Power Sharing and the Implementation of the Ohrid Framework Agreement

Skopje, 2008

Content:

Introduction

In recent years there has been a dispute in Macedonia about the „spirit of the Ohrid Framework Agreement" (OFA). This was first and foremost related to the question of the use of the so called "Badinter rule" in forming a governing coalition (inclusion of the biggest ethnic Albanian party) and turned on to be discussed in other matters. While one side was referring to such "spirit" in claims of a breach of the OFA by the ruling government, the other neglected either completely something like a "spirit" which could serve as a source for interpretation of the OFA or referred to the fact that no legally binding regulations would explicitly force the ruling party to act in one or another way.

In a juridical terminology it would have been more appropriate to use the term "sense and purpose" of the regulations of the OFA and to give answers to current questions and challenges in light of those terms. But this is only a question of terminology. "Spirit" in fact means exactly that – sense and purpose. What has been the "sense and purpose" of the Ohrid Framework Agreement when it was negotiated and signed in 2001?

Certainly, the immediate establishment of peace - but also a lot more. It has not been a cease-fire agreement, but an agreement which put the Macedonian Constitution on new grounds. From a political model oriented along the classical idea of Westminster democracy, the modified Constitution turned the structural setting into a consociational democracy with particular rules for keeping smaller ethnic communities protected from majorization in specific political fields. Whether this Macedonian model of a Power-Sharing agreement is an example of strong or weak institutionalization of consociational democracy - will be discussed in more detail in this publication.

The idea of this Power-Sharing agreement was to guarantee to all ethnic communities in Macedonia the political, societal and cultural participation and self-expression within the Macedonian state. Guaranteed rights should not just be nominal, but citizens belonging to smaller ethnic communities should have a realistic opportunity to

exercise them. Thus the Ohrid Framework Agreement aimed at full integration of those ethnic groups whose level of participation until then was somehow depending on the will of the biggest ethnic community.

This publication will try to answer the question to what extent the purpose of the OFA has been achieved with its implementation and in which aspects it might have failed or unintended side effects might have emerged. Therefore, the single contributions to this publication do not just try to answer the question whether the respective regulations prescribed by the OFA have been adopted and implemented. Going beyond this technical understanding of the implementation we would also like to answer the question whether the "sense and purpose" of the OFA as an instrument of integration of minorities in Macedonia has been materialized or whether it has at least had a visible impact on the development of an integrated (multicultural) society. Furthermore, the authors give recommendations for the creation of an even more integrated society. Finally, it has to be mentioned that the integration of all ethnic groups of the society is an ongoing challenge not only for Macedonia, but everywhere else. A challenge that can and should be responded to on various levels – the central state, the municipalities, the civil society and, last but not least, by the behavior and attitude of individuals.

The editors of this publication hope to give impetus to an ongoing debate within and outside Macedonia about the success, but also about possible pitfalls of this specific Power-Sharing agreement that was created in 2001. The editors are especially grateful to Florian Bieber (Ph.D.) from the University of Kent who was willing to accept the role of a scientific coordinator for the publication.

Stefan Dehnert   Rizvan Sulejmani (Ph.D.)

Friedrich-Ebert-Stiftung   *Institute for Political and Intercultural Studies*

Florian Bieber

POWER-SHARING AND THE IMPLEMENTATION OF THE OHRID FRAMEWORK AGREEMENT

Ever since becoming an independent country in 1991/2, commentators domestically and internationally have often warned of an imminent crisis or conflict in Macedonia. Nevertheless, Macedonia has managed to not only achieve independence peacefully, but has also avoided much of the blood-shed of the major part of former Yugoslavia. While the conflict in 2001 arguably undermined the myth of Macedonia as an "island of stability", the quick resolution of the conflict without a large number of victims stands in sharp contrast to the wars elsewhere in the region. The Ohrid Framework Agreement, the subject of this book, provided for a guide out of the conflict, which has proved relatively successful. Many of the other peace plans for other parts of former Yugoslavia had a considerably more difficult starting position. It is considerably easier to make peace after 8 months of skirmishes with around 200 victims[1] than after 3 ½ years of war and over 100,000 dead. A second key difference which has made peace more enduring in Macedonia has been the fact that the conflict, at the core, was not about competing state projects, but rather about competing ideas on the nature of the state. While the National Liberation Army (NLA) issued some statements in the early phases of the conflict suggesting a secessionist agenda, the goals were quickly toned down and genuinely appeared to focus on the rights of Albanians in Macedonia rather than redrawing borders.[2] In Croatia, Kosovo and Bosnia and Herzegovina, the state as such was under dispute, making a settlement without re-drawing borders considerably more difficult. A third particular feature of Macedonia has been the tradition of inter-ethnic accommodation since the early 1990s. Macedonian political

---

1 Iso Rusi, "What Do the Casualties of War Amount to?" AIM, 25.12.2001.

2 Alex Belamy, "The New Wolves at the Door: Conflict in Macedonia," Civil Wars, Vol. 5, No. 1 (Spring 2002), pp. 132-133.

framework during the 1990s was contradictory. The Constitution and understanding of many majority parties assert the 'ownership' of the majority over the state. Based on the logic of nations and republics during Communist Yugoslavia and the perceived threat by neighbors over identity and name, reinforced a proprietary approach towards the state.[3] At the same time, a tradition of broad coalitions emerged since 1992 which consistently included Albanian parties in the Government. This contradiction was unable to accommodate the inter-ethnic tensions during the conflict in 2001 and highlighted that stability required more significant inclusion of Albanians than just at the level of government, whereas Albanians had remained under-represented in the public administration and lacked adequate protection of group rights.

This chapter[4] argues that there are three key controversies over the Ohrid Framework Agreement:

First, what kind of power-sharing system the OFA establishes remains controversial. As will be subsequently argued, the Agreement does not fall squarely within one category of institutional design for multi-ethnic states, allowing for different and contradictory interpretation of its institutional set-up and its 'spirit'. I will argue in this chapter that the current Macedonian system is a weak form of consociational power-sharing.

Second, some scholars have argued that the Ohrid Framework Agreement is not an adequate response to the conflict in 2001 and that it increases tensions, rather than lessening them. Closely related, some have argued that less the OFA itself, but its implementation has worsened inter-ethnic relations. Such arguments are often more prevalent among the majority, as the perception of ethnification is generally more pronounced among majorities which, prior to a power-

---

3 See Graham Holliday, "From Ethnic Privileging to Power-Sharing: Ethnic Dominance and Democracy in Macedonia" Sammy Smooha, Priit Järve (eds.), The Fate of Ethnic Democracy in Post-Communist Europe (Budapest: LGI-ECMI, 2005), pp. 139-166.
4 This chapter draws on my chapter "Partial Implementation, Partial Success: The Case of Macedonia," David Rusell & Ian O'Flynn (eds), Power Sharing: New Challenges for Divided Societies (London: Pluto, 2005), pp. 107-122.

sharing settlement, were less confronted with ethnicity (vetoes, power-sharing, quotas, etc.).[5]

Third, whether the OFA transformed Macedonia into a bi-national state, where political conflict is reduced to a Macedonia-Albanian conflict to the detriment of other issues and other groups, remains under discussion.[6]

This chapter, and indeed many of the other chapters in this book, cast a cautiously optimistic light on the OFA. The agreement has effectively transformed Macedonia from an uneasy nation-state with some elements of accomodation to a power-sharing system which has opened the state to the Albanian community (to a lesser degree also other minorities). The consociational approach taken in Macedonia has been considerably more promising than in other countries in the region, such as in Bosnia and Herzegovina. Nevertheless, a number of problems also need to be considered. Much of the group-based inclusion has empowered parties (both of the minority and the majority) and many citizens have not benefited from additional elements of inclusion in place since 2001. The Agreement has not aliviated all the fears of the majorty (of federalization and in extension disintegration) and grievances of the minority (of continued discrimination).

This chapter will thus outline the nature and structure of the OFA and its implementation in Macedonia and highlight the controversies and problems which the Agreement has given rise to. As such, it attempts to make a level-headed assessment of the power-sharing in place. However, before discussing the specific institutional arrangement in Macedonia, it is necessary to first define power-sharing as such.

---

5 See Biljana Vankovska, "Multi-ethnicity or Bi-nationalism? The Framework Agreement and the Future of the Macedonian State "Current Perspectives on Macedonia," Heinrich-Böll-Stiftung. http://www.boell.de/alt/en/05_world/1733.html, Antonina Zhelyazkova, "Macedonia in April 2003. Diagnosis: 'Cancer with Galloping Metastases,'" Goran Bašić (ed.), Democracy and Multiculturalism in South East Europe (Belgrade: Centar za istraživanje etniciteta), pp. 377-392.
6 Jenny Engström, "Multiethnicity or Binationalism? The Framework Agreement and the Future of the Macedonian State," European Yearbook of Minority Issues 2001/2, Vol. 1 (The Hague/London/New York: Kluwer Law International, 2003), pp. 335-348.

What is Power-Sharing?

Power-sharing in deeply divided societies can encompass a range of different measures to accommodate ethnic (or other) diversity. It would be flawed to conceptualize power-sharing as a rigid catalogue of institutions and legal protections that have to be accommodated to qualify as power-sharing. Already the variety of tools put forth by scholars of power-sharing point to the absence of an agreed set of instruments.[7] Moreover, in divided societies around the world there is a wide variety of institutions. Thus, in order to avoid making the term "power-sharing" meaningless, it is important to limit its meaning, rather than attempting to encompass all types of regimes for the protection of particular groups in a given state.

The concept of power-sharing contains two specific components: "power" and "sharing." Any system that seeks to share resources between different groups in a society will have power at its core. Power-sharing requires that the authority of the state be administered jointly, and not by only one narrow constituency. When either devising a power-sharing system or examining an existing case, it is important to make sure that the institution (usually, we are talking about specific institutions which are the expression of power-sharing) actually has power. Without power, there can be no power-sharing. The second component implies that this power is shared. It is not divided, which would mean that different groups divide tasks and do not consult and co-operate when taking decisions. It also does not mean that one group holds power and asks others for advice, but can disregard the advice if it wishes. Sharing requires the consent of a broad representation of groups in a given system.

When determining a narrow definition of power-sharing, we can draw on Arend Lijphart's definition of a consociational

---

7 See Timothy D. Sisk, Power Sharing and International Mediation in Ethnic Conflicts (Washington: USIP, 1996), pp. 34-45

arrangement, which is more limited than power-sharing in general.[8] Lijphart identifies the following five main criteria of a consociational arrangement: (1) grand coalition, i.e. the inclusion of all major groups in the Government; (2) proportional representation of all relevant groups in the Parliament and public administration; (3) inclusion of the major groups in the Government; (4) veto rights; and (5) a high degree of autonomy. [9] In order to distinguish between consociation (power-sharing plus) and power-sharing minus, these points have to be interpreted more broadly than in the original definitions offered by Lijphart. Autonomy, for example, can be understood more broadly as decentralization - tool of power sharing - without implying that this decentralization necessarily would have to be "ethnic" decentralization alone. Similarly, grand coalitions have to be broad and inclusive, but not necessarily built on the basis of ethnic parties. Additionally, non-dominant groups do not necessarily need to have an absolute veto right to fulfill the criteria of a power-sharing arrangement. In fact, as I will argue later, an unconditional veto right may be an obstacle to effective power-sharing. Furthermore, proportional representation in the Parliament and public administration should be distinguished, as they require different tools and have different functions in a society. Proportional representation in the Parliament - not always necessary if strong veto rights are given to the groups - ensures representation and participation in decision-making. Representation in the administration has strong implications for the sense of "ownership" that previously under-represented groups might have in the state.

The above criteria could be categorized by two aspects: First, they define the features of the layers of governance in a given political system. Second, they are defined by elements of (a) inclusion and (b) cooperation. In some elements of an institutional arrangement, inclusion and representation are more important, while cooperation carries more weight elsewhere. Arguably, both need to be present at all levels. However, as Table 1 shows, they can be given different weight in the institutional system.

---

8 On the relationship between power-sharing and consociationalism, see Matthijs Bogaards, "The Uneasy Relationship Between Empirical and Normative Types of Consociational Theory," Journal of Theoretical Politics, Vol. 12, No. 4 (2000), pp. 395-423.

9 Arend Lijphart, Democracy in Plural Societies: A Comparative Exploration (New Haven-London: Yale University Press, 1977), p. 25.

Table 1
Power-sharing between inclusion and cooperation

	Inclusion	Cooperation
Parliamentary Representation	✓	
Broad Government		✓
Veto or Co-Decision Power		✓
Proportional Representation in Public Administration	✓	
Decentralization/Autonomy	✓	

A second approach to power-sharing has been articulated primarily by Donald Horowtiz, who has argued for a more incentive-based or centripetal system. While the consociational approach rests on the premise that each group in a divided society should be represented by their respective elite, usually articulated by one or several parties, Horowitz advocated a political system which would encourage the cooperation across the ethnic divided and incentives for cooperation. As such, the system focuses less on representation and to a greater extent on inducing cooperation or even the emergence of a new, more inclusive elite. This incentive-based system of power-sharing can be characterized by 5 features: a) *Dispersion of Power* where *p*ower should not be concentrated either in one office or one location. Such dispersion prevents major conflict; b) *Devolution of Power* and power-sharing is aimed at increasing interethnic co-operation at local level and reduce the symbolic significance which some decisions might acquire if decided by higher levels of governance; c) *Fostering Cooperation through* legal mechanisms such as election laws requiring inter-ethnic coalitions; d) *Promoting Cross-cutting Cleavages* can cut across ethnic lines and help mitigate the pervasiveness of ethnic identity in deeply divided societies; and e)

reducing disparities focuses in preventing ethnic differences being reinforced by other inequalities.[10]

Both systems are descriptive and prescriptive: The scholars associated with both approaches to power-sharing, however, have taken a normative approach, promoting the respective systems. This does not mean that all consociational systems around the world would be supported or defended by scholars of the respective school. In fact, institutional realities often disregard some of the warnings scholarship has given over the decades. The difference between the approaches to power-sharing proposed by Donald Horowitz and Arend Lijphart and developed by a number of other scholars (i.e. John McGarry, Brendan O'Leary and Ben Reilly) could be seen as being ideal types as part of a continuum. Consociational power-sharing assumes that representation of relevant groups by the groups' respective elites and significant autonomy is the key to a successful inter-ethnic accommodation. Centripetal power-sharing emphasizes the need to create an institutional dynamic which prevents the ethnification of the political system and results in a more integrated elite. Both approaches contain a number of risks. Consociational power-sharing runs the risk of reinforcing ethnic divisions and transforming ethnic belonging into the main or at least the dominant identifier. As a result, it might worsen inter-ethnic relations it seeks to regulate. Defenders of the system emphasize that consociationalism is appropriate for deeply divided societies where ethnic identity already matters. Centripetal power-sharing on the hand runs the risk of minority groups being co-opted rather than fully integrated. Without the same degree of representation and inclusion as with consociational arrangements, minorities might feel marginalized.[11]

As this chapter will discuss subsequently, the system set up in Ohrid in 2001, has transformed Macedonia into a minimalist consociational system. While it does not fulfill all aspects associated

---

10 Donald Horowitz, Ethnic Groups in Conflict (Berkeley: University of California Press, 1985), pp. 653-680.
11 Brendan O'Leary, "Debating Consociational Politics. Normative and Explanatory Arguments," Sid Noel (ed.), From Power Sharing to Democracy. Post-conflict Institutions in Ethnically Divided Societies (Montreal and Kingston: McGill University Press, 2005), pp.3-43.

with consociationalism, it displays more features of this, rather than of a centripetal system.

Nation State Formation and Accommodation in an Independent Macedonia

The dividing lines of identity are often recent and remain in flux. At the same time, Macedonia is a deeply divided society between the Macedonian majority and the Albanian minority. Divided by language, religion and a strong sense of national identity, communication between both communities has been limited in the past decades. The tension between Albanian minority and Macedonian majority has thus been a defining feature of the Macedonian state at its birth.

Following the Referendum on Independence in late 1991 and the passing of the new Constitution, Macedonia found itself as formally a nation-state—weakened by both its regional environment and the lack of support by the Albanian community for the new state. The 1990s have been marked by two contradictory developments: the political inclusion of the Albanian minority and the persistence (or even widening) of the divide between the two largest communities. As will be outlined below, the inclusion of Albanian political parties in the Parliament and Government has been both a result of the particular balance of power among the majority-based parties and a deliberate policy of inclusion. At the same time, the period between 1991 and 2001 did not result in the substantial inclusion of the Albanian population in the public administration and the state largely acted as a nation-state of the majority. In fact, despite the inclusion of Albanians in the Government, the system of government could not be considered to be a form of power-sharing, but rather an attempt at co-opting the Albanian elite.

