20% of the population speaks that language, (2) in communication with a main office of the central government, and (3) the regional office of the central government if it is located in “a unit of local self-government in which at least 20 percent of the population speaks an official language other than Macedonian”;
  7. “Expression of Identity” Next to the emblem of the Republic of Macedonia, local authorities will be free to place on the front of local public buildings emblems marking the identity of the community in the majority in the municipality;
  8. “Implementation” Timetables for adoption of the necessary constitutional and legislative amendments which were annexed to the OFA, and an invitation to the international community “to convene at the earliest possible time a meeting of international donors that would address in particular macro-financial assistance; support for the financing of measures to be undertaken for the purpose of implementing this Framework Agreement, including measures to strengthen local self-government; and rehabilitation and reconstruction in areas affected by the fighting”;

9. “Annexes” Constitutional amendments, legislative modifications, implementation and confidence-building measures and final provisions.<sup>6</sup>

A comparative analysis of the starting positions of the ethnic Albanian parties in the Ohrid negotiations, with the provisions that were finally agreed upon, would reveal that agreement was not reached on the following proposals:

- Making Albanian as an official language of the entire country (including municipalities below the 20% threshold)
- Having an ethnic Albanian vice president
- Strong decentralization of the police
- Having the second chamber of parliament comprise representatives of the communities (with various proposals as to its composition.)<sup>7</sup>

The OFA established a new Committee for Inter-Community Relations, composed of seven members each from the ranks of the Macedonians and Albanians within the assembly and five members from among the Turks, Vlachs, Romanies, and two other communities. In the event of a dispute among members of the assembly regarding the application of the voting procedure specified in Article 69(2) (the so called “Badinter” principle for laws that directly affect culture, use of language, education, personal documentation, and use of symbols), the Committee decides by majority vote whether the procedure applies. The ethnic Albanian representatives in the Ohrid negotiations required that this committee should have the competence to decide in any case of dispute whether the Badinter voting mechanism applies or not. This proposal was rejected. Instead, this committee was granted such competence only for the laws that directly affect the areas noted in Article 69. Since the later practice produced conflict over the interpretation whether laws were directly or indirectly affecting Article 69, the Gruevski–Ahmeti negotiations in May 2007 (see below) produced a list of 46 laws that were to be voted with the “Badinter” mechanism, and that list became part of the parliamentary rules of procedure.

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<sup>6</sup> *Ibid.*

<sup>7</sup> Interview with Professor Vlado Popovski, key expert in the drafting of the 1991 constitution and the OFA in 2001. Professor Popovski was present at the Ohrid negotiations as advisor to the President of Macedonia Boris Trajkovski (personal interview, 22 June 2007, Skopje).

When the OFA entered parliamentary procedure in autumn 2001, two issues came to the forefront as unacceptable to the ethnic Macedonian public and politicians. The first was the preamble, which in the initial proposal read:

“The citizens of the Republic of Macedonia, taking over responsibility for the present and future of their fatherland, aware and grateful to their predecessors for their sacrifice and dedication in their endeavors and struggle to create an independent and sovereign state of Macedonia, and responsible to future generations to preserve and develop everything that is valuable from the rich cultural inheritance and coexistence within Macedonia, equal in rights and obligations towards the common good [...] have decided to establish the Republic of Macedonia [...]”<sup>8</sup>

The vast majority of the ethnic Macedonian public, including intellectuals, politicians and media strongly opposed the wording of the proposed preamble because it did not mention the “Macedonian people”, but only the ethnically indifferent term “citizens of the Republic of Macedonia”. The main argument was that ethnic Macedonians would lose their own country, the only country that recognizes them as people (especially having in mind the policies of the neighboring states). The ethnic Albanian parties rejected any renegotiation and were fearful of the possible implications from renegotiating the preamble, especially because the security situation was fragile and especially vulnerable to such symbolic issues. Finally, with the facilitation of NATO Secretary General Lord Robertson and EU High Representative for Common Foreign and Security Policy Javier Solana, a new preamble was negotiated, which was eventually passed by parliament on 16 November 2001. It reads: “Citizens of the Republic of Macedonia, the Macedonian people, as well as the citizens that live within its borders, who are part of the Albanian people, Turkish people, Vlach people, Serb people, Roma people, the Bosniak people, and others [...] have decided to establish the Republic of Macedonia as an independent, sovereign state”.<sup>9</sup>

Similar opposition as to the one witnessed with the draft preamble was voiced by the Macedonian Orthodox Church, especially to the new text of Article 19 of the constitution, which

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<sup>8</sup> Framework Agreement, Annex A. 13.08.2001, at [http://faq.macedonia.org/politics/framework\\_agreement.pdf](http://faq.macedonia.org/politics/framework_agreement.pdf).