Few nation-states exclude explicitly minorities from their political life or curtail their rights. At the same time, most nation-states both establish a symbolic hierarchy or ownership and privilege the majority in a number of spheres. In this sense, Macedonia during the

1990s was by no means an exception to the paradigm of the nation-state. The assertion of Macedonian national symbols on the state constituted a key response to the multiple challenges arising by neighboring states on the state and the distinctiveness of the Macedonian nation. The primary focus of contestation was in the international relations of the country, concentrating on issues over the name (with Greece), over the distinctiveness of the Macedonian nation and language (with Bulgaria) and the Macedonian Orthodox Church (with Serbia). In regard to the use of symbols, the Albanian and most other minorities had not challenged the choice of the symbols of the state.[12] At the same time, the new Macedonian Constitution established a dominance of the Macedonian nation not only in the Preamble, where the country was described as the state of the Macedonian nation, but also in designating Macedonian as the state language and singling out the Macedonian Orthodox Church. As Jenny Engström notes, however, "[o]n the whole…the constitution embraced a liberal, civic concept of citizenship, providing for equal rights for all citizens of Macedonia regardless of ethnic and/or religious affinity."[13] The claim to incorporate only the Macedonian nation in the state was certainly less developed than had been the case in most of the constitutions of the former Yugoslav republics, a phenomenon aptly termed 'constitutional nationalism' by Robert Hayden.[14] As a result, the state was formally a hybrid between a nation-state—both in some of its form and in regard to the public administration, the use of languages and other domains—and a civic state which was governed by a cross-national government since independence. Since independence, Macedonia has been governed by an informal grand coalition arrangement. The dominant Albanian party has participated in the Government since early after the first free elections in 1990 and Albanian parties have been represented in the Parliament throughout the period. While the Albanian community did not possess any formal institutions of self-government, emerging informal institutions, including the University of Tetovo — until 2004 unrecognized—allowed for a degree of autonomy. Thus, this form of inclusion could not be considered as power-sharing as it

---

12 Engström, op. cit., pp. 335-48; Keith S. Brown, "Seeing Stars: Character and Identity in the Landscape of Modern Macedonia," Antiquity, Vol. 68, 1994, pp. 784-796.
13 Engström, op. cit., p. 338.
14 Robert Hayden, Blueprints for a House Divided. The Constitutional Logic of the Yugoslav Conflicts (Ann Arbor: University of Michigan Press, 1999), pp. 71-72.

was neither secure, nor did it translate into either the substantial improvement of the economic situation of Albanians (or Macedonians), nor did the state abandon its inherent nation-state bias for the Macedonian majority.

	1991		1994		2002	
	In no.	In %	In no.	In %	In no.	In %
Macedonians	1,328,187	66.3	1,288,300	66.5	1,297,981	64.2
Albanians	441,987	21.7	442,914	21.7	509,083	25.2
Turks	77,080	3.8	77,252	4.0	77,959	3.9
Roma	52,103	2.6	43,727	2.3	53,879	2.6
Vlachs	7,764	0.4	8,467	0.4	9,695	0.5
Serbs	42,775	2.1	39,260	2.0	35,939	1.8
Muslims	31,356	1.5	15,315	0.8	n/a	n/a
Egyptians	3,307	0.2	3,169	0.2	n/a	n/a
Yugoslavs	15,703	0.8	595	0	n/a	n/a
Bosniaks	n/a	n/a	7,244	0.4	17,018	0.8
Others	33,702	1.6	10,599	0.4	20,993	1

Census results, 1991, 1994, and 2002 (State Statistical Office 2002, Friedman 1996, p. 90).[15]

---

15 In 2002, Muslims, Yugoslavs and Egyptians were not listed as discreet categories, based on the explanation that they are not specifically recognized in the constitution. Problem with Macedonian-Muslims on Census is Technical Issue, MILS News, "Problem with Macedonian-Muslims on Census is Technical Issue," 13.11.2002. State Statistical Office, Census of Population, Household and Dwellings in the Republic of Macedonia no. 2.1.3.30, Final Data, 1 December 2002; Victor Friedman, "Observing the Observers. Language, Ethnicity, and Power in the 1994 Macedonian Census and Beyond," B. R. Rubin (ed.), Towards Comprehensive Peace in Southeast Europe. Conflict Prevention in the Southern Balkans. Report of the South Balkans Working Group of the Council on Foreign Relations, Centre for Preventive Action (New York: The 20th Century Fund Press, 1996), pp. 81-105.

Transition towards Power-Sharing

The Ohrid Framework Agreement transformed Macedonia from a self-defined nation state with an informal grand coalition arrangement into a state straddling between nation state, civic state and bi-national state with a formal power-sharing structure. Signed on 13 August 2001 in Ohrid by the main Albanian and Macedonian parties under the auspices of international mediators from the EU and the USA, the Framework Agreement sets out an ambitious process of legislative reform combined with security measures to end the uprising of the NLA and return the conflict areas to government control. The Agreement outlines a series of constitutional amendments which were passed in late 2001 and early 2002 by the Macedonian Parliament, that grants languages spoken by more than 20 percent of the population (i.e. Albanian) official status, introduces a system of double majorities (both of the Parliament and of the majority and minorities together) for key areas of legislation, establishes equitable representation in the public administration at national and local level, institutes decentralization and local government reform and clears the way for a multi-ethnic police. The agreement also foresaw the organization of a new census (after the last Yugoslav census in 1991 and an international overseen census in 1994) under international supervision to end disputes over the share of the Albanian population and to facilitate the introduction of equitable representation. The Ohrid Agreement outlined some degree of detail for the constitutional amendments and legislative reforms, but granted some flexibility in the details. This ensured an institutional process in the reform but, at the same time, resulted in substantial delays in the implementation of the reforms outlined in the Agreement. In particular, the controversial re-drawing of municipal boundaries was only resolved in late 2004 and challenged in a failed Referendum. Other aspects were also delayed for several months, such as the holding of new elections, which took place in September, instead of January 2002 or the census planned for late 2001 and held only in November 2002. The constitutional amendments were only passed after significant delays and intense international pressure on the parties. The Framework Agreement has largely stayed clear of the same degree of institutionalization of ethnicity as some other peace

agreements in former Yugoslavia, most notably the Dayton Peace.[16] Unlike the agreement for Bosnia, the reforms in Macedonia did not introduce strict quotas for representation of communities in the Government or Parliament, nor did it establish a substantial degree of territorial self-government with little joint governance. Arguably, these distinctions are borne out of a learning process connected with the pitfalls of the Dayton Peace Accords. Furthermore, the absence of a protracted conflict and the small number of victims during the conflict in 2001 permitted greater room for non-institutionalized cooperative politics than elsewhere.

The reforms formally sought to enhance the civic nature of the state and shied away from explicitly referring to specific ethnic groups. At the same time, it institutes key elements of power-sharing and elevates Albanians as a community with comparable rights to the Macedonia majority, while providing for less protection for smaller community. As an agreement specifically concluded between Macedonian and Albanian parties against the backdrop of the insurgency of the NLA and the army and police response in the spring and summer 2001, the Agreement gave greater weight to enhancing the participation of the Albanian community. The Ohrid Agreement can thus be seen to address the legitimate grievance of the Albanian population while at the same time facilitating the transformation of Macedonia into a bi-national state.[17]

Electoral Dynamics

Unlike most other countries of former Yugoslavia, Macedonia has not adopted group-specific rules to ensure the inclusion of minorities in the Parliament. While reserved seats were briefly under discussion in 2006/7, they remained not institutionalized. On one hand,

---

16 Florian Bieber, "Power Sharing as Ethnic Representation in Post-Conflict Societies: The Cases of Bosnia, Macedonia and Kosovo," A. Mungiu-Pippidi and I. Krastev (eds), Nationalism after Communism. Lessons Learned (Budapest: CEU Press 2004), pp. 229-46.
17 Engström, op. cit.; Židas Daskalovski, "Language and Identity: The Ohrid Framework Agreement and Liberal Notions of Citizenship and Nationality in Macedonia," Journal on Ethnopolitics and Minority Issues in Europe, No.1, 2002.

the lack of reserved seats has allowed for more flexibility, as reserved seats can discourage multi-ethnic parties and cross-ethnic coalitions. On the other hand, it has also resulted in low representation of smaller communities and allowing for gerrymandering in favor of the majority. Most significantly, smaller minorities have only been able to enter the Parliament in coalition with larger parties. Thus, the VMRO-DPMNE in 2006 included several Roma, two Bosniak, and one Turkish and Vlach Party, while the SDSM-led coalition "Together for Macedonia" included one Roma, Serb, Vlach and Turkish party. Finally, also the largest Albanian party, the Democratic Union for Integration included a Bosniak party. While only a few of the minority coalition partners entered the Parliament, these arrangements have been crucial for the inclusion of minority parties. The only community which has consistently been able to enter the Parliament without pre-election coalitions, is the Albanian community. This is also largely reflecting the regional pattern, where reserved seats target small minorities which are unable to secure representation through regular election rules.

Despite the lack of special mechanisms, since the first elections in 1990 the Parliament has been largely a representative of the national structure of the population. In brief, this can be attributed to two separate factors. The Albanian community could secure parliamentary representation as a consequence of geographic concentration, which resulted in representation irrespective of the electoral system chosen. Smaller minorities, on the other hand, entered the *Sobranie* (Parliament) by virtue of forming coalitions with the two dominant Macedonian parties.

However, the larger electoral system has had an impact on minority representation. From 1990 until 2002 the electoral system has undergone a gradual transition from a majoritarian to a proportional system. In 1990, the 120 deputies were elected in a two-round run-off in single member districts. First in 1998, 35 seats were set aside for proportional voting, while the remaining 85 seats continued to be chosen in redrawn multimember districts. The electoral system was again amended in the framework of the general overhaul of the political system initiated in the Ohrid Framework Agreement, although

electoral reform was not specifically mentioned in the Agreement.[18] In the debate over electoral reform in early 2002, Albanian parties supported the creation of a single countrywide constituency and strict proportional representation, which was thought to enhance the number of Albanian deputies, while Macedonian parties favored smaller constituencies and the maintenance of some seats elected according to the first past the post system. Finally, the Election Law was amended to introduce proportional representation in six electoral districts. Further discussions focused on the language of the ballot and the composition of the electoral commission, whereby ethnicity did not constitute the only line of division, as the opposition—both Macedonian and Albanian—feared undue government influence on the elections.[19] The benefits of the new electoral system were identified by ODHIR to cut costs in the absence of a second round and reducing the danger of inter-ethnic tensions by having larger electoral districts. In addition, PR is considered to ensure better representation of smaller minorities (and parties) than a majoritarian system, although as Eben Friedman has demonstrated, Roma might have better chances for independent representation in a majoritarian system.[20] As predominantly Albanian single-member districts tended to be larger than Macedonian-majority districts, the introduction of PR could be also considered to eliminate some of the implicit disadvantages to Albanian parties in the previous electoral system.[21]

---

18 Eben Friedman, "Party System, Electoral Systems, and Minority Representation in the Republic Of Macedonia (1990-2002)," European Yearbook on Minority Issues 2002/3, Vol. 2 (The Hague/London/New York: Kluwer Law International, 2004), pp. 227-246.
19 "Constitutional Watch: Macedonia," East European Constitutional Review, Vol. 11, No. 3, 2002, pp. 33-34.
20 OSCE/ODIHR, "Former Yugoslav Republic of Macedonia, Parliamentary Elections 15 September 2002," Final Report, 20.11.2002, p. 4; Eben Friedman, "Electoral System Design and Minority Representation in Slovakia and Macedonia," Ethnopolitics 4(4), 2005, pp. 381-396.
21 International Crisis Group, 1998 Elections in Macedonia, .9.10.1998, p. 6.

	1991-1994	1994-1998	1998-2002	2002-2006	2006-2008
Albanian	23 (19.2%)	18 (15 %)	21 (17.5%)	25 (20.8%)	28 (23.3%)
PDP	17	11	11	2	
DPA– LP		1			
DUI				16	17
DPA			10	7	11
PDPA	1	4			
PeDP	5	2		1	
NDP					
Roma	1 (0.8%)	2 (1.6%)	1 (0.8%)	2 (1.6%)	2 (1.6%)
PCER	1	1			
URM		1[22]	1		
UPRM				1	
PIR					1
SRM					1
Turks	-	1 (0.8%)	-	1 (0.8%)	1 (0.8%)
DPTM-PDA-IW		1			
DPTM				1	1
Bosniaks (DLBM)	-	-	-	1 (0.8%)	
Serbs (DPSM)	-	-	-	1 (0.8%)	1 (0.8%)

Minority Parties in the Macedonian Parliament since 1990[23]

---

22 The deputy Amdi Bajram for the SRM was elected as an independent candidate.
23 Source: Website of the Sobranie, <http://www.sobranie.mk/mk/default.asp>; Friedman, op. cit. 2004. PPD, Party for Democratic Prosperity; PDSH, Democratic Party of Albanians; PDK,

In the five legislative periods since 1990, only Albanians and Roma have been able to secure representation in all parliaments. In case of Roma, the representation has not exceeded one deputy, which is neither reflecting the share of the population, nor can be considered to provide for secure representation in parliament.[24] While the share of Albanians in the Parliament has been generally lower than the share in the population, at least during the 1990s, the difference is not substantial. Other minorities, however, have been only marginally represented in the Macedonian legislature. This is largely a consequence of the relatively small size of the individual minorities and the electoral system. Both the majoritarian system and the proportional system with a five percent threshold constituted an insurmountable hurdle for the representation of virtually all smaller minorities, as these neither number more than five percent of the population of eligible voters, nor are they sufficiently geographically concentrated to directly elect deputies to the Parliament.

Macedo- nians	Alba- nians	Turks	Roma	Serbs	Bosni- aks	Vlachs	Others
84	28	2	2	1	1	1	1
70%	23.4%	1.7%	1.7%	0.8%	0.8%	0.8%	0.8%

Representation of Minorities in the Macedonian Parliament, 2006-2008[25]

Voting in Macedonia, as the parliamentary representation of minority parties suggests, mostly follows ethnic lines. During the presidential elections, however, substantial cross-ethnic voting takes place. While Albanian candidates have not stood a chance to win the

---

National Democratic Party; DSSH – LP, Democratic Union of Albanians-Liberal Party; PDSH, Democratic Party of Albanians; PDP, Party of Democratic Prosperity of Albanians; PPD/PDP, People's Democratic Party; PCER, Party for Complete Emancipation of the Roma of Macedonia; SRM, Union of Roma in Macedonia; OPRM, United Party of Roma of Macedonia; PDT PDA – IP, Democratic Party of Turks in Macedonia, Party of Democratic Action, Islamic Way, DPTM, Democratic Party of Turks of Macedonia; DLBM, Democratic League of the Bosniaks of the Republic of Macedonia, DPSM, Democratic Party of Serbs in Macedonia.

24   There have been also deputies hailing from a minority elected in Macedonian parties, such as Džulistana Markovska who is a Roma and was an MP for VMRO.

25 Source Website of the Sobranie, < http://www.sobranie.mk/mk/default.asp

presidential race, the two-run system has resulted in the two cases (1999 and 2004) in which Macedonian parties had to rely on their respective Albanian coalition party to secure adequate support among the Albanian population to win the elections.[26] This trend has strengthened the reliance of the Macedonian parties on their Albanian coalitions parties, thus reinforcing the coalitions. The support generated by the Albanian coalition partners has, however, been marred by irregularities such as ballot stuffing, proxy voting and intimidation.[27] Such an electoral system could be considered a feature of centripetal power-sharing, even if it emerged not by design, but rather accidentally. The experience with presidential elections suggests, however, that the elected candidates represent primarily their own core constituency rather than become broader cross-ethnic representatives. This is due to the fact that the vast majority of votes that candidates gain, originate from their own party followers and the majority, rather than smaller communities. Furthermore, second-round support by Albanian voters has been the result of coalition talks between Albanian and Macedonian parties, rather than the consequence of sustained campaigning among the Albanian community.