<sup>9</sup> *Ibid*, Annex A.

separates state and church and gives religious communities the right to establish schools. The draft proposal for Article 19(3) from the OFA read: “The Macedonian Orthodox Church, the Islamic Religious Community in Macedonia, the Catholic Church, and other Religious communities and groups are separate from the state and equal before the law”. The Macedonian Orthodox Church rejected the fact that it is mentioned on an equal footing with the Islamic Community, the Catholic Church, and other denominations. It argued that “it should be granted special status at least in Macedonia, since it was not recognized by the other Orthodox churches”.<sup>10</sup> Therefore an amendment was made with the words “as well as” between the Macedonian Orthodox Church and the other religious institutions to make it stand out and address the concerns of the church and ethnic Macedonian majority with Orthodox confession.

A comparative analysis would reveal that the constitutional compromise in Macedonia was “different from the Dayton Peace Agreement based on territorial power-sharing, since neither ethnic quotas were introduced for the composition of the highest state bodies, nor were Albanian Macedonians granted territorial autonomy in their settlement areas.”<sup>11</sup>

No analysis of the constitutional development of the Republic of Macedonia and its underlaying political process would be complete without taking into account the activities of the international community. Various actors, especially the European Union, NATO, the United States, United Nations, and the Organization for Security and Co-operation in Europe, were heavily involved in preventive deployment, peacemaking, and facilitation of negotiations between the ethnic Macedonian and ethnic Albanian political elites. Their involvement in the OFA negotiations was crucial, and so was their role in the “post-Ohrid” phases. The European Union’s “carrot” is accession of Macedonia into the European Union. Of course, the carrot is not offered as a whole, but sliced in smaller pieces—commission progress reports, candidate status, date for start of negotiations, each advancement in the accession is joined with advancement of interethnic relations, rule of law, effective administration and reformed judiciary. On the other hand, the United States’ big “carrot” is NATO membership, which basically poses the same political criteria as the EU. Both powers represented the international community in Macedonia, and they played their role with a uniform (previously agreed) position towards the domestic

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<sup>10</sup> Ulf Brunnbauer, “The Implementation of the Ohrid Agreement: Ethnic Macedonian Resentments”, 1 *Center for the Study of Balkan Societies and Cultures (CSBSC), University of Graz, Austria*, 2002, 11.

<sup>11</sup> Josef Marko, “European Integration and its Effects on Minority Protection in the Western Balkan Countries, Final Report” (unpublished; Node Research, Austria, 2007), 10.

actors. The international community's involvement in post-OFA Macedonia came to the front when they de-blocked the adoption of OFA-related legislature. Parallel to that, the international community was financing the major part of the reconstruction activities in the war-torn areas. The international community was present with peacekeeping operations in Macedonia, first under NATO command, later transferred to an EU military mission through the end of 2003. The municipal boundary referendum in 2004 was a major concern for the international community. Therefore, they were implicitly active in the successful campaign against the referendum. Finally, the international community brokered the "Skopje agreement" in May 2007.

Unfortunately, Macedonia's hard work towards achieving all the criteria for NATO membership proved useless at the NATO enlargement summit in Bucharest in April 2008, when the country's bid for membership was vetoed by Greece on the grounds that a mutually acceptable solution for the name of the country has not been reached. With that move, Greece broke Art. 11 of the Interim Accord between the two countries which stipulates that Greece will not block Macedonia's Euro-Atlantic integration if the acronym Former Yugoslav Republic of Macedonia is used.<sup>12</sup> In addition to vetoing Macedonia's membership in NATO, Greece used its veto powers in the EU as well.<sup>13</sup> This has undermined the power of the conditionality principle of both NATO and EU in the country.

Let us now explore these post-OFA developments and their consequences with regards to constitutional dimensions of territory and protection of ethnocultural identity.