Altogether, the electoral system could not be considered as particularly favoring either minority communities or as being a feature of a power-sharing system. The representation of non-dominant communities in the Parliament is, however a prerequisite for any form of power-sharing. The election legislation has been sufficient in provide for adequate representation of Albanians in the Parliament. The challenge has been the inclusion of smaller communities. The effort to introduce reserved seats by the Government in 2007 was problematic, as it was widely perceived to reduce the relative impact of the Albanian community in the Parliament, rather than being considered primarily for the benefit of the small communities.[28]

---

26 Ibrahim Mehmeti, "Presidential Elections and Interethnic Relations," AIM, 2.12.1999, "DUI mu donela 142.000 glasa na Crvenkovski," Dnevnik, 30.4.2004.
27 OSCE/ODIHR, "Former Yugoslav Republic of Macedonia, Presidential Elections—Second Round. 28 April 2004, Statement of Preliminary Findings and Conclusions," 29.4.2004, p.7
28 The government proposal would have increased the number of seats from 120 to 133, including 3 seats for the diaspora (following the Croatian model), and ten seats reserved for the

Consensus Decision-Making in the Parliament

One of the key innovations introduced in the Ohrid Agreement is the double majority in the legislative process. It is this system, as we shall see later, which has enhanced the importance of minority community representation in the Parliament. The system of a double majority, known as the Badinter majority in Macedonia,[29] requires a majority of all MPs, as well as those who declare themselves to represent a minority community. The constitutional amendments of November 2001, prescribed in the Ohrid Agreement, stipulate that consent of a majority of the deputies representing all non-dominant groups is required in a number of areas of legislation:

- Culture
- Use of languages
- Education
- Personal IDs
- Use of Symbols
- Local Self-government[30]

In all other areas of legislation, minority support is not required to pass laws.[31] This solution constitutes a compromise between the original demand of the Albanian parties for a fully-fledged veto right and its rejection by the Macedonian parties.[32] The advantage of such a relatively restrictive regulation is that it can help prevent blockage of the entire decision-making process. Furthermore, it limits the areas in which ethnicity is receiving this additional degree of

---

Turkish, Serb, Roma, Bosniak and Vlach communities. Art. 2, ПРЕДЛОГ ЗА ДОНЕСУВАЊЕ НА ЗАКОН ЗА ИЗМЕНУВАЊЕ И ДОПОЛНУВАЊЕ НА ИЗБОРНИОТ ЗАКОНИК, Скопје, Ministry of Justice, Skopje, August 2007.

29 Named after Robert Badinter, the French constitutional lawyer involved in the 2001 negotiations.

30 Amandman X, Art.69, Ustav na Republika Makedonija, 16.11.2001.
Amandman XVI, Art. 114, Ustav na Republika Makedonija, 16.1.2001.

31 The two-thirds requirement for a number of laws and decisions taken by parliament does, however, require some minority participation in other fields as well.

32 Farimah Daftary, "Conflict Resolution in FYR Macedonia: Power-sharing or the 'civic approach'." Helsinki Monitor, Vol. 12, No. 4 (2001), pp. 300-301.

politization. Nevertheless, it contains the inherent danger that other decisions, which might have a profound impact on minorities, such as economic policy, cannot be influenced by minority communities through the double-majority rule. This problem is partly resolved by the Committee for Inter-Community Relations which, according to the parliamentary Rules of Procedure, is able to decide if there is a dispute over the interpretation of these rules.[33]

On the other hand, the inherent problem of blockage implicit in this indirect veto mechanism is not fully resolved. In order to prevent blockage of the parliamentary procedure, the Committee for Inter-Community Relations was reformed to include seven Macedonians and Albanians, and one representative from all communities represented in the Macedonian Parliament or, if not represented in the Parliament, to be nominated by the Ombudsman. In theory, this body is charged deliberating on inter-ethnic issues and specifically in resolving any disputes arising from the double majority system. In practice, the Committee has to date been of only marginal significance, as evidenced by the fact that the Committee was established in September 2003, nearly a year after the elections and met only 6 times between its formation and May 2004. Instead, the key mediating body has been the Government (in the way of informal agreements), both before the elections of 2002 and since.[34] As it includes the largest Albanian and Macedonian party, any proposal of the Government is likely to already have sufficient support in the Parliament. A particular problem to this double-majority voting mechanism emerged after the conservative VMRO-DPMNE (Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity) won the 2006 elections with a coalition of smaller parties (including parties representing Roma, Turks, Vlachs and Bosniaks) and decided to form the governing coalition with the second largest Albanian Party, the Democratic Party of Albanians (DPA), rather than the Democratic Union for Integration (DUI). The impact of the decision was that the Government lacked a clear majority in the Parliament for decisions to be voted by double majority. Of the 36 (of 120) seats in the Parliament held by minority community

---

33 Art. 164, Rule of Procedure, Assembly of the Republic of Macedonia, 15.8.2002.
34 Teuta Arifi, Vice-President of BDI, Interview, 21.7.2003.

representative, the DUI controlled 17. Laws and other decisions to be voted by double majority did thus not only require consent of the Albanian community from the DPA, but also from smaller communities, some of which aligned with the SDSM.[35] In addition to enhancing the power of smaller communities and having rendered governing more difficult, this constellation also sheds light on the tension in Macedonia between the bi-national structure of most inter-ethnic tensions and the inclusion of further communities in the structure. The double majority system has been an innovate development of power-sharing systems elsewhere. As the aforementioned experience suggests, it does raise the question how and which parties need to be included in the Government to constitute an effective grand coalition.

Executive Power-sharing

The only feature of power-sharing which has been consistently practiced since 1991 has been the inclusion of Albanian parties in all governments. In the first 'expert' Government in 1991, the Party for Democratic Prosperity (PDP) held the post of a deputy-Prime Minister, a Minister without portfolio and the Labor Ministry. The subsequent governments under the leadership of SDSM (1992-1998) had between four and six Albanian ministers, including portfolios such as culture, economy, labor, development, transport and finance. During this period, however, Albanian ministers did not control sensitive portfolios (security, internal affairs). The coalition of VMRO-DPMNE and Democratic Party of Albanians (DPA) resulted in the inclusion of five Albanian ministers (of 27), largely continuing with the previous pattern.[36] In the 1998-2002 Government, the Albanian coalition partner held less important ministerial posts than during the latest governments of the SDSM. The share ministries run by Albanian ministers and their

---

35 In a controversial move, one MP from the VMRO-DPMNE changed the declaration of her community belonging from Macedonian to Vlach after the first declaration in an effort to reduce the advantage of DUI. Izveštaj 2006, Sobranie RM, Skopje 2007 p. 22.

36 Christophe Chiclet, Bernard Lory (eds), La République de Macédoine (Paris: L'Harmattan, 1998), pp. 157-159. The PDPA held the ministry of science, information and local self-government, as well as the position of a deputy prime minister and a minister without portfolio.

significance increased sharply with the formation of the SDSM and DUI coalition in 2002. In the 18-member Government, the junior partner in coalition held five ministerial portfolios, including health, justice, communication and education. While these ministries are less sensitive than defense or internal affairs, they yield considerable financial resources and impact large parts of the public administration. The VMRO-DPMNE-led Government by the Prime Minister Nikola Gruevski, in office from 2006 to 2008, included one of four deputy-prime ministers and five of 18 Albanian ministers (and one Turkish minister). In addition to ministerial portfolios, there has been the practice of deputy ministers from the other ethnic community than the minister to be nominated. Such an allocation symbolically emphasizes the participation of the respective Albanian coalition-partner in all aspects of the governments' work, but often had no influence on the work of the ministry. The deputy ministers have often lacked basic information and are often not granted access to the decision-making process.[37]

The participation of Albanian parties could be likened to similar coalitions in either Romania or Slovakia, where changing majority governments have formed coalitions with the party of the Magyar minority. Unlike in these two cases, the coalition—although not being constitutionally required—appears to be representing a political consensus in Macedonia and is based on a longer 'tradition' than in the other two countries. A striking feature of the grand coalitions has been the regular outflanking by Albanian opposition parties, as detailed above. In Macedonia, the defeat of Albanian-governing parties has been closely linked to their inability during the 1990s to secure either broader inclusion in the state of the Albanian community, or in other way, substantially improve the community's economic or social status.

The impact of the Framework Agreement on this aspect of power-sharing has been limited. The Ohrid Agreement does not prescribe the inclusion of Albanian parties in the Government. At the same time, the nature in which the state has been reconstructed since 2001, suggests that the Albanian community has been elevated to a

---

37 International Crisis Group, Macedonia: No Room for Complacency, 23.10.2003, p. 28

status which would make them quasi-constituent—some have even described Macedonia as a 'bi-national' state—which would not prescribe but suggest a reinforcement of the governmental participation of Albanian parties. In addition, the (limited) post-Ohrid practice suggests that the share of the Albanian parties in power has increased to reflect the community's share of the population and extends to more sensitive ministries than in the period prior to the conflict. Unlike in Bosnia-Herzegovina or some other divided societies where power-sharing between the dominant communities is constitutionally prescribed, the informal nature of the power-sharing executive allows for greater flexibility in terms of the numbers of the ministerial positions and the specific portfolios.[38] At the same time, the informal nature of the arrangement bears the risk of inadequately protecting against parties willing to break with this tradition. Furthermore, the informal nature of the arrangement also meant that smaller communities are not included and thus might only incidentally be included in the executive. Finally, the double majority rule in the Parliament suggests that an effective government would command a majority both in parliament and among minority MPs. This links to the controversy between DUI and VMRO-DPMNE following the government formation in 2006. DUI argued that it had the right, as the strongest Albanian party, to join the Government.[39] There is no general principle in theories of Power-Sharing whether or not the largest party of every community needs to be included into a consensus-based government. Brendan O'Leary has distinguished between a complete, concurrent and weak consociational executive. The first includes all relevant parties, the second includes parties representing the majority of the community, whereas the last type describes a system where a plurality of the community is represented.[40] Thus, while "[n]othing about consociation, properly understood, precludes parliamentary opposition,"[41] the question remains about the legitimacy and

---

38 Ibid.

39 Natasha Gaber-Damjanovska, Aneta Jovevska, "Current Events and Political Parties, Development in the Republic of Macedonia," Institute for Sociological, Political and Juridical Research, Skopje, No. 16, June 2007.

40 O'Leary, op. cit., pp. 12-13.

41 John McGarry and Brendan O'Leary, "Consociational Theory, Northern Ireland's Conflict, and its Agreement 2. What Critics of Consociation Can Learn from Northern Ireland," Government and Opposition, Vol. 41, No. 2 (2006), p. P. 268.

effectiveness of a government from which the largest party of one community is excluded.[42]

Equitable Representation in the Public Administration

A key concern addressed in the Ohrid Agreement has been the under-representation of Albanians in the public administration (and state-run enterprises). As the record prior to 2001 had demonstrated, participation in government did not translate into more greater inclusion of Albanians in the public administration. In particular, in sensitive areas of public administration, such as the police, the number of Albanians had been low throughout the 1990s. The reform of public administration was thus crucial in order to enhance a sense of co-ownership of the state for the Albanian community. The reform has, however, been burdened with general and universal difficulties inherent with preferential treatment of group members and the general need to reduce, not increase the public administration.

Prior to the Ohrid Accord, Albanians only filled some 7 percent of positions in the public, mixed and cooperative employment sector, as the table below illustrates. Similarly, most other minorities, in particular Turks and Roma, have also been under-represented in this sector. In contrast, Albanians and other communities have been over-represented in private businesses, in part as a response to the low employment rate in the public sectors. The causes for this development have been manifold and cannot be reduced to discrimination alone. A number of confrontations between members of the Albanian community and authorities had alienated the state from the community. The 'ownership' of the state and its administration by the majority made employment in the public administration unattractive to Albanians, who also had to fear being ostracized by their community. As a consequence, Albanians primarily sought employment in the private sectors.

---

42 Interview with Teuta Arifi, Member of DUI, 22.11.2007.

Sector	Total	Macedonians	Albanians	Turks	Roma	Vlachs	Serbs	Others
Public, mixed and cooperative	475,334	403,896	33,123	8,302	6,845	1,921	11,449	9,798
		85.0	7.0	1.8	1.4	0.4	2.4	2.1
Private Sector	66,903	33,009	23,313	4,117	1,675	1,150	961	2,678
		49.3	34.9	6.2	2.5	1.7	1.4	4.0

Employment by Sector and Ethnicity, 1999[43]

---

43 Helsinki Committee for Human Rights in the Republic of Macedonia, Report on Minority Rights in the Republic of Macedonia, September 1999.

Consequently, a key aspect of the Framework Agreement has been the requirement "to ensure equitable representation of communities"[44]. A particular focus was on recruiting Albanians and other communities in the police force with the goal of making the police force "generally reflect the composition and distribution of the population of Macedonia" by 2004.[45] An international program carried out by the US Ministry of Justice and subsequently by the OSCE, trained over 1,000 new police officers from minority communities, substantially increasing the share of Albanians and other communities in the police forces.[46] While even this massive effort did not increase the share of Albanians in the Ministry of Interior to reflect their share of the population, the police training highlights some of the difficulties associated with aggressive affirmative action programs. The rapid training of new police officers has resulted according to observers in a multi-ethnic police force which lacks the skills to carry out its task effectively.[47] While it has been noted that the multi-ethnic police has increased trust by minority citizens in the police, survey data from early 2003 suggest substantial deficiencies with 81.2 percent of Macedonians and only 25.9 percent of Albanians seeing police as a protector.[48]

Considering the low starting point, such as around 2.5 percent of Albanians in the Ministry of Interior in 2001, an increase by mid-2003 to 10-11% could be considered a substantial success.[49] Since 2001, the recruitment of Albanians has extended beyond the requirements stipulated in the Framework Agreement. For example, the army was excluded from any equitable representation requirements, but has begun to include Albanians to a greater degree than prior to the conflict. By 2004, the share of Albanians among the

---

44 Ohrid Framework Agreement, 13.8.2001, Annex B, Art. 5
45 Ohrid Framework Agreement, 13.8.2001, Annex C, Art. 5.2.
46 OSCE/ODHIR, "Former Yugoslav Republic of Macedonia, Parliamentary Elections 15 September 2002," Final Report, 20.11.2002.
47 ICG, op. cit. 2003, pp. 4-5
48 UNDP/Kapital. 2003. Early Warning Report, No. 1, 2003, p. 34
49 Ljupčo Ristovski, Head, Unit for Co-ordination of the Implementation of the Framework Agreement, Government of Macedonia. Interview, 22.7.2003.

officers of the army reached 5 percent (68), with the Government-stated aim to establish a proportional representation by 2007.[50]

Accomplishing equitable representation constitutes, together with the decentralization discussed below, the most costly aspect of the Ohrid reforms (Report on the Costing 2002: 14-16). The accomplishment of the equitable representation project has been much in dispute with Albanian opposition parties arguing that the increase has been insufficient and the exclusion of Albanians from decision-making processes, especially in the security forces.[51]

Equitable representation has become an apparently key reform instituted at Ohrid. However, the goals and means of accomplishing this policy are rarely disaggregated. Prior to the reforms, public administration in Macedonia was both a) unrepresentative of, and b) unresponsive to minorities. The policy of equitable representation was adopted to accommodate both aspects, which meant that the goal has been not just country-wide equitable representation, but rather at the municipal level to ensure that citizens from minority communities are able to interact with civil servants from their community. Alternatively, for example, minority police forces could be transferred to majority-only regions, which would accomplish little in terms of communities identifying with the public administration. However, the policy of equitable representation placed little emphasis on the interaction *between* majority and minorities and assumes that equitable representation of one community equals equitable representation *within* the community. In fact, as a survey indicates, most citizens consider party membership (38.2%) rather than merit (17.85%) or ethnic affiliation (0.6%) to be crucial in a professional career.[52] Due to the importance of the public sector for employment, the high level of unemployment and the strong control of political parties, equitable representation requirements do not necessarily result in the increase in the representativeness of the civil service, as party membership might

---

50 Koha Ditore, from Macedonia Afternoon Press Review 12.5.2004.
51 Project on Ethnic Relations, "Macedonia's Interethnic Coalition: The First Year, 13-14.12.2004, Mavrovo, Macedonia," Conference Report 2004.
52 Lidija Petkovska-Hristova, "Multiculturalism as Political Model: The Case of Macedonia," Nikolai Genov (ed.), Ethnic Relations in Southeastern Europe (Berlin/Sofia: Institute of East European Studies/Friedrich-Ebert-Stiftung, 2003), p. 109.

dictate hiring rather than other considerations, such as hailing from a particular community. However, this problem is primarily the consequence of the inadequacies of public administration reform beyond equitable representation, even if the latter can at times obscure the privileges extended to party supports and other networks of patronage.[53]

Municipal Decentralization as a form of Autonomy?

In a significant digression from other power-sharing systems, Macedonia did not grant substantial territorial or cultural autonomy[54] to minority communities in the Ohrid Framework Agreement. Instead, the Agreement opted for municipal decentralization which would both give Albanian-dominated communities greater autonomy and secure better inclusion of non-dominant groups at local level. The Agreement itself emphatically declares that "[t]here are no territorial solutions to ethnic issues,"[55] and seeks to replace such territorial approaches with substantial local-government reform. This reform has been largely de-ethicized and framed to confirm to European standards ('subsidarity') rather than facilitating self-government of the Albanian community.[56] Indeed, the Law on Self-Government reversed the centralist tendencies of local government reforms in the 1990s.[57]

In addition to the municipalities' participation in the appointment of local police-chiefs, their ability to cooperate and establish joint public agencies and shared administrative bodies can be considered a crucial aspect of the reform. These aspects of the reform

---

53 Stephan Hensell, "Typisch Balkan? Patronagenetzwerke, ethnische Zugehörigkeit und Gewaltdynamik in Mazedonien," Internationale Politik und Gesellschaft, No. 4, 2003, pp. 131-146.
54 The Albanian community has enjoyed a degree of *de facto* autonomy in cultural and educational matters as a consequence of the practice of governments since 2001, such as the recognition of the Albanian-language University of Tetovo in 2004. There are, however, no formal institutions of cultural autonomy and the group autonomy is exercised either through political parties or municipalities.
55 Ohrid Framework Agreement, 13.8.2001, Art. 1.2.
56 Ohrid Framework Agreement, 13.8.2001, Art. 3.1.
57 Ilja Todorovski, "Local Government in Macedonia," Emilia. Kandeva (ed.), Stabilization of Local Governments (Budapest: LGI, 2000), pp. 246-247.

allow for the municipalities with an Albanian majority to constitute a form of community self-governments which did not exist earlier. Albanian parties had advocated the ability of municipalities to merge in order to allow for the creation of larger Albanian municipalities in Western Macedonia. Such a proposition was, however, rejected by Macedonian parties who saw the local-government reform as a guise for the creation of an Albanian territorial autonomy. In the final version of the Law, municipalities are allowed to cooperate and form joint bodies and institutions, but are not allowed to merge with adjacent municipalities.[58]

At the same time, the Law institutes more generous power-sharing rules also at local level. While the 1994 Law on Local Self-Government stipulates the creation of a Commission for inter-ethnic relations composed of different communities and proportional representation in appointments, little power-sharing or cooperation took place in mixed municipalities. A notable exception was Kumanovo, which saw a strong cooperation between the mayor and the head of the Commission for inter-ethnic relations in preventing the spread of the conflict to the city. This degree of cooperation was, however, rather a result of personal ties than institutional incentives for cooperation.[59] The laws passed as a consequence of the Ohrid Agreement stipulate that a series of competences pertaining to the fundamental nature of the municipality and those affecting particular communities, such as culture, use of languages, coat of arms and flag require a double majority of the majority councilors and those representing the smaller communities together.[60] Such mechanism does not only secure the rights of smaller community, if substantial in number in the municipality, but also allows the Macedonian majority, if in a minority in the municipality in question, to block certain decisions.[61]

---

58 "Constitutional Watch: Macedonia," East European Constitutional Review, Vol. 11, No. 1-2, 2002, pp. 27-28
59 Veton Latifi, Macedonian Unfinished Crisis: Challenges in the Process of Democratization and Stabilization (Skopje: Konrad-Adenauer-Stiftung, 2003), pp. 120-125
60 Zakon za lokalnata samouprava, Služben vesnik na RM, No. 5, 2002.
61 Some observers note that this double majority mechanism has often not been effective at the local level.

While falling short of substantial territorial autonomy, especial in regard to legislation and unified institutions, the local self-government reform establishes an opening for a weak form of territorial self-government for the Albanian community. As a result, the drawing of new municipal boundaries has been a protracted process of negotiation with the dominance of the respective community and the share of the larger communities—communities with more than 20 percent at the municipal level have greater rights than others—being hotly contested. Only in August 2004, the Government proposed a reorganization of the country into around 84 municipalities (from 123) wherein approx. 27 municipalities have a share of one or more minorities larger than 20 percent. Ten municipalities constitute the city of Skopje where Albanian also received official status. Controversies surrounded new municipalities where demographic and thus political dominance shifts from Macedonian to Albanian, such as in the towns of Struga and Kičevo, as well as over the criteria for municipal boundaries. The fact that the nationalist Macedonian World Congress initiated a Referendum over the new municipal boundaries confirms the controversy over the decentralization process. The clear failure of the Referendum with a turn-out of less than around 26% constitutes a belated popular plebiscite for the Ohrid Agreement.[62] Despite protective mechanisms for non-dominant communities, the numerical dominance both symbolically constitutes a status-reversal hard to accept for many Macedonians and practically many municipalities have engaged in symbolic nation-building of the dominant community, such as the naming of the schools and erecting of monuments. In the absence of other types of autonomy, municipal reform has been viewed among many Albanians as a key means of ensuring self-government for the Albanian community. On the other hand, the Macedonian majority (and some smaller minorities, as well) has, since the conflict in 2001, been concerned over marginalization in Albanian-dominated municipalities.

Despite these controversies, the decentralization does not qualify as a form of group autonomy described by scholars of power-

---

62 Joseph Marko, "The Referendum on Decentralization in Macedonia in 2004: A Litmus Test for Macedonia's Interethnic Relations," European Yearbook on Minority Issues 2004,Vol. 4 (The Hague/London/New York: Kluwer Law International, 2006), pp. 695-721; "Referendum in Mazedonien klar gescheitert," Neue Zürcher Zeitung, 9.11.2004.

sharing. While in other aspects of power-sharing Macedonia appears to fit this particular type of democratic governance, the degree of decentralization suggests that Macedonia is a weak consociational system. Of course, informal community autonomy exists by virtue of the geographical concentration of the Albanian community. Furthermore, the regional experience of secessionist movements on the basis of territorial autonomies makes skepticism towards regional autonomy by the majority (and international actors) understandable.

Challenges to Ohrid and the Dangers of Segregation

The Ohrid Framework Agreement and the subsequent reforms have been largely supported by the Albanian community, which has found some of its main grievances with the Macedonian state during the 1990s addressed. Support among the Macedonian population has, on the other hand, been considerably lower. This has been largely based on the background to the agreement, i.e. the violent conflict which was widely perceived to be initiated by terrorist forces with roots in Kosovo, and the concessions made to the Albanian community in the agreement itself. Most reservations of the Macedonian political elites towards the Ohrid Accords has also been based on the concern over 'losing' control of the state—both symbolically and in fact—and the much-feared scenario of secession.[63] While an overwhelming majority of Albanians support the Agreement, supporters among Macedonians have remained in a minority since 2001.[64] The lack of popular support has been expressed and instrumentalized by the governing VMRO-DPMNE which had sought to delay some reforms after the signing of the Agreement. In 2003, two of the signatories of the Agreement, Ljubčo Georgievski, Prime Minister in 2001, and Arben Xhaferi, President of the DPA, the coalition partner of VMRO-DPMNE in 2001, challenged the Ohrid Agreement altogether, suggesting that it was impossible to implement. Georgievski in a

---

63 Ulf Brunnbauer, 'The Implementation of the Ohrid Agreement: Ethnic Macedonian Resentments," Journal on Ethnopolitics and Minority Issues in Europe, 2002.
64 UNDP, op. cit., p. 42; INET, 4.9.2001; Peter Finn, "Worried Macedonians Weigh Public Vote on Peace Accord. Officials Fear Legislative Rejection of Pact, Seek Alternative," Washington Post, 30.8.2001, A26.

controversial editorial for the Macedonian daily *Dnevnik* in April 2003 argued that the Ohrid Agreement had transformed Macedonia into a bi-national state. He subsequently enumerates the threat the Albanian population poses to Macedonia in terms of the population growth (both as a result of fertility and immigration) and security threat to the majority, suggesting that the goal of the Albanian population is the creation of Great Albania. As a solution, the former Prime Minister proposed a territorial division and the creation of ethnically homogenous territories. If such a proposal is not accepted by the Albanian community, Georgievski even suggests that a wall separating the community should be built.[65] The proposal on a territorial separation of the two communities draws on a similar plan drawn-up by the Macedonian Academy of Science and Arts (*Makedonska akademija na nauki i umetnosti*), published during the height of the conflict in 2001.[66] While most political parties condemned Georgievski's proposal, it was supported by Arben Xhaferi, who had—like the former Prime Minister—formally resigned from his party. While Xhaferi earlier explicitly supported multi-ethnic states (and power-sharing), he shifted his position since losing power to support the creation of ethnically homogenous states, claiming that "the multi-ethnic states are very costly and can produce hypocrisy".[67] Such positions have emerged as the prime challenge to the power-sharing arrangement instituted in the Ohrid Accords. Opinion polls, however, suggest that the resonance among both communities for such alternatives is limited. In a survey conducted for UNDP in 2003, shortly prior to the controversy surrounding Georgievski's editorial, only 12.1 percent of Macedonians support a state without Albanians, whereas 23.9 percent of Albanians support the secession of partition/secession of the territories fought over in 2001.[68] Thus, despite the strong reservations among the majority towards the Agreement, segregation as proposed by the former Prime Minister Georgievski has not been able to take hold. In fact, a common critique of the Ohrid Agreement and the trajectory since 2001 has been the

---

65 Ljubčo Georgievski, "Tezi za opstanok na Makedonskata nacija i država," Dnevnik, 18.4.2003.
66 Eben Friedman, "The Spectre of Territorial Division and the Ohrid Agreement," ECMI Brief, 9, 2003, pp. 2-3
67 Koha Ditore, cited from Macedonia Afternoon Press Review, 10.5.2004.
68 UNDP, op. cit., p. 42

increasing segregation of society.[69] As a commentary for the Macedonian daily *Dnevnik* suggests that

> [p]eople are now [after the Ohrid FA] convinced that it is safer for them to be part of the ethnic community that offers them greater opportunities, especially in areas where it makes up the majority population. If this is not possible, then they believe that it is wiser for them to sell their property and move somewhere where they may be better off. Unfortunately, that other place is currently somewhere beyond the borders of their fatherland.[70]

The segregation has been most noticeable in the educational sector, where the recognition in 2003 of the Albanian language university in Tetovo, existing underground since 1994, marked a departure from the previous policy of joint higher education, embodied by the creation of the tri-lingual (Albanian, Macedonian, English) South-European University in Tetovo in 2001. Additionally, attempts by the Government to desegregate some schools and introduce Albanian-language classes in Macedonian schools (i.e. in Bitola) were met with stiff resistance and led to an abandonment of the integration project.[71] These aspects of segregation have been not a direct result of the Ohrid Agreement, but rather coincide with the overall altered political framework wherein confidence between communities is low and Albanians have sought the legalization of some of the unrecognized parallel institutions of the 1990s.

Possibly the only area where the power-sharing reforms of Ohrid do potentially result in a greater degree of segregation between the communities has been in the field of decentralization. At the same time, much of the critique of the Ohrid Agreement has less focused on its particular institutional features, but rather on the transformation of the state into a bi-national state. In addition, the immediate causes of the conflict, apparently linked to organized crime and cross-border events in Kosovo suggest that demands for institutional reform have

---

69 This view is reflected in a number qualitative interviews, see Zhelyazkova op. cit., pp. 377-392.

70 B.Geroski, "Popis na etnički predrasudi i frustracii," Dnevnik, 6.12.2003.

71 Petruseva and Georgievski, op. cit.

not been the cause of the conflict and, indeed, that the security forces appear since 2001 to have been even less able to confront organized crime due to elaborate (informal) cross-ethnic consultation mechanisms.

Such arguments neglect, however, several considerations. First, the Ohrid Agreement did not create a weak power-sharing system from scratch, but was built on pre-existing mechanisms and traditions. It appears to reflect the nature of the ethnicfication of politics, as both evidenced in the conflict and the nature of inter-ethnic relations in the 1990s (and earlier). The root cause of the increasing distance between the communities has thus been the politization of ethnicity even prior to the 2001 Agreement. Second, most of the instances of segregation since 2001 are not a direct consequence of the Framework Agreement, but as mentioned above rather a corollary, resulting from the increased political power of the Albanian community and the polarized social climate as a consequence of the violence. Third, while the conflict was triggered by events beyond the scope of most of the substance of the Peace Accord, there is a considerable consensus that the expansion of the conflict and the support the NLA enjoyed among substantial parts of the Albanian population are closely linked to the inadequacies of the state's policies towards Albanians during the 1990s. Finally, the imbalance between the rights afforded to the Albanian community and those granted to other communities is less substantial than has been the case in other conflict settlements and does not only appear to reflect the political dispute between the Albanian and Macedonian community, but also the large difference in size between the Albanian community and others. The failure of the Ohrid Agreement is thus less the segregation it ostensibly promotes, but rather its inability to enhance communication between the two communities.

Conclusions

This chapter has argued that the Ohrid Agreement did not establish a conventional power-sharing system in Macedonia. In fact, some aspects of most other power-sharing systems appear to be lacking

in Macedonia, such as a firmly established requirement for grand coalitions and a clear form of community self-government, be it on a territorial or a personal basis. The absence of some aspects of the institutionalization of power-sharing has given the Macedonian institutional framework a degree of flexibility, absent in most other post-conflict power-sharing arrangements. This flexibility offers greater opportunities for reducing the significance of ethnic belonging in the political system and preventing the dominance of collective over individual identities. At the same time, the lack of institutionalization of some aspects of power-sharing has had a number of negative effects. First, it fails to provide the same degree of security for the non-dominant communities, i.e. Albanians at the state-level. Second, it provides less protection than more rigid systems might afford smaller communities. Third, the informal approach has at time linked government reform, such as decentralization, with ethnic representation and power-sharing. Such an approach was sought to help build cross-communal support for some aspects of the power-sharing system as it could have been described as a general reform benefiting all communities. As the case of decentralization suggests, it is rather that government reform becomes 'ethnified' than that group-oriented changes become depoliticized. Fourth, the non-institutionalized aspects of the power-sharing arrangements risk being more easily undone by political elites not committed to the basic compromise underpinning the Ohrid Agreement.

In addition to particular challenges arising from the flexible nature of the power-sharing arrangement, the Ohrid Agreement shares some characteristics with power-sharing in general. The primary weakness of the Framework Agreement is the reliance on an elite compromise, which would secure ethnic peace. Any confidence-building measures of the Agreement focus exclusively on reestablishing security in the conflict areas, not on enhancing long-term social interaction between the communities. As such, the Agreement does not address this undercurrent of root causes of the conflict, just as a more civic and less power-sharing based approach, had it focused on institutional remedies alone, would also be inadequate.

Etem Aziri

THE SPIRIT OF THE CONSENSUS AND THE INTEGRATION IN A MULTI-ETHNIC SOCIETY

Introduction

After the collapse of the single-party system and its replacement with the pluralist system in some of the countries now called "transition countries", the issue of the functioning and the prospects of multi-ethnic societies was again being discussed in academic and political circles. In these circles, the multi-ethnicity as a phenomenon in post-socialist countries of Central and Southeast Europe was, for decades, considered a closed issue.[72]

The Marxist-Leninist doctrine, "peppered" with ideas of numerous politicians and quasi-scientists of Marxist provenience, continuously fogged the multi-ethnicity, multi-religiosity and multi-culturalism in socialist countries with the proletarian internationalism and the right of nations to self-determination as a declarative, but impracticable right.

The inequality in the national, religious and cultural aspects represented a threat for the development and prospects of these societies. In fact, the lack of a fair and principle-based stance towards the national, religious and cultural structure, particularly in the two biggest socialist countries - the USSR and Tito's Yugoslavia, reflected destructing effects not only for these two countries, but also for socialism as a process. It has to be recognized that Yugoslavia in legislative aspect, especially with the Constitution of 1974, took a different approach in comparison with other socialist countries, such as for instance Romania and Bulgaria. Nevertheless, it cannot be stated

---

72 Yugoslavia can be perceived as an exception, after the Tito's era there was a debate regarding the issues of ethnic equality but always some of the nations were trying to impose the positions to the smaller nations.

that it was nurturing fair policies towards the diversity and recognition of the rights of non-Slavic ethnicities. This can be exemplified with the fact that, after the protests of the students of the University of Prishtina in 1981, three Yugoslav Republics: Serbia, Montenegro and Macedonia used as pretext the fight against ''Albanian nationalism and irredentism'' - in essence they were fighting the principles by which this country was founded.

If we analyze the situation in general, we can derive to the conclusion that the last decade of the previous century was surely characterized by deep changes in European socialist countries. That period eventually confirmed that the interpretation and the implementation of the Marxist ideology by governing elites led to many insurmountable contradictions. It became more than clear that socialist countries did not have a real basis and that they would not be able to compete with Western liberal democracies which based their development on the principles of market economy, democracy and a much more nuanced approach towards ethnic diversity.

The difficult situation for entire decades provoked the deep changes in the European socialist countries in the penultimate decade of the previous century. The years 1989-1990 were by many analysts named the Years of Revolution in Central Europe, while Francis Fukuyama labeled them "the end of history". These events not only marked the end of the Cold War, but at the same time they legitimized the Western liberal democracy as a universal value. The changes were carried out peacefully in several ex-Socialist countries in the spring and the autumn of 1989, but this cannot be said for Socialist Yugoslavia. In this multi-ethnic, multi-religious and multi-cultural country, changes were accompanied by conflicts and inter-ethnic wars in four federal units[73]: Croatia, Bosnia and Herzegovina, Kosovo and, at the end, Macedonia. All these units of the Yugoslav Federation are multi-ethnic communities, which are even in current times trying to heal the wounds from the conflicts in the period of the replacement of the monist with the pluralist system.