### III. POST-OHRID DEVELOPMENTS REGARDING ETHNOCULTURAL AND TERRITORIAL PLURALISM

#### *A. Referendum on Municipal Boundaries*

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<sup>12</sup> Art 11 of the Interim Accord stipulates that Greece will not block Macedonia's Euro-Atlantic integration if the acronym Former Yugoslav Republic of Macedonia is used. See the text of the Interim Accord at: <<http://www.hri.org/docs/fyrom/95-27866.html>>

<sup>13</sup> "Greece Ready to Veto Macedonia for EU As Well", 6 April 2008, <[http://www.novinite.com/view\\_news.php?id=91953](http://www.novinite.com/view_news.php?id=91953)>



According to the decentralization provisions of the OFA, municipal boundaries in Macedonia were revised in the first half of 2004. This reduced the number of municipalities from 120 to 84. The overwhelming majority of ethnic Macedonians, as well as a large number of the most renowned ethnic Macedonian intellectuals and civil society actors, opposed the revised municipal boundaries, labeling them “ethnic gerrymandering”. They accused the governing coalition of pursuing secret talks without public consultation and input or respect for the local referendums which were held against the revised municipal borders.<sup>14</sup> The argument of those opposing the new municipal borders was that these new borders were not based on economic, geographic, or administrative criteria, but instead their sole purpose was to create municipalities in which ethnic Albanians would compose more than 20% of the population, thereby enabling them to exploit the special provisions of the OFA. The World Macedonian Congress, a pan-Macedonian diaspora organization, and the ethnic Macedonian opposition organized the collection of 150,000 signatures to test these municipal border revisions on a nationwide referendum. By 23 August, 2004, 180,454 signatures has been collected; the referendum was scheduled for 7 November. The opposition campaigned with arguments that voting against the new municipalities law was not voting against the OFA or decentralization, nor against Euro-Atlantic integration, but only against the manner in which the new law was negotiated and adopted.

The governing coalition, led by the Social Democratic Union of Macedonia (*Socijal Demokratski Sojuz na Makedonija*, SDSM) and the Democratic Union for Integration (*Demokratska Unija za Integracija*, DUI), called upon the citizens to boycott the referendum, pursuing a campaign under the slogan, “Some questions don’t deserve an answer”. The government’s arguments were that these revisions of the municipal boundaries reflect the spirit of the OFA and that the law must be passed if Macedonia were to proceed in its Euro-Atlantic integration. Although the international community strongly and openly backed the position of the government, polls constantly showed that the referendum would be successful: the majority of voters would vote against the new Law on Territorial Organization.<sup>15</sup> However, on 4 November 2004, just three days before the referendum, the United States surprisingly recognized Macedonia under its constitutional name. The referendum, held on 7 November 2004, failed

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<sup>14</sup> There were 41 such referendums, all resulting in rejection of the new municipal borders.

<sup>15</sup> UNDP, “Early Warning Report FYR Macedonia”, (UNDP, Skopje, 2004), <http://www.undp.org.mk/datacenter/publications/documents/ewr.pdf>, 14 and 47.

because of the low turnout of 26.58%, no matter that 94.01% of that 26.58% voted against the revised municipal borders. Many connected the failure of the referendum with the recognition of the constitutional name of the country by the United States. The United States' recognition was perceived by the voters as support for the position of the government on the law on municipal boundaries and as American counsel of sorts not to push the country into further instability.

However, instability is inherent to political systems that manage deep ethnic divisions, and elections test the endurance and the quality of the system.

### *B. The 2006 Elections and the "May Agreement"*

The winner of the 2006 parliamentary elections in Macedonia was the former opposition party, Internal Macedonian Revolutionary Organization–Democratic Party for Macedonian National Unity (*Vnاتresno Makedonska Revlucionerna Organizacija–Demokratska Partija za Makedonsko Nacionalno Ednistvo*, VMRO-DPMNE). The ethnic Albanian party DUI, in coalition with the ethnic Albanian Party for Democratic Prosperity (*Partija za Demokratski Prosperitet*, PDP), won more votes than did the opposition ethnic Albanian party, the Democratic Party of Albanians (*Demokratska Partija na Albancite*, DPA). DUI and PDP had been in coalition in the previous government with the newly defeated SDSM (an ethnic Macedonian party). Throughout the campaign, VMRO-DPMNE repeatedly stated that their traditional coalition partner was the DPA. Therefore, in the postelectoral negotiations to form a government, VMRO-DPMNE first invited DPA to join the governing coalition, but the victorious party also held discussions with DUI/PDP, in an attempt to include both DPA and DUI/PDP in the new government. In the end, negotiations failed, partly because DUI demanded a larger chunk of government posts than VMRO-DPMNE was willing to give and partly because the DPA was deeply displeased with the prospect of being in the same government with their ethnic Albanian rival, DUI/PDP. The international community exerted subtle pressures for DUI/PDP's inclusion in the new government, because that Albanian party coalition had won the majority support in their community.