---

73 Here we do not mention Slovenia, because all the analyses say that it was not a conflict of terrible dimensions. The war between the Yugoslavian National Army and Slovenian Territorial Units lasted for only 10 days. This territorial unit paid its independence with 62 victims (of which 10 foreigners), 314 injured and material damages of USD 2.714 million.

The Political Pluralism and the Position of Albanians in the Republic of Macedonia until the 2001 Conflict

The collapse of Yugoslavia brought many novelties in the political life of the nations living within the borders of this multiethnic, multiconfessional and multicultural country, but not for Albanians, who were the third biggest nation after Serbs and Croats. In fact, the only "novelty" for them was the further division of Albanians in newly formed countries with Slav majorities. Part of Albanians remained within Serbia's borders, part of them remained within Montenegro's borders and the third part remained within Macedonia's borders.

Macedonia, which gained independence without wars and conflicts, did not show preparedness and sincerity (at least in the beginning) for the establishment of a civic state that would respect multi-ethnicity, multi-religiosity and multi-culturalism.

Even though the establishment of opposition parties created high expectations among many ordinary citizens, these failed to materialize. Political elites, both the old one and the one that was just being established, would interpret and misinterpret democracy, freedom and equality. They would devalue and violate it, aware that, sooner or later, such acts would lead to escalation and open inter-ethnic conflicts in the country.

As a matter of fact, the contradictions that were obvious from the beginning were various and multi-dimensional. This was particularly clearly reflected by the spectrum of political parties and their ideologies. If the lack of democratic culture is added to this, the situation becomes even clearer. The biggest contradictions could be noticed between the already old-fashioned ideology of the Communist Alliance of Macedonia[74] and other parties that represented a continuity

---

74 Under the pressure of circumstances created by the legalization of pluralism in Macedonia, the Communist Alliance of Macedonia was transformed into the Communist Alliance of Macedonia - the Party of Democratic Reforms. The continuity is proven by the fact that the programme of this party was based on the platform adopted in the 10th Congress of the Communist Alliance of Macedonia.

of the monist system, on the one hand, and the newly formed and insufficiently defined parties on the other hand. To these, one must add the contradictions between the political parties of the Macedonian bloc and the political parties of the Albanians, which was nothing but a sophisticated form of national contradictions.

The country was not prepared for the new challenges. The values from the past had lost their meaning, while the new values were being built too slowly. The intense Macedonian ethnocentrism came to expression since the earliest stages. The majority of Macedonian elite did not understand pluralism as a societal value, but as a national value. This is proved by the very strong tendencies aimed at the hindrance of the establishment of political parties of other ethnic groups.[75]

However, the intellectual and political Albanian forces were to the end determined that not only will the non-Slav political parties and particularly Albanian ones not obstruct the democratic development of Macedonia, but to the contrary - that they will help the democratization of the Macedonian society in general. Albanians in Macedonia understood the party organization as a struggle for ideas and programs for affirmation of the specificity over the generality. Unfortunately, majority of the Macedonian elites did not have a correct attitude toward pluralism and democratization of the country.

For an entire decade, Macedonians and Albanians tried, both within their own communities and outside them, to convince each other which one of the two dominant ethnic communities was right. All of this implied lack of confidence, insecurity and waste of energy. Macedonia had to pay the "tribute" or the price for the failure to create circumstances for a true integration of Albanians in the Macedonian society during the monist period. From the beginning, Macedonian political parties wanted to make it clear to the Albanians that this country is called Macedonia, that Albanians will continue to be foreigners in their own ethnic lands and that their rights will continue

---

75   Daily Newspaper ''Flaka'' 13.05.1990 The biggest Albanian party (PDP) Party for Democratic Prosperity couldn't be registered before the Judicial institution without a prove that it has in its ranks members of Macedonian ethnicity. As prove was given the name of Dushko Apostoloski who was first Secretary General (ethnic Macedonian)

to depend on the desire and the will of Macedonian political parties and the Macedonians. On the other hand, Albanian political parties were making it clear that, in the future, they will not allow Albanians to remain "tenants in their own home". Bearing this on mind, it is not too difficult to conclude that the first decade of the pluralist life in Macedonia was characterized by the tendency for dominance and positioning. Unfortunately, soon after the first pluralist elections, dysfunctional relations were created in the political area, which implied the institutional and the non-institutional tendency of dominance by the Macedonian side and the tendency of party (but not national) positioning by Albanians. This will in the background create illegal and illegitimate forces which surfaced with a strong intensity in the last year of the previous century as a strong alternative to the legal political organization of the Albanians. Unfortunately, the reality showed that the philosophy of thinking in Macedonia changes very slowly.[76] Relations of Macedonian national dominance and Albanian party positioning are still being built, which leaves a space for repeating of the history in the near or distant future.

The evolution of the development of political pluralism in Macedonia before the 2001 conflict includes in itself the following characteristics:

- The political war between the "small majority" and the "big minority" (According to the data of the Census of 2002, Macedonia is a diversified country in terms of population. Census exemplifies that in Macedonia there are: Macedonians (1,297,981), Albanians (509,083), Turks (77,959), Roma (53,879), Vlachs (9,695), Serbs (35,939), Bosniaks (17,018).[77]
- Extreme disrespect for the legitimate demands of the Albanian population in Macedonia. (After the independence of Macedonia, Albanian population did not have the right to a higher education in their mother tongue, while the number of Albanian population in the state institutions, especially in the policy and the Army, is symbolic)

---

76 Implementation of the Ohrid Framework Agreement, Friedrich Ebert Stiftung 2003. Available at: http://www.fes.org.mk/pdf/Ohridski_alb.pdf
77State Statistical Office. Available at: http://www.stat.gov.mk/

- The institutional discrimination of the Albanian population.
- Tragic events where the state violence resulted with losses of lives of tens of citizens from Albanian ethnic background, etc. (In the events of Bitpazar, Recica, Ladorista and Gostivar, more than dozens of Albanians were killed and a few hundreds were tortured by the Macedonian police.)[78]

The abovementioned moments were the cause and the main incitement of the armed conflict in 2001, which ended with the signing of the Ohrid Framework Agreement.

The Armed Conflict of 2001 and the Signing of the Ohrid Framework Agreement

The fear, the feeling of insecurity, the lack of experience, the ambitions and the historical-societal circumstances were the factors that imposed the political organization on national grounds in the Republic of Macedonia. Such an organization was not a guarantee for a sustainable development of Macedonia as a country which, in the beginning of the 1990s, was facing various problems. Surely the greatest danger for the country was the approach that the two biggest ethnic groups had towards pluralism and the democratization of the society. The stances of the two biggest ethnic groups, expressed through political parties, were not only different, but also diametrically opposed in many dimensions. As a consequence of the marked divergences between the two biggest ethnic groups, there was an obvious disrespect of the democratic values in the widest sense of the word, which ended with the armed conflict between the Macedonian military-police forces and the NLA as a military force of Albanians in Macedonia.

This conflict ended with signing of the Ohrid Framework Agreement, which sought to solve the political and the security situation in Macedonia, as well as the guaranteeing of sustainable prospects for a democratic development of the country based on the

---

78 Nova Makedonija, 18.6.1992, Flaka, 8.11.1992.

existing reality. The Agreement was signed by the President of the Republic of Macedonia - Boris Trajkovski, and the leaders of VMRO-DPMNE - Ljubco Georgievski, SDSM - Branko Crvenkovski, DPA - Arben Xhaferi and PDP - Imer Imeri. The representatives of the international community, Francois Leotard and James Pardew, also put their signatures as official witnesses.

The Framework Agreement was accepted in principle by both sides in the conflict as the only alternative for Macedonia and its citizens. Some analysts characterized the signing of the Agreement as a date of the signature of peace by the two armed sides or as a beginning of a new history for the two biggest nations in Macedonia. Others viewed this as the last chance for cohabitation between Albanians and Macedonians on this territory. The Macedonian President Boris Trajkovski stated that: "The function of the Ohrid Framework Agreement is to stop the war and to set the foundation for a long-lasting peace''.

The analyses of the recent years show an insufficient seriousness of the political forces in the country regarding the enforcement of this Agreement, i.e. its accurate implementation. As a matter of fact, the merits of the Agreement began being contested by certain circles immediately after its signing. All this is an expression of the lack of a consensus of ideas regarding this important document. There are differences in the interpretation of the Framework Agreement both in the Albanian-Macedonian relation and in relations between Albanians and between Macedonians themselves. An impression is created that, as time goes by, the real values and principles of this Agreement are being blurred by giving the "exclusive right" of its interpretation to circles engaged in daily politics, who joke with history either due to the ignorance about issues, or due to the pursuit of narrow interests.[79]

We agree with those analysts who argue that even after the signing of the Ohrid Framework Agreement, many issues remain open, which require not only political clarifications, but first and foremost

---

[79] Implementation of the Ohrid Framework Agreement, Friedrich Ebert Stiftung 2003. op. cit.

academic clarifications[80]. The causes, motives and the consequences of the 2001 conflict are still insufficiently clear. It is difficult to count on the complete implementation of this Agreement with diametrically opposite stances, divided by national origin. Ohrid Framework Agreement should be perceived as a consequence of permanent tensions in Macedonia which reached their peak in the 2001 conflict.

It seems that the majority of ethnic Macedonian analysts are more prone to analyze issues superficially, thus leaving an irrational space for them to be repeated within a certain period of time. This is preferred to true researches, which would once and for all shed light, in a well-argued manner, on all situations that were holding hostage the inter-ethnic relations in certain stages of the development of the country. On the other hand, a concise analysis of the events of 2001 is still missing. Undoubtedly, the political structures do not have the readiness, whereas the academic circles do not have the courage to do such a thing. The truth about the 2001 remains the one presented by political parties and their leaders, divided by ethnic origin. While the Macedonian side holds the view that the conflict was imported from abroad, the Albanian side holds firmly that the 2001 conflict was solely a consequence of the extreme ignoring of the legitimate demands of the Albanian nation and of the institutional discrimination of Albanians in Macedonia. Since the functioning of a country based on two truths of national character is very difficult, the unfolding of the "true truth" is more than necessary.

If the Ohrid Framework Agreement is considered a document of democratic consensus between the two biggest ethnic groups, the lack of sustainable analyses regarding the 2001 conflict means further holding hostage of the Albanian-Macedonian relations. This would reflect negatively on the development of democracy and the integration of Macedonia in Euro-Atlantic structures.

We think it is the time for specialists of the two ethnic groups to jointly analyze the following issues: why did all ethnic groups in Macedonia decide to form their own national parties? what were the circumstances in which the first multi-party elections were held? why

---

80 Ibid.,

did Albanians not support the Referendum on Macedonia's independence? why did Albanian MPs not vote for the first Constitution adopted by the multi-party parliament? why did the Albanian parties organize the Referendum on the cultural-territorial autonomy? - and further questions on first post-Communist decade in Macedonia.

The Implementation of the Framework Agreement - the Experience so far and the Problems

The signing of the Ohrid Framework Agreement implies certain activities that lead towards nurturing cohabitation, building more relaxed inter-ethnic, inter-religious and inter-cultural relations, functioning of the Rule of Law and advancement of the democracy and the Euro-Atlantic prospects of the country. This makes it clear that the implementation of the Agreement is not optional, but mandatory for all political subjects.

Nevertheless, even six years after signing of the Agreement, there are still questions what is in fact the Ohrid Framework Agreement. In addition, there are dilemmas whether it is a historic agreement between the two biggest ethnic groups in Macedonia, or it is only a political manoeuvre of the political elites in Macedonia or manipulation, or something else. These questions are surely made stronger by contradictory interpretations of various political and academic circles.

In the beginning, it should undoubtedly be recognized that this Agreement was not well received by all organized political forces in the country. Some Macedonian circles were, from the beginning, spreading the view that the Ohrid Framework Agreement is something imposed from abroad and that it advances the status of the Albanians by harming Macedonians. On the other hand, certain Albanian circles were promoting the view that this Agreement does not advance the

legal-political status of Albanians as much as it is necessary.[81] It could perhaps be clearer how much do Albanians gain and what Macedonians lose by this Agreement if we consider Ahtisaari's plan for the future status of Kosovo. Some things become clearer only when there is an analysis of documents that offer similar or different solutions in certain circumstances. If there is a critical analysis of what is guaranteed for Serbs in Kosovo, it becomes fully clear what Macedonians "lost" and what Albanians in Macedonia ''gained'' with signing the Framework Agreement.

Without getting into details of what this Agreement does and does not offer, realistically this Agreement and the implied changes offer an optimal ground for the establishment of more relaxed inter-ethnic relations, and more than this. The Ohrid Framework Agreement is a document that installs the element of consensual democracy in the political system of the Republic of Macedonia in a very sophisticated manner.

The way the Republic of Macedonia will develop in the future will, to a great extent, depend on the political climate and the general circumstances, i.e. its orientation towards the future. It is implied that Macedonia has two or three alternatives: to continue with the traditional closeness with other Slav countries, to isolate itself or to ensure a deserved place within the European Union. Even though Macedonia is declaratively determined for the Euro-Atlantic prospects, the deeds speak of something else. In the context of what was said, there is a need for an analysis of the Ohrid Framework Agreement, of its accurate implementation and of the messages that come out of it.

In this particular case, the approach and the interpretation of this Agreement are of particular importance. If the Framework Agreement is interpreted in a progressive spirit, then it offers wide

---

81 For more see the daily press in Macedonia for the period 2001-2002, International Crisis Group Report regarding the stands of the two major parties in Macedonia says ''Former Prime Minister Ljubco Georgievski and senior Albanian politician Arben Xhaferi have been all too willing to play on anxieties and animosities, openly undermining Ohrid and even urging Macedonia's ethnic partition.'' International Crisis Group, Macedonia: No Room for Complacency, 23.10.2003. Available at: http://www.crisisgroup.org/home/index.cfm?id=2329&l=1

opportunities for the democratization of the society, for the advancement of individual and collective rights, for the achievement of an interethnic, inter-religious and inter-cultural balance, etc. If it is interpreted in a restrictive manner, it will surely provoke crises, dissatisfaction, stagnation and conflicts, where armed conflicts cannot be excluded.

When it comes to the implementation of the Ohrid Framework Agreement, a lot of things lose their meaning.[82] For instance, no clear distinction is made between its technical and its factual implementation. The technical implementation consists of constitutional changes and adoption of several laws in the spirit of the amended Constitution. This process is going towards its completion, despite the many weaknesses that are a result of the inconsequent interpretation of the Framework Agreement and the "petty" bargains of the political subjects. Nevertheless, the functional aspect - the implementation of the spirit of the Agreement - is lagging behind. The technical implementation without the true practicing of the functional segment is the same as "a body without a spirit". It is evident that Albanians continue to be most interested in the implementation of the Framework Agreement. We think that the Macedonian side should take this responsibility, because it insists that it is the carrier of the state sovereignty, defining Macedonia as a country first and foremost of the Macedonians and emphasizing particularly its unitary character. If we understand the Framework Agreement as an opportunity for true democratization and for true Euro-Atlantic prospects of the country, it is logical that the ones who identify themselves with the country should contribute more in its implementation.

Macedonian political subjects continue to be unwilling to learn anything from the past. They continue to take advantage of the inexperience of the Albanian political parties, making petty but very dangerous bargains with individuals or small groups within the political organizations of the Albanians. In other words, they take advantage of the inter-Albanian divisions. As far as Albanian political subjects are concerned, they act by the "black and white" system.

---

82 For more detailed information see the Ohrid Framework Agreement Document at: http://faq.macedonia.org/politics/framework_agreement.pdf

When they are in opposition, they underestimate the importance of the Framework Agreement and treat its implementation as a second-order issue. On the other hand, when they participate in government, they take an oath on the Ohrid Agreement and its implementation as if it was a Holy Book.

The basic principles of the Ohrid Framework Agreement explicitly state that "a modern democratic country, in the natural course of its development and creation, should continuously ensure that its Constitution completely meets the needs of all its citizens, in accordance with the highest international standards and the standards that will themselves be continuously developed". Therefore, according to the Ohrid Agreement, the Constitution of Macedonia is not considered as something perfect or holy, but to the contrary - as the highest legal act that should change according to the created circumstances. In other words, the Ohrid Framework Agreement is a historic document, on which the current Constitution is based.

If we consider the Ohrid Framework Agreement to be a historic agreement and the only alternative for the two biggest ethnic groups to build a sustainable future, its implementation is an inevitable necessity, despite its complexity. The implementation is the hardest part and requires an efficient mobilization of all far-sighted forces in the country.