VMRO-DPMNE then announced that the governing coalition would include the DPA but not the DUI (VMRO-DPMNE also invited PDP to leave its coalition with the DUI and join the government). Musa Xhaferi, a leading official of the DUI and acting vice president of the

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government of Macedonia, stated that “the entering of the DPA in the government would represent violence towards the election results and the will of the citizens, and that could provoke protest and violence from Albanian citizens, use of force, Kalashnikovs”.<sup>16</sup> After street demonstrations and road blockades in various areas of Macedonia, organized by DUI and PDP, these two parties demanded their inclusion in the government and threatened to either leave parliament or block laws requiring the “Badinter majority” if they were not included. The DUI left the Macedonian Parliament on 26 January 2007 as a demonstration of revolt because laws requiring the Badinter majority were passed without DUI’s votes. This was possible with the votes of the DPA and votes from representatives of non-Albanian minority communities in Macedonia. DUI demanded negotiations on a range of interethnic issues with the government as a precondition for their return to parliament. These included a list of laws that will be considered under “Badinter majority” terms and demands for a law granting the same rights to the former ethnic Albanian insurgents as those granted to the state security forces that clashed with them in 2001. PDP left the coalition with DUI and has negotiated to enter the government, although two of the three PDP members of parliament presently continue to boycott this decision.

After strong pressure from the international community, the governing coalition was trying to start the negotiations with DUI without success. The first condition posed by DUI for starting negotiations was that international representatives should be present at the negotiating table. The governing coalition first declined that requirement on the basis that it promotes Macedonia into a soft protectorate. However, it later accepted the presence of international representatives at these meetings, faced with the urgency of DUI’s return to parliament as a strong precondition for the country’s expected invitation for accession to NATO. The strong pressure and conditionality terms from the international community, stressing the role of “political dialogue”, meaning interethnic dialogue, as a condition for joining these organizations, provoked fierce debates. The opponents of this concept stated that dialogue about such strategic issues for the country should not be “political” (understood in ethno-political terms, as between ethnic groups) but “institutional” (inside the institutions, through the established procedures). Nevertheless, DPA gave the mandate for the negotiations to the prime minister and his party. In

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<sup>16</sup> “Ali Ahmeti’s party resolved to enter the government at any price, DUI threatens with Kalashnikovs”, *Dnevnik*, 19 July 2006 [in Macedonian, translated by Zoran Ilievski], at <http://www.dnevnik.com.mk/?ItemID=3A9D3869F640C145AE753827A4CD5D0D>.

that way the negotiations were going on between two sides—the largest governing ethnic Macedonian party, VMRO-DPMNE, and the largest ethnic Albanian party in opposition, DUI.

The results of these negotiations were first declared by DUI's leader Ali Ahmeti on 25 May in a interview with BBC during which he stated that he and the prime minister reached an agreement on a number of issues, “including the legislation referring to securing benefits to the members of the ex-paramilitary NLA and use of the Albanian language on the entire territory of Macedonia”.<sup>17</sup> He also gave a provoking statement that “if VMRO DPMNE fails to uphold the inter-party agreement, he 'won't go home' after the next dropping out from the Parliament”.<sup>18</sup> Having in mind that he was the leader of NLA, which fought in armed battle with the state security forces in 2001, the alusion of not going home after the next dropping out of parliament sparked worrying memories of 2001.