As far as the implementation of the Agreement is concerned, we should mainly take into account the stance of the relevant international factors, which can be summarized in one sentence: "The Agreement is being implemented, but too slowly". If we try to give a comment based on the opinions of local analysts, there is always the danger of falling into the traps of daily politics. If we conclude that the activities in this direction are satisfactory, then we will automatically find ourselves in the maneuvering space of Albanian parties in government. If we say the opposite, we will find ourselves in the space of the opposition. If we begin from the factual situation, it should be concluded that Macedonian parties in government and in opposition try to downgrade the real character of the Agreement at any price. On the other hand, Albanian parties in government and in opposition are divided and can hardly manage the will and the vote of their electorate

gained through elections. This all yields very poor results in the implementation of the Framework Agreement. The results satisfy the form, but not the quality. It is evident that a variety of laws lacks proper implementation in practice. Even though that we are aware that there will always be discrepancy between the normative and the practice, Macedonia is the case of post-conflict country and there is a need for measures to increase mutual trust. We can achieve a level of mutual trust when the Albanian population will be convinced that their rights can be achieved in the frame of Republic of Macedonia and the Macedonians will be convinced that Albanians are a factor of stability.

The Ohrid Framework Agreement as a Stimulus of the Consensual Democracy in the Legal-political System of Macedonia

Recently, we are witnessing various academic and political circles trying to promote the view that, after the signing of the Framework Agreement, Macedonia has become a country with consensual democracy. For instance, the spokesperson of Socialist Party of Macedonia in a Macedonian weekly magazine argues that Macedonia after the Ohrid Agreement is becoming a consensual Democracy. [83] The very pale elements of consensual democracy are interpreted and misinterpreted with the goal of creating a conceptual confusion. Thus, the consensual democracy is presented to ethnic Macedonians as something that threatens Macedonian existence, whereas to ethnic Albanians it is presented as something that makes them fully equal with Macedonian citizens. However, there is a skilful avoidance of the true interpretation of consensual democracy as a form of governance which is already practiced in many countries in the world and which offers very efficient solutions for multi-ethnic, multi-religious and multi-cultural environments such as Macedonia. For a bright and sustainable future it is important to emphasize that both sides should have a correct stand towards this approach: Albanian elite to comprehend that consensual democracy does not imply only rights but also implies obligations towards the state and, on the other hand, Macedonian political elite to comprehend that consensual democracy

---

83Interview with Zoran Vitanov-Spokesperson of the Socialist Party, Makedonsko Sonce, 2002.

will not lead to hinder the rights of Macedonians and to dissolution of the state.

In order to clarify the phenomenon of consensual democracy as much as possible, we will try to give some basic clarifications, without pretending to completely explain the essence of consensual democracy. In the beginning, we should say that consensual democracy, i.e. its practicing, is characteristic for countries with high awareness for coexistence in a given society. The political culture and the tolerance are always accompanying elements of this form of democracy. Democracy in general and consensual democracy in particular are not phenomena that are born over night and that quickly reach their highest development. On the contrary, this is a hard process, based on conflicts and cooperation, taking considerable time.

If the democracy can be understood as a part of the collective awareness, then in particular cases it ought to be imposed to the individual awareness, in order the latter to become its inseparable part.

Therefore, the imposition of values should not be considered tragic if they will later be positively reflected in the development of a nation, a country or a society. The imposition of the idea of the consensus[84] and true democracy for Macedonia as a country and as a society is equal to the sustainable progress and prospects. As far as the future is concerned, what is important is not what is lost but - what is won. In this case, with the Ohrid Agreement, Macedonians ensured the future for their country and their nation, whereas Albanians ensured only the proof that they are secure inhabitants in their own house.

In principle, consensus and democracy between themselves build a well-intertwined net of societal relations. The very term "consensus" implies a position that is generally accepted, a conclusion or a group of values, and it is usually used to explain the dynamics of a society. In essence, there are two interpretations, two approaches in the

---

84 I use the notion ''imposing'' because of the fact that Macedonian state structures did not show any sign of readiness to practice consensual democracy prior to the conflict of 2001 and signing the Ohrid Framework Agreement. Thus, elements of consensual democracy foreseen in the Constitution of Macedonia should be perceived not as a result of the good will, but as a result of the Ohrid Framework Agreement.

explanation of the development of the order of a society: one interpretation emphasizes the conflict and the violence, whereas the other emphasizes a level of societal consensus, understood as a form of acceptance of values and norms.

The German sociologist Max Weber defined the consensus as something that exists when our predictions about the behaviour of the others are realistic, because the others will usually accept these predictions as valid for themselves, even without an explicit agreement. On the contrary, for Marxists the consensus is a deeply ideological concept, which is used to make eternal the class rule, in order to make efforts to hide the expansion of the conflict in the society.[85]

Consensus democracy is the application of consensus decision-making to the process of legislation in a democracy. It is characterized by a decision-making structure which involves and takes into account as broad a range of opinions as possible, as opposed to systems where minority opinions can potentially be ignored by vote-winning majorities.

Regardless of the level of justification and the necessity of the consensus in certain stages of development of certain societies, the consensus would be impossible without the tolerance component. According to Fehmi Agani, tolerance is "a similar concept and a related concept to humanity, liberalism, freedom, democracy. Tolerance means - to accept or to put up with something towards which we have a negative attitude". [86]

After the presentation of some ideas about the consensus, we will also give some explanations about the consensual democracy. Theoretically, consensual democracy implies the achievement of an agreement for certain issues by all, which eliminates the danger of the tyranny of majority. Consensual democracy is characterized by the

85 Iain McLean and Alistair McMillan (eds), The Concise Oxford Dictionary of Politics (Oxford: Oxford University Press, 2003), p. 260.

86 Fehmi Agani, For the Civil Society (in Albanian) (Pejë 2002), p. 36.

following features: governance by a grand coalition, mutual veto rights, proportionality in representation and autonomy of the segments.

Representatives of consensual democracy emphasize the consensus as an alternative to majority rule. In order to explain the mechanisms of political sustainability in societies with deep societal rifts, the Dutch political scientist Arendt Lijphart uses the term "consociational democracy". In consensual democracies, the division of power, the compromise and the grand coalition in fact deny the claim that the winner has all the power.

In the Ohrid Agreement, now included in the Constitution as well, the consensual element comes into expression mainly during the adoption of laws that have a particular importance for ethnic communities other than the Macedonian majority. This is a mechanism that theoretically protects the non-Macedonian population from extreme institutional discrimination. This mechanism does not even come close to threatening the Macedonian existence, although in practice it can threaten the normal functioning of state institutions if the governing coalition has not ensured the needed number of MPs from non-Macedonian ethnic groups. All of this can be very positive because it determines certain relations of cooperation between the government and the opposition, i.e. the building of a more correct political game.

The consensual democracy is a concept recognized in theory and in practice. Belgium and Switzerland are countries with a highly-developed consensual democracy.

Consensual democracy is nothing else but an application of consensus in decision-making. This kind of democracy is characterized by a structure of decision-making that involves and takes into consideration numerous opinions, as opposed to the system where minority's opinions can simply be ignored by the majority through the outvoting mechanisms. We should mention here that in the first multi-party mandate of the Parliament of Macedonia, due to the outvoting; only one amendment by an Albanian MP was voted for (regarding the

special status for the city of Skopje). [87] The idea of consensual democracy is based on the fact that the democratic structure needs a new concept in decision-making, a new approach towards the leading role and establishing new methods and techniques in the building of the common future.

The issue remains open about the extent to which the Ohrid Agreement imposes the values of a true consensual democracy, without which a country like Macedonia could hardly survive.

The Consensus in Practice in Several Modern Societies - a Comparison with the Republic of Macedonia

After gaining independence, the Republic of Macedonia opted for parliamentary democracy and everything the democratic order implies. However, it seems as if the Macedonian political elite did not make the right choice in terms of the democratic model that needed to be nurtured. In other words, it was deliberately forgetting that Macedonia is a multi-ethnic country and that the form of governance should be adapted to the multi-ethnic concept of state building.

Democracy as a societal order can be successfully built by both ethnically homogenous and ethnically heterogeneous countries. The practice of development of countries in Europe so far clearly shows that ethnically homogenous countries are better suited by the democratic rule by majority, whereas ethnically heterogeneous countries are better suited by consensual democracy. As a matter of fact, it is difficult to precisely define multi-ethnic and homogenous countries by a well-defined criterion. There is no widely accepted criterion about the share of an ethnic community in the population in

---

87 This amendment was proposed by the representative of the Party for Democratic Prosperity Shaban Prevalla. This amendment was about the Statute of the city of Skopje - the largest city and state capital of Macedonia, and will be remembered as a good example for tolerance in the pre-conflict period. The mentioned amendment was accepted not by voting, but by acclamation by all the representatives in the Parliament of Macedonia. Unfortunately, this was the only case when Macedonian representatives accepted a proposal from an ethnic Albanian representative in the first multi-party mandate of the Parliament of Macedonia. Anyhow, the amendment was positively commented by ethnic Albanians for weeks.

order for the country to be characterized as homogenous or heterogeneous. Lijphart classifies all countries in which a group makes up more than 80% of the population as homogenous societies. If we apply this criterion, we could consider the following European countries to be homogenous: Albania with 95% Albanians, Austria with 96% Austrians, Denmark with 97% Danes, Finland with 93% Finns, Greece with 98% Greeks, Italy with 94% Italians, Norway with 96% Norwegians, etc. In the category of multi-ethnic countries, we would have Macedonia with 66% Macedonians, Spain with 72% Spaniards, Ukraine with 73% Ukrainians, Switzerland (65% German-speakers, 18% French-speakers, 10% Italian-speakers, 1% Rhaeto-Roman-speakers) and others (Montenegro, Bosnia). In this classification, Russia and Great Britain are borderline, with around 80% Russians and English, respectively. [88]

In most countries that practice it, the consensus was in the beginning imposed in some way, but later each country respected it as a democratic achievement and continuously cultivated, extended and assisted it.

According to any political logic, the elements of consensual democracy should have been willingly accepted by the "majority" as a needed mechanism, and I would even say as a compulsory mechanism, for the adaptation of the two largest ethnic and linguistic groups in the country. This is even truer if one takes into consideration that the consensual demands of the Albanians are first and foremost concentrated in the areas of education, culture and proportional representation in the institutions of the system.

Next, this chapter will try to explain how much the Framework Agreement offers to Albanians through comparison with several West European Countries.

The inter-ethnic relations, which have often provoked conflicts between the majority and the minority population, have existed in Europe for well over a century. The inter-ethnic relations and the

---

[88] Siniša Tatalović, Ethnic Conflicts and European Security (in Croatian) (Zagreb 2003), pp. 254-259

problems stemming from them have forced many governments to think seriously on how to promote less confrontational relations and external pressure for this has also often been present. There are very few countries that can be proud of having a principle-based and correct stance on the relations between the majority and the minority in the past. In some countries, (Macedonia) the "minority population" is concentrated in certain regions where it is an absolute majority compared to the dominant population at country level. Normally, if this population is placed geographically around the border with the motherland, the problems are even bigger, although this is not a rule. Historically, we can speak of two phenomena. The first is the separation of the smaller ethnic communities, the creation of independent states or the joining towards the motherland, which is a process that has been accompanied by conflicts. The second phenomenon is the practicing of political tolerance and consensus, which has yielded a certain level of integration in the common multi-ethnic country.

A typical example of the integration of several ethnic communities in a country is the Swiss Federation, consisting of four equal language groups and 26 cantons. However, the Swiss philosophy of reasoning is that the Swiss nation cannot be built on the basis of linguistic, religious or racial dominance, but on the basis of a subjective political fact that one would call "a feeling of belonging to the unique Swiss nation".[89] In no way does this mean that Switzerland has not faced any problems during its historical development. The Swiss stability is relatively new, and it dates from the end of the First World War. Until then, Switzerland had often been involved in national, religious, linguistic, social and cultural tensions. In fact, after these conflicts, Switzerland would become involved in finding consensual solutions for its problems.

The situation regarding the official use of languages in Switzerland is the following: the German language is an official language in 17 cantons, the French language is official in 4 cantons, and the Italian language is official in one canton, whereas 4 cantons are multi-lingual. In three of them German and French languages are

---

89 Nijaz Durakovic, Comparative Political Systems (in Serbian) (Sarajevo,2000), p.211.

official, and in one of them German, Italian and Romanish languages are official. In this manner, Switzerland has created circumstances so that no community feels threatened.

In the way it is interpreted, the Ohrid Framework Agreement offers almost nothing new for Albanians in terms of an equality of languages in the country. In the Framework Agreement it is clearly stated that "In the entire Republic of Macedonia and in its international relations, the official language is the Macedonian language and its Cyrillic alphabet". Further on, it is stated that an official language is also the language that is spoken by a non-majority community that makes up at least 20% of the population. This is an incomplete and impractical solution and the situation is made even more difficult with the lack of a law on the use of languages. For specifics refer to the original document of Ohrid Framework Agreement.[90]

Nevertheless, it must be noted that, with the constitutional changes in 2001, Albanian language has a wider use in the local self-government than it had with the 1995 law. The new law increases the powers of municipalities in areas such as urbanism, social policy, pre-school, primary and secondary education, health, etc. This implies that the use of the Albanian as an official language will come into expression in these areas, as well. We must also mention the use of Albanian language in personal documents, public administration, court procedures, etc.

From the other important moments of the inter-ethnic consensus, we should note that one of the goals of the Ohrid Framework Agreement is the decentralization of the central government and the strengthening of the position of the local self-government. Within the Parliament, there are protecting mechanisms for laws regarding the rights of the non-majority communities. According to them, besides the majority of MPs in general, the majority of the votes of MPs of non-majority communities should also be ensured in order to adopt a law.

---

90 http://faq.macedonia.org/politics/framework_agreement.pdf

Without getting into details, it must be noted that a lot of things remain incomplete and undefined. Everything moves around the famous 20%. I will try to show that there are better solutions than the ones provided by the Ohrid Agreement through examples regarding Swedes in Finland, the South Tyrol and French-Flemish relations in Belgium.

The population in Finland is consisted of 93% Finns and only 6% Swedes. Since 1919, Finnish and Swedish languages are official languages in Finland. The Law on languages of 1922 stipulates the use of both languages in administration, the use of the one or the other language in local self-government and the right of citizens to use the Finnish or the Swedish language in communication with the authorities.

Finland's Swedes, many of whom live on Åland islands, have since the 1920s gained a wide political-territorial autonomy. Today, this province is considered a one-language region, where the Swedish language and culture dominate. In all issues, this province functions as a state with administrative and legislative powers, but it certainly never brings into question the sovereignty and the territorial integrity of Finland. The control of the central government over the autonomy of these islands is exercised through the mechanism of veto as a right of the President of the country.

The cultural autonomy of Swedes in Finland includes the following elements: the use of the Swedish language and alphabet, the use of national symbols (the coat of arms and the flag), the establishment of educational and cultural institutions, publishing houses and media, the protection of cultural heritage, etc.

It should be noted that in all municipalities where Swedes consist 5% of the population, the Finnish and the Swedish language are equally in official use. Swedes have educational institutions in their language at all levels. The Swedish university in Finland has 6 faculties with 4.000 students. The schools and the faculties in Swedish language are financed by the state and by the units of local self-government. These are the rights enjoyed by a minority in Finland.

The case of Belgium is also worth noting. Its population is consisted of 58% Flemish, 33,1 French-speakers, 1% German-speakers, as well as migrants from within and outside the EU. In Belgium we have a situation that is strange and paradoxical for our circumstances. In fact, the French-speaking minority in Wallonia and Brussels long time dominated over the Flemish majority, and it is the latter that have demanded an equality of languages and territorial autonomy. Even many years after the foundation of the Belgian state, the French language that "the big minority imposed to the small majority" was a source of conflicts between members of the Flemish and the French community. Though their history is full with periods of dominance and tolerance, the relations between the two communities show a permanent progress that has moved from the cultural autonomy for the Flemish to the establishment of a sustainable federal state. Brussels, as the centre of the EU, has surely also contributed towards this.

Without getting into too much detail, it should be noted that the process of "normalization" of relations between the Flemish and the French community has lasted for around 180 years. What could be considered the highest point of relative conciliation between the two biggest groups in Belgium is the Coordinated Constitution of 1994, according to which Belgium is a federation composed of communities and regions: the Flemish, the French and the German-speaking community, which have the powers over the areas of culture, education, languages and health and three regions the Flemish Region, the Walloon Region and Brussels. These regions have legislative and executive organs: the regional council and the regional government. The 1994 Constitution guarantees the equality of all Belgians in front of the law. The federal government is consisted of an equal number of ministers from the Flemish and the French-speaking community. The Federal Parliament is bicameral and it is consisted of the Chamber of Representatives and the Senate.

The cases of Belgium, Finland and Switzerland are the best examples of how a consensus based on tolerance is built. In this aspect, the Ohrid Agreement should be treated as a historic document that represents a good starting point in constructing inter-ethnic relations in Macedonia, and not as an end in itself.

Is the Ohrid Agreement a Firm Guarantee for the Development of Macedonia as a Multi-ethnic Country?

It must be noted that the two biggest ethnic communities have certain reservations in the construction of the common country. There is a mutual insincerity and distrust. Thus, the Ohrid Agreement is only a document that could be respected or ignored. The worst option is if it is respected only partially or if it is respected only by one ethnic group.

We will get back to Finland's case here. In 1920, Swedes made up 11% of Finland's population, whereas today they make up 6,2%. The decline of the Swedish population does not also imply the decline of their rights. On the contrary, it implies maintaining of their rights in almost all areas of life.

When it comes to the Ohrid Agreement and its implementation, some Macedonian parties are ready to spend weeks clarifying a period or a comma in the Agreement. For them, it is a disaster and a threat to the integrity if a parliamentary committee head of Albanian origin leads a session of the committee in Albanian. Many Macedonian live under the fear of what will happen with Macedonia if Albanians continue with the high birth rate, but they never ask what will happen with the Framework Agreement if, after several decades, Albanians make up only 19,9% of the population.

Related to this, a statement of the Head of the regional government of South Tyrol[91] should be mentioned: "Our autonomy should not be understood as something static, but as something dynamic. Therefore, the package of decisions completed in 1992 should be viewed as a guarantee of our rights and not as a withdrawal from further talks, which are particularly needed in our times".[92] It is wrong for the majority group to consider the agreements related to the building of the multi-ethnic country as a static thing, in which intolerance replaces trust and outvoting replaces consensus.

---

91 This relates to the Austrian ethnic community in Italy.
92 Durnbwalder, L., Interview in the supplement of Süddeutsche Zeitung, 18.9.1994.

Distrust in the continuation of further cohabitation in Macedonia was expressed by the President of the Academy of Arts and Sciences of Macedonia who, before the end of the 2001 conflict, proposed an exchange of population and territory with Albania. Although this proposal was received with support neither from foreign actors, nor from Albanians and Macedonians and was later claimed to be a personal stance, in fact it was a "testing balloon" from an institution which has great influence to the political circles in Macedonia. It is hardly believable that a member of the Academy is so naive to request the exchange of one third of the population living in Macedonia with only one percent of the population of Albania which is made up of Macedonians. The proposal itself was perhaps not so tragic, but the message coming out of this proposal was very painful. In fact, according to the proposal, all possibilities were exhausted for cohabitation of Albanians and Macedonians in a common multi-ethnic country based on an advanced consensus.

After the signing of the Ohrid Agreement, several Albanian politicians would also express reservations over the chances of survival of multi-ethnic countries, taking as an example the case of Macedonia. It is very difficult to answer correctly what are the prospects of multi-ethnic countries, especially the ones created after the fall of communism. However, it is even more difficult to give a sustainable opinion over what would the map of ethnically clean states in Europe look like. We think it is impossible to draw clear ethnic lines even after a possible wide armed conflict.

Speaking of Macedonia, one can be optimistic as far as multi-ethnic prospects are concerned. The multi-ethnic prospects of Macedonia are real, provided that these are desired by the two dominant ethnic groups in the country. They should be assisted by the international community, at least until a healthy awareness is created over the common future and prospects.

In these moments, it would be very helpful if, on the basis of the Framework Agreement, a historic Albanian-Macedonian agreement could be reached without an external mediation. This agreement would aim to join the two ethnic groups on the basis of a true equality, and not on the basis of a cultural, political and economic separation. Such

an agreement would create the basis for a higher loyalty of Albanians to the country. This should be viewed as possible, because it is natural for higher values to replace lower values. Therefore, the loyalty and the advancement of the rights of Albanians should be two parallel processes. The prospects for Macedonia are secure if that is what all its citizens want. The multi-ethnicity, the multi-religiosity and the multi-culturalism should be understood as advantages and not as handicaps, whereas the implementation of the Ohrid Agreement should be understood as a necessity and not as a good will.

Ermira Mehmeti

IMPLEMENTATION OF THE OHRID FRAMEWORK AGREEMENT

Introduction

Post-modernism process marks a new era in the building of the nation. It challenges the classic definitions of state and nation. The big changes after the end of World War II, the free movement of people and goods, various economic and other types of migration, but even the change of the political regimes in the world, seem to have confronted Gellner's definition of nationalism. This definition holds that "the political and the national unit should be congruent" [93]. This process became even more emphasized with the collapse of the socialist states, where the political regime tried to accommodate diversity within a single state and create cohabitation among various ethnic groups simultaneously. However, one could argue that the fall of the Berlin Wall not only compromised this regime's idea, but it discredited the very concept of the state, as well. The rise of nationalism in all former Yugoslav republics and elsewhere in the former Soviet Union only prove this. Monoculture societies were easily choosing a new political system, taking ethnicity as the only criteria for creation of an ethnic nation–state. On the other hand, the transition process in multicultural societies ruled out as illegitimate not only the regime, but the very foundations of the new state.

It was due to these factors that upon its independence, the democratic transition in the Republic of Macedonia became a complex political problem. As in most post-communist countries, the ethnic diversity of the society became a key factor in defining the state. At the same time, this was also a source for profound division among the representatives of the groups.

---

93 Ernest Gellner, Nations and Nationalism, (Oxford, Blackwell 1983).

Ethnic representation	Population in percentages
Macedonians	64.18%
Albanians	25.17%
Turks	3.85%
Roma	2.66%
Serbs	1.78%
Vlachs	0.48%
Bosniaks	0.84%

1. The Ethnic Representation of the Population in Macedonia According to the Data of the State Statistical Bureau [94]

The two largest ethnic groups in Macedonia, the Macedonian and the Albanian, although physically located at the same geographic and socio-economic area, have always lived separate and parallel lives. This fact comes as no surprise seeing that these two communities, aside of living together in one political system do not share "a process of formation or growth of the nation; they do not have a common sentiment of consciousness of belonging to one nation; nor is their language and symbolism expressive of belonging to one nation.[95] The Macedonian population is Orthodox, while the majority of the Albanians are Muslims. However, Albanians have never considered religion as a factor that determines or expresses their identity. On the other hand, the Albanian language has always been a firm expression of their identity, thus a source of profound division. Macedonians speak Macedonian; Albanians speak Albanian - two completely different languages. This points out to the obvious lack of common political identity of the different groups in independent Macedonia.

94 These are the official data according to the last Census of the population conducted in 2002
95 Smith considers these elements as crucial in defining the concept of the nation. See Anthony Smith, Nationalism: Key Concepts (Cambridge: Polity Press, 1988).

Therefore, the political mobilization which followed was solely organized upon the ethnic origin. And "when diversity leads to occurrence of ethnicity in politics, the state as such is rebutted"[96].

Due to these reasons, the transition years in Macedonia were marred by inter-ethnic tensions dominated by one central issue: which is the titular nation in the new state? Macedonians, considering themselves the intrinsic group of the political system, proceeded towards building the Macedonian state and national identity without the consent of Albanians, who, being autochthonous peoples in Macedonia, also claimed their, equal share in the state. These tensions culminated at the beginning of 2001 with the armed uprising of ethnic Albanians aimed against the constitutional order of Macedonia. The National Liberation Army (NLA), sought for the democratization of the multi-ethnic society by demanding more rights and equality for the Albanians and asking that they be recognized as constituent peoples. The conflict that lasted almost a year, ended with signing of the Framework Agreement, widely known as - the Ohrid Agreement.

Very soon, the involved parties in the conflict, as well as the international community, understood that the only solution for Macedonia would be to define a framework which will not imperil the administrative borders inherited as external state borders upon the breakup of Yugoslavia. This was the way to avoid the likelihood of causing domino effect on the borders of the Balkan states, defined with the bloody wars in Yugoslavia. The key question was: how to achieve the basis for cohabitation between Macedonians and Albanians in Macedonia? How to recognize and institutionalize the diversity of the society? In case of obtaining such use a different term, what will be the principles upon which the new joint state will be built and how can equal status be ascertained for all ethnic groups that comprise Macedonia?

The main demand of the Albanian community was to amend the Preamble of the 1991 Constitution. This claim was set forth even during the Referendum for Independence in 1991. At the very

---

96 Nicole Topperwien, Nation-State and Normative Diversity (Fribourg: Institut du Federalisme, 2001), p.187.

beginning of the armed conflict in 2001, the International Crisis Group warned that "whatever the rebels' long-term intentions may be, they clearly tapped into the frustrated local demands for basic minority rights: citizenship, ownership, education, language and representative government".[97] The same report also recommended that "the troublesome preamble of the Constitution must be deleted… decentralization measures that have languished in parliament should be adopted and implemented. A census should be prepared and conducted with international assistance, to determine demographic reality as accurately as possible."[98]

The Framework Agreement which was agreed in Ohrid and signed in Skopje on August 13, 2001, is conveyed through a set of constitutional amendments and laws. The implementation of the Agreement is an ongoing process. In light of its implementation, an inevitable question emerges - what is the very purpose of the Framework Agreement? Does its implementation mean that the actual goal will truly be achieved? Contemplating the assumption that the Framework Agreement is in fact an agreement for amendments to the Constitution and the political system in the country, what does the implementation of the agreement mean exactly? Based upon the modern theories for nation and state, one could conclude that the Framework Agreement actually sets a base for a specific, rather modern concept of nation-state which can accommodate diversity in the society. Modern scholars are right to claim that multi-ethnic states are mostly forced to seek pragmatic solutions for their ethnic conflicts. That is the way to prevent escalation of the demands of various groups not to reach a level of eventual secession. So, the accommodation of diversity turns into a key state-building question: "In order to survive, the state will have to, in a democratic manner, integrate the political demands of various ethnic groups. Otherwise, sooner or later, the state risks confronting an internal fragmentation or secession movements."[99]

As for the changes in the political system caused with the implementation of the Agreement seen especially in the relations

---

97 International Crisis Group, The Macedonian Question: Reform or Rebellion?, 5 April 2001, pg.ii.
98 Ibid, iii
99 Nicole Topperwien, op. cit., p.187.

among the ethnic groups in Macedonia, it should be emphasized that this Agreement represents a crucial qualitative change. It also represents an equal gain for the Macedonians and the Albanians, altogether. It is important for Macedonians to understand that the Agreement is concluded with the purpose to keep the Republic of Macedonia within its existing state borders. As a document that guarantees a set of political rights for the Albanian community, this agreement is actually a guarantee for the survival of the state, eliminating the threat of secession demands by the Albanian community. So, the Ohrid Agreement can also be termed as - Agreement preventing the break-up of Macedonia. Even six years after it was signed, the impression of rejection and resistance towards the Agreement sensed among the representatives of the ethnic Macedonian Community remains very high, as opposed to the general sense of acceptation and recognition within the ethnic Albanian community. The Ohrid Agreement determines very precisely that the sovereignty, the integrity and the unity will be upheld as the state's key pillars. It is upon these pillars that multiethnic Macedonia will be built. Are these three postulates a loss and, consequently, a defeat for the Macedonians? With this Agreement, the Albanian community obtains guarantees for enjoying its rights referring mostly to language, symbols and decentralization. Thus, the conclusion that the greatest benefits from the Ohrid Agreement are firstly assigned to the largest community- the Macedonian. The benefits for the other communities come afterwards.

The role and responsibility for the course and public support towards the amendments deriving from the Agreement lie within the majority community, i.e. within the political elites of the majority. Therefore, the elites must play a proactive role in promoting the spirit of the Framework Agreement. First and foremost, that might be effectuated via ensuring timely and adequate implementation of the commitments deriving from the Agreement. This can be the first step towards creating a general atmosphere of mutual acceptance and tolerance among the representatives of the two largest ethnic communities in the country. Therefore, the Ohrid Agreement represents a pragmatic framework for regulating the ethnic conflict in Macedonia. As such, its implementation represents a process which entails many challenges and causes positive and negative reactions

within the largest communities. This chapter analyses the key gains of the implementation of the Ohrid Agreement, as well as the disadvantages it entails and which emerge on the surface with its implementation.

What is the Political Framework Agreement?

The 2001 conflict clearly articulated the core problem of post-communistic Macedonia: the unsolved problem with the statehood. According to Linz and Stepan, in plural societies transiting to democracy, the crisis is intermixed with differences with regard to who actually should be the members of the political community.[100] Similarly, Daskalovski explains that upon the independence "… the foundations of the new state were not completely supported by the Macedonian Albanians".[101] He also explains that Albanians do not see themselves as minority, but as equal partners with Macedonians. In that manner, "ever since the independence, Macedonian Albanians, the biggest national minority in the country, and their political representatives have questioned the validity of the Macedonian state, its basic foundation, the logic of its existence".[102] Hence, the escalation of the violence in 2001 was an evident consequence of the lack of political readiness among the elites to address and resolve the demands of the Albanians in the country. A report by the United States Institute of Peace stated that the peaceful independence had nevertheless failed to resolve some issues "concerning recognition of the new state's identity and borders".[103]

The Framework Agreement is a "harmonized framework which ensures democratic future of Macedonia", and "promotes peaceful and harmonic development of the civic society, respecting simultaneously the ethnic identity and the interests of all (Macedonian)

100 Juan Linz and Alfred Steppan, Problems of Democratic Transition and Consolidation (Baltimore, John Hopkins University Press, 1996), p. 16.
101 Židas Daskalovski, Walking on the Edge: Consolidating Multiethnic Macedonia, 1989-2004 (Chapel Hill, NC: Globic Press, 2006), p.55.
102 Ibid, p.81.
103 USIP, "Macedonia: Understanding History, Preventing Future Conflict," Special Report, February 2004, p.2.

citizens"[104]. The main objective of this political agreement was to put an end on the conflict. Consequently to the above stated, the Ohrid Agreement can also be considered as a Peace Accord. Seeing that its purpose represents a normative guarantee for political rights of all citizens, there should be no dilemmas on the fact that it also a political agreement.

The Ohrid Agreement is a unique model of building a political consensus which stretches between the principles of consociation and unitary order of the state. It is an "awkward attempt to combine the civic approach and equal rights for all citizens with elements of consensus democracy".[105] According to Maleska, the Framework Agreement represents a model of power-sharing which "in post-conflict environments has been widely utilized by the international community, as the optimum solution to demands for secession or the right to self-determination"[106]. According to Bieber, this agreement is a mechanism for the institutionalization of ethnicity.[107] The provisions of the Framework Agreement are generally based upon the elements of consensual democracy as devised by Lijphart: government comprised of multi-ethnic coalition (although this is not explicitly anticipated with the Framework, it does function as a tradition since the early 1990s); obligation to provide equal representation in the state institutions for the minority communities; special parliamentary procedures (the right to a veto) and devolution of power via decentralization. Instead of the decentralization model implemented in Macedonia, Lijphart's model anticipates substantial non- territorial autonomy or autonomy along ethno-territorial lines. However, during the negotiations in Ohrid, this model was abandoned because of the intention to preserve the unitary character of the state[108].

---

104 Preamble of the Framework Agreement, Constitution of the Republic of Macedonia (2002), PE Official Gazette of the Republic of Macedonia
105 Farimah Daftary, "Conflict Resolution in FYR Macedonia: Power-sharing or the 'civic approach'," Helsinki Monitor, Vol. 12, No. 4 (2001), pp. 291-312
106 Mirjana Maleska, "What Kind of a Political System did Macedonia gain after the Ohrid Peace Agreement." New Balkan Politics, Vol. 9, No. 5 (2006).
107 Florian Bieber, "Institutionalizing Ethnicity in the Western Balkans: Managing Change in Deeply Divided Societies," ECMI Working Paper, 2004.
108 On the debate referring to consociational democracy and non-territorial federation see Arend Lijphart, Democracy in Plural Societies: A Comparative Explanation (New Heaven and London, Yale University Press, 1977); Arend Lijphart, Patterns of Democracy: Government Forms and

1. The Ohrid Agreement and the Preamble of the Constitution

Among the most critical issues for the Albanians in Macedonia were the definitions set forth in the 1991 Constitution. They objected to the fact that, according to the Constitution, Macedonia was defined as a state that belongs exclusively to the Macedonians: the Preamble recognized Macedonians as the only titular-nation, while the other ethnic groups were given the status of a "national minority". It was precisely this difference between Macedonians as the state-building nation, and the other "minorities", which was the main reason that generated revolt and dissatisfaction. For these reasons the political representatives of the Albanians in the Parliament refused to participate in the Referendum for Independence of Macedonia. According to Hislope, the old Preamble of the Constitution represents a nationalistic act "which identified the state with the Macedonian nation".[109] Similarly, the Norwegian Helsinki Committee identifies the Preamble among the main issues that generated the 2001 crisis: "the symbolic value of the Preamble is priceless. The majority of Macedonians claimed that its amendment would represent nothing less than a cultural catastrophe for the state and the Macedonian people."[110] Explaining the reasons for this belief, Balalovska claims that the "fear among the Macedonians is a result of the long history of denial of the existence of the Macedonian nation and the lack of Macedonian political entity".[111]

The value of the symbolism embedded in the 1991 Preamble was confirmed even stronger with the debate that followed, once the contents of the Framework Agreement entered the parliamentary procedure: "Petitions demanding not to change the text of the

---

Performance in Thirty-Six Countries (New Heaven and London, Yale University Press, 1990); Daniel .J. Elazar, Exploring Federalism (Alabama, University of Alabama Press, 1987)
109 R. Hislope, "Between a Bad Peace and a Good War: Insights and Lessons from the Almost War in Macedonia". Ethnic and Racial Studies, Vol. 26, No. 1 (2003), pp. 129-151.
110 Conflicting Perceptions, a study of prevailing interpretations of the conflict in Macedonia among Albanian and Macedonian communities, report 1/2003, p. 54.
111 Kristina Balalovska, "A historical background to the Macedonian-Albanian Interethnic conflict" in Crisis in Macedonia. Ethnobarometer, January 2002, p. 120.