What followed was a chaos of statements and contradicting interpretations of what the opposition now calls a new “Skopje Agreement”, which ammends the OFA from 2001. After the statement of Ali Ahmeti for BBC, a document from the negotiations, written in English, was leaked to the media, although both sides in the negotiations had agreed not to publish it. This gave way to a hot ethnopolitical debate—VMRO-DPMNE stated that it did not sign any agreement with DUI and that the document contains only minutes from the discussions held during the negotiations. DUI stated that the document is a *de facto* agreement and although it had not been signed it bound both parties. They argued that the negotiations were held in the presence of EU and US representatives and that the international community is the “guarantor” of the agreement. At this point it was clear that the document, although not signed, was a political agreement (see text below). The statements issued by Javier Solana and the EU and US representatives in Macedonia clearly welcomed the “reached agreement”.<sup>19</sup>

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<sup>17</sup> Makfax online, “Ahmeti will decide about DUI's returning to Parliament”, 28 June 2007, at <http://www.makfax.com.mk/look/novina/article.tpl?IdLanguage=1&IdPublication=2&NrArticle=69246&NrIssue=357&NrSection=10>.

<sup>18</sup> *Ibid.*

<sup>19</sup> Spokesperson of the secretary general, high representative for CFSP, “Javier SOLANA, EU High Representative for the CFSP, welcomes the agreement in the former Yugoslav Republic of Macedonia between Prime Minister GRUEVSKI and the leader of the DUI party, Ali AHMETI”, Brussels, 29 May 2007, S163/07, at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/declarations/94365.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/declarations/94365.pdf); “The US Embassy and the EU Mission in Skopje Greet Political Dialogue Agreement”, 29 May 2007, at <http://skopje.usembassy.gov/pr052907b.html>.

A much more worrisome problem was that both sides did not agree on the number of issues that they have agreed upon. The document, as it was presented in the media, contained five points<sup>20</sup>:

1. The parties agree to a list of 46 laws subject to vote according to the Badinter principle that will be included in the new Book of Procedures of the parliament;
2. The parties agree to a replacement of a member of the parliamentary Committee for Inter-Community Relations from VMRO-DPMNE with one from SDSM, and to draft a new Law for the Committee for Inter-Community Relations in the Assembly of the Republic of Macedonia;
3. The parties agree to address the issues of providing material and social support to the victims of the 2001 conflict and their families within current laws and procedures. The parties agree to the continuation of the working group on this issue;
4. The parties agree to draft and submit for adoption to parliament a law on the use of languages that is in full compliance with the Framework Agreement and with Amendment 5 of the Constitution. The parties agree to the continuation of the working group on this issue;
5. Upon DUI's return to parliament, the parties agree to the continuation of discussions on the issue of the method of government formation.

The document further stated that “the above 5 points are agreed to on 29 May between the two parties VMRO-DPMNE and DUI in the presence of representatives from the EU Mission and the US Embassy in Skopje”. However, the prime minister and VMRO-DPMNE repeatedly stated that there was no agreement reached on five points, but only on two: the first and the second. DUI insisted that they have reached agreement on all five points in the document that was leaked from the negotiations. As a result, they have returned to parliament.

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<sup>20</sup> The content of the document is presented as reported by Dnevnik on 31 May 2007 at <http://www.dnevnik.com.mk/?itemID=C13A64D422158841A5A52709A2C06E08&arc=1>.

To further complicate matters, DPA was outraged that VMRO-DPMNE reached such an agreement with their ethnic Albanian political rivals instead of them and announced that it would leave the governing coalition. After serious pressure from the international community and persuasion from the prime minister that no agreement was signed, the vice president of DPA stated on 7 July 2007 that DPA would stay in the governing coalition and that the document was actually “minutes from the negotiations and a list of issues that the previous government failed to accomplish”. The pressure from the international community to keep the governing coalition in place was motivated by the need to avoid political instability in the country in the face of the pending final status of Kosovo and Macedonia’s bid for NATO.

It can be argued that the riskiest element of the “Skopje agreement” for the future of the country as a unitary state with an integrative political system is the fifth point, since it is interpreted in the light of establishing the “Badinter” principle for the election of the government.<sup>21</sup> Such a solution would be the cradle of federalism, first on a non-territorial basis but with a strong chance to evolve into a territorial form. The process would be fostered by the fact that municipalities with ethnic Albanian majority have already been delineated with the 2004 Law on Municipal Boundaries.