Constitution which defines the Macedonian people were presented by numerous university professors and NGOs" (Silj 2002: 61). As a consequence , the initial text of the new Preamble agreed in Ohrid was amended an additional three times, although the Agreement was signed several months before that and the political leaders had reached an agreement on its terminology.

The 1991 Preamble refers to the historical, cultural, spiritual and state legacy as an exclusive ownership of the Macedonian people and its centuries' long struggle for national and social freedom and creation of its own state. According to the Preamble, "Macedonia is constituted as a national state of the Macedonian people in which complete civic equality and permanent cohabitation of the Macedonian people is ensured alongside with the Albanians, the Turks, Vlachs, Roma and other nationalities that live in the Republic of Macedonia" [112]. Upon implementing the amendments of 2001, the text of the Preamble stipulates that the "citizens of the Republic of Macedonia, the Macedonian people, as well as the citizens that live within its borders and who belong to the Albanian, Turkish, Vlach, Serbian, Roma, Bosniak people and others ... decided to constitute the Republic of Macedonia as an independent, sovereign state with the intention to establish and strengthen the Rule of Law, to guarantee human rights and civic freedoms, to ensure peace and cohabitation, social justice and economic wellbeing and progress in the personal and communal life, via its representatives in the Parliament of the Republic of Macedonia elected at free and democratic elections" [113]. The core of the amendment of the political manifesto on constituting the multi-ethnic Macedonia is seen in the recognition that all ethnic groups have jointly "decided to constitute the Republic of Macedonia".

The new preamble represents the political foundation for building a multi-ethnic and democratic Macedonia. As a political manifesto, it determines the constitutional order of Macedonia as a result of concurrence for such order among the Macedonian and the

---

112 Preamble of the Framework Agreement, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

113 Preamble (Amendments IV) of the Framework Agreement, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

Albanian people and all other people that live in the country. The concurrence between these two groups first and foremost represents their agreement on the type of the state. The main principles of the Framework Agreement determine that "the sovereignty and the territorial integrity of Macedonia, as well as the unitary character of the state are non-breakable and must be preserved", as well that "there are no territorial resolutions to ethnic issues" [114]. That means that guaranteeing the sovereignty and the territorial integrity are subject to agreement and mutual consent by the respective groups to preserve the territorial integrity and the sovereignty of the state. As stipulated by the new preamble, the ethnic groups are responsible holders of the sovereignty and the territorial integrity of the state. In other words, Macedonians and Albanians jointly take upon the main responsibility for Macedonia, as proprietors of the sovereignty of the state. At the same time, the preamble suggests that it is not Macedonians and Albanians only, but also other minorities are proprietors of the state, which only reiterates the multiethnic character of the Macedonian state.

2. Main pillars of the Framework Agreement

Based on the definitions in the new Preamble and through the Framework Agreement, the Constitution introduces normative changes that represent a guarantee for the affirmation of the multi-ethnic character of Macedonia. This document is formally comprised of four parts – the basic principles and three Annexes: Annex A which comprises the Constitutional Amendments; Annex B in which the judiciary changes are outlined, as well as the most important laws that need to be changed in a manner which will reflect the spirit of the agreement; and Annex C in which measurements for strengthening the confidence and implementation of the agreement are included.

114Framework Agreement, clause 1.2, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

The Framework Agreement introduces the threshold of 20% as the minimum prerequisite for implementation of some key provisions, such as the use of the language or the right to a university education in mother tongue for the non-Macedonian communities. Further on, the Agreement specifies the regulation of several principles that should eliminate discrimination and attain full social equality among the representatives of various ethnic groups. The Agreement calls for the development of a decentralized government, emphasizing in that manner the need for substantial transfer of competences from central to local government; elimination of discrimination via stimulating the equal representation of all ethnic communities in the public administration according to their percentile representation in the state; introduction of special parliamentary procedures which are supposed to protect the minority communities from being outvoted in the Parliament; the rights in the area of education and the use of languages, as well as rights in the sphere of free and full expression of the identity of the minority communities.

- **Equal Representation**

The issue of nondiscrimination and equal representation is regulated with Clause 4 of the main principles of the Framework Agreement. This clause outlines the general direction of how equal representation should be effectuated. Clause 4.1 of the Agreement stipulates that "the principle of nondiscrimination and equal treatment of all individuals before the law will be respected. This principle will be particularly endorsed as far as employments in the public administration and the public enterprises are concerned. It will also be implemented in terms of access to public financing for development of business activities"[115].

Equal representation proved to be one of the biggest challenges in the implementation of the Agreement. The reasons for the refusal and the resistance towards the implementation of this

---

[115] Framework Agreement, Clause 4.1, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

principle are clear and understandable. Core changes were anticipated in the public administration structure and the public enterprises founded by the state. These were changes which, for the Albanians and the other minority groups, represented the rectification of a decades-long injustice, while for many Macedonians they reduced a number of privileges and benefits which had, for decades in the past, been automatically and exclusively reserved for and awarded to the Macedonian community. Furthermore, many Macedonians were fearful of losing their jobs due to efforts to increase the number of Albanians (and others) in the public sector.

During the mandate of the Government of SDSM and DUI, in the period of 2002 till 2006, the representation of the ethnic communities in the public administration increased notably (see data below). This process was accompanied by great resistance within the Macedonian majority. However, the results of this policy are visible: in less than four years, the level of equal representation of the minority groups in the state institutions has risen from the poor 2% to 16.3%. Between December 2002 and December 2005, the number of Albanians employed in the public administration increased from 8,164 to 11,290[116]. According to the analyses of the Sector for Implementation of the Framework Agreement, on average 19 representatives of the minority groups commenced working in the public administration per week or four persons per day. Furthermore, "the percentage of Albanian civil servants has [since] risen in the police from only two to 16 percent, in the Ministry for Defense from two to 14 percent and in the Ministry for Economy from less than five to 24 percent."[117]

Upon the changes in the Government in August 2006, the new governmental coalition led by VMRO-DPMNE and DPA adopted a Strategy on Equal Representation with the objective "[t]o develop and upgrade the equal representation of the members of the minority

---

116 The data has been retrieved from the database on equal representation developed by the Sector on Implementation of the Framework Agreement available at www.soifa.gov.mk

117 Frosina Cvetkovska, "Row frustrates Albanian equality efforts," Institute on War and Peace Reporting Report, 23.8.2006. Available at www.isn.ethz.ch/news/sw/details.cfm?ID=16567

groups" (Strategy, 2006:8). This statement is no different from the policy of the previous government; however, the dynamics in the process of achieving equitable representation seems to be stalled. Among the proposed measurements, the opening of bilingual working positions was suggested; proposal was made to harmonize the selection and employment with the requirements for adequate and equal representation, as well as to expand the competences of the Sector on Implementation of the Framework Agreement within the General Secretariat of the Government. The introduction of the so-called bilingual job positions is anticipated in the Action Plan of the Government of VMRO-DPMNE, as a measure to ensure equal representation. However, due to the lack of legal regulations on the use of languages in the state administration, the actual object of this policy remains unclear, as does the nature of the job positions foreseen. Part of the strategy is also the adoption of a Declaration on Adequate and Equal Representation, but no such declaration has been adopted by late 2007. This Strategy however, does not include any numerical calculation according to which the public could have an idea on the projections anticipated by the Government in improving equal representation. Unfortunately, in shortage of actual results presented in concrete numbers, all endeavors of the Government remain to be viewed solely as a political marketing.

- **Decentralization**

Decentralization or Local Self-Government is a constitutional category in Macedonia. One-level decentralization[118] has been chosen as the optimal model which does not imperil the unitary character of the state. During the negotiations in Ohrid, other models for resolving the ethnic conflict were contemplated. Among them, there was a transfer of competences from central to local level and substantial independence of the municipalities from the central government. Having regionalization and federalization of the state mentioned as well, it can be concluded that decentralization is a substitute for all

---

118 See Gordana Siljanovska and Vladimir Mitkov, Local Self-Government (Skopje: Magor, 2000).

these models. Due to the multi-ethnic character of the state, the Local Self-Government reform has two parallel dimensions: ethnic and political-democratic. These two dimensions need not be contradictory, but rather complementary. The main challenge of decentralization is how to manage the collaboration between the central and the local government. The majority population at the national level becomes a minority group at some municipalities: an ethnic Macedonian living in Tetovo would be a typical example. It is this shift of positions that can serve as the best test for the respective communities to understand what it means to be a majority or minority in a multi-ethnic society.

As stipulated in Clause 3 of the Framework Agreement, further development of decentralized government is anticipated, in line with international standards. Increased competences of the municipalities would, in that case, refer to "public services, urban and rural planning, environment protection, local economic development, culture, local finances, education, social security and health protection"[119]. As part of the implementation of the Framework Agreement and the obligations deriving from it, the following laws were adopted by the Parliament: the Law on Local Self-Government (in January 2002), the Law on Territorial Organization which defines the municipal borders (July 2004), as well as the Law on Fiscal Decentralization (July 2004) which regulates the transfer of competences related to municipal finances. The development of decentralized government refers to another sensitive sphere – the security. According to Clause 3.3 of the Agreement, the local heads of the police should be elected by the Municipal Councils based upon a list of candidates proposed by the Ministry of Interior. The manner of election of heads of the police is further regulated with Clause 3 of Annex B, calling for the adoption of a modified legislation. This legal provision will guarantee that "each local head of the police is elected by the Municipal Council of the respective municipality..." [120] The goal of these changes is to increase the competences of the local population within the civic control over the work of the police and strengthen in that manner the confidence between the population and the security bodies. The first test in

---

119 Framework Agreement, Clause 3.1, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia
120 Framework Agreement, Annex B, clause 4, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

relation to the reforms in the police took place in September 2006 when the Parliament started a debate and later adopted the Law on Police. Before the adoption there was a debate whether the voting should be conducted according to the Badinter principle [121] or not. Since this question is related to security reforms in a post-conflict society, it was logical to have the adoption be a subject of a wide ethnic consensus. But the parliamentary majority adopted the law without such consensus. In addition, one year after adoption, the law has still not entered into force. Therefore, the heads of the local police are still not elected. Unfortunately, the adopted Law on Police has been termed as not a reforming one, by experts working for the Macedonian Helsinki Committee and other relevant Non Governmental Organizations. The police chiefs remain unappointed to date. In other words, most police stations still do not have local chiefs of police.

- **Veto – By means of Consensus to Compromise**

The right to a veto is defined under Clause 5 of the Framework Agreement – Special Parliamentary Procedures. According to this clause, '"the laws that relate directly to culture, use of language, education, personal documents and use of symbols, as well the laws on local finances, local elections, the City of Skopje and the municipal borders, will have to be adopted with majority of votes. That includes majority of votes of the parliamentary members that claim not to be representatives of the majority population in Macedonia" [122].

In the context of guaranteeing the veto right, the Framework Agreement also anticipates the establishment of a Committee on Relations among the Communities, supposed to operate within the Parliament and comprised of parliamentary members. According to

---

121 The Badinter principle is a special voting procedure introduced by the Framework Agreement. According to this procedure, for laws pertaining to language, culture or identity of the non-majority communities, there must be a majority of MPs and within that majority, there must be a majority of MPs claiming to belong the communities who are not in the majority in the Republic of Macedonia.

122 Framework Agreement, Clause 5.2., Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

Article 78 (Amendment XII) of the Constitution, the Committee is expected to be comprised of 19 members: "Seven members from each of the groups of Macedonian and Albanian parliamentary members and five members representing the Turks, Vlachs, Roma and other two communities"[123]. According to this clause, the Committee is responsible for deciding and granting opinions on the laws on which the Parliament in parliamentary session cannot decide whether double majority for voting is needed or the "Badinter" principle should be applied.

The drawbacks of this defense mechanism emerged on surface when the parliamentary majority was constituted after the parliamentary elections in 2006. The parliamentary majority does not control a sufficient number of representatives of the minority communities in order to be able to secure a majority when laws are adopted according to the Badinter principle. As a consequence to this, the role and functions of this body were being discredited. During the government coalition of SDSM and DUI the Committee on Inter-Ethnic Relations had only a marginal role and this was due to the fact that there was both a stable parliamentary majority and, what is more important, the government had legitimacy and capacity to enact some of the most sensitive issues. In addition, the leaders of the parties composing the coalition held regular meetings in efforts to bridge potential contesting issues before they actually reached the Parliament. However, the actual parliamentary majority suffers a serious handicap due to the shortage of votes from the non-majority communities. Therefore, the voting of legislation for requiring a double majority vote is almost always controversial and causes dissatisfaction. For example, in January 2007, the Parliament was debating the changes to the Broadcasting Law, originally adopted with the Badinter principle. The representatives of DUI demanded that changes be passed also with the Badinter principle; however, the majority rejected this demand. The Committee on Inter-Ethnic Relations did not hold a meeting to make a decision on the voting procedure, although this is the only competent body to decide upon such contests. Instead, it was the Parliament

---

123 Article 78 (Amendment 12) of the Constitution, Constitution of the Republic of Macedonia, (2002), PE Official Gazette of the Republic of Macedonia

Speaker, Mr. Ljubisa Georgievski, who wrote an opinion and then distributed it to the parliamentary groups, arguing that the changes to the Broadcasting Law need not be passed with double majority vote.

- **Use of Language**

The issue of use of the languages is regulated with Clause 6 and Amendment V (Article 7 of the Constitution). This clause stipulates that each language spoken by at least 20% of the population is considered as official language alongside the Macedonian one. This calls for adoption of a special law which will regulate the use of the Albanian language at all levels. The practice so far has shown that the issue on the use of languages according to the Framework Agreement has been regulated in certain spheres, but it is still not entirely resolved. The use of the Albanian language at local level is regulated with the Law on Local Self-Government (January 2002), as well as with the amendments on the Laws on Primary, Secondary and High Education. However, there are still dilemmas on the official use of the Albanian language at central level. It seems that the greatest fear is that the official use of Albanian language at national level, including all government bodies, ministries and agencies, would slowly but definitely lead towards a linguistic federalization of Macedonia. Such a change to the political system and intervention in the unitary character of the state is absolutely unacceptable to the representatives of the Macedonian community.

What should be the starting point for the proper use of the language? In multilingual societies the language is a tool used to regulate language conflicts. In Macedonia, regulating the right to use the Albanian language should serve as a mechanism for resolving the ethnic and linguistic conflict. In fact, the language should reconcile parties, not divide them. That is precisely the value that a plural society should attain. By "heating-up" the atmosphere, no adequate level of social awareness development will be obtained about the importance of a language. Even less awareness will be raised about the advantage of knowing the other language spoken by the second ethnic group in the state.

The Republic of Macedonia is a specific example, not only because of the high number of ethnic groups, but also because of the number of languages spoken in the country. Therefore, the state is obliged to provide for such legal framework which will enable liberal use of the languages. In this context, Albanian language must not be treated as insignificant or marginal. On the contrary, it should be the commitment of political elites to assure as wide a use of Albanian as official language as possible, as this will give assurances to the representatives of the Albanian community that the state is genuinely concerned to accommodate their demands and in that way create internal cohesion. The Law on Use of Languages should regulate the official use of the Albanian language in compliance with the Constitution and the Framework Agreement. It should also be used as a mechanism to overcome the language barriers which are often the reason for internal conflicts or misunderstandings. The purpose of the official use of the Albanian language is to enable internal ethnic cohesion, increase and strengthen the feeling among the ethnic Albanians that they are part of the state, to facilitate the mutual communication and, of course, to ensure a more efficient state and public administration in which knowing the language of the other group is considered an advantage and skill, rather than a deficiency or flaw.

Challenges Related to the Framework Agreement

Deadlines are set forth in the Framework Agreement determining certain obligations that need to be implemented. Most of these deadlines have not been met and the implementation process is still underway. It should be emphasized that this delay is due to the complexity of the changes that are being introduced in the political system. The delay is also owing to the resistance by the political elites and the political bargaining and mutual interests, and the resistance articulated by the representatives of the Macedonian ethnic community.

The implementation of the Framework Agreement is a process which has been carried out during the mandate of three different

governments. It seems that its treatment as priority or leaving it aside depends on the election programs of the respective political parties in government[124]. This seems to be one of the main drawbacks in the implementation of these systematic changes because of the fact that the implementation often becomes