#### IV. ANALYSIS AND CONCLUSION

Let us apply the categories of territory and ethno cultural identity to the reality of the Macedonian political system. When it comes to territory or territorial autonomy as a possible solution to ethnic conflicts, it is clear that the drafters of the OFA had the intention of excluding such solutions. The second basic principle of the OFA states that “there are no territorial solutions to ethnic issues”. That is why the key Macedonian experts who drafted the OFA stood publicly against the law on municipal boundaries that was adopted in 2004, labeling it as “ethnic gerrymandering”. They opposed such a solution out of the fear that would be the basis for future claims of territorial institutionalization of mono-ethnic regions.

When it comes to the question of the kind of protection of ethno cultural diversity which is enshrined in the Macedonian Constitution and political system, we should try to locate the

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<sup>21</sup> The first proposals for adoption of the Badinter principle as a method for election of the government came from DUI but were recently supported by the Dutch MEP Eric Meyer as an amendment on the Report of the External Affairs Committee of the European Parliament on Macedonia. This amendment was not adopted.

model in comparison to the “ideal-type” classifications of “civic” state with guaranteed individual rights and antidiscrimination clauses, and the “ethno cultural” state with group rights and ethnic quotas. I would argue that the political system constructed with the OFA is leaning toward the latter category. However, Macedonia is not yet a “consociational democracy”, although it uses some power-sharing mechanisms, both on the formal-legal level and, more importantly, on the political level.

An examination of the terminology used in the present constitution of Macedonia shows the results of complex negotiations that have produced a hybrid model. In the preamble, we have citizens of the republic, which are “made of” the “Macedonian people” and the “citizens that live within its borders, who are part of the Albanian people, Turkish people, Vlach people, Serb people, Roma people, the Bosniak people, and others”. This complex formulation was incorporated to avoid usage of the terms “national minorities” or “nationalities”.<sup>22</sup> Then, in the ensuing normative part of the constitution, all ethnic groups are called “communities”.

At the formal-legal level, important “civic state” elements do exist. There is no strict “ethnic veto system” in place, but rather the double majority or “Badinter” principle described above. The “Badinter” principle does not apply to one of the most important elements of the political system—the election of the government and the president of the republic. However, although there are no legal provisions that require the obligatory inclusion of ethnic minorities in the government or in the process of election of the president of the republic, the political culture of the country, from its initial independence, has developed such that there have always been governing coalition members from the ranks of the ethnic minorities. Furthermore, presidents of the Republic have always searched for support from the ethnic Albanian campus, because the votes of this ethnic community are crucial for their election.

The “battle” between the civic principle and the ethnic principle is raging in Macedonian real-world politics. To add to the mosaic, the tension between the territorial and nonterritorial basis for the right of expression of ethnocultural identity through symbols, if looked at only from a legal perspective, seems to be resolved by the October 2007 decision of the constitutional

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<sup>22</sup> In the constitutional tradition of former Yugoslavia, this term was used precisely for citizens that live within the borders of the country, but have another kin state, whereas the term “ethnic groups” was used for the ones without a kin state.

court. However, the situation on the ground is unchanged and does not reflect the ruling of the constitutional court.

Therefore, the “Macedonian model” as a solution that was found to stop the violence in 2001 is a hybrid model with a yet unclear outcome. Precisely this point, the undefined final outcome of the Macedonian model, which leaves space for flexibility, was its stabilizing factor after the violence in 2001. However, now when major violence is 14 years behind, using this flexibility, the system can be steered both toward territorial or nonterritorial arrangements to accommodate ethnocultural plurality.

Let us conclude by addressing the future role that should be played by another key actor that was shaping the development of the Macedonian constitutional and political system: the international community. Having invested so much of its political weight and influence in aiding the country to peacefully manage and accommodate ethnic conflict, Macedonia’s path to the European Union and NATO is now blocked by a single member state- Greece which does not allow the country to enter these organizations neither by its constitutional name- Republic of Macedonia, neither under the provisional name- the Former Yugoslav Republic of Macedonia. In what is a precedent in international law and international politics, one EU and NATO member state is endangering the development and destabilizing the region in order to impose a name on another sovereign state, recognized under its constitutional name by over 130 countries. Therefore, inspite of this situation, the European Union and NATO should stay fully committed to the goal of admitting Macedonia in their ranks as a full member state. This will finalize the positive example of a multi-ethnic society with an accomadative political system in the center of the Balkans, which managed to avoid bloodshed and succeeded to join the Euro-Atlantic family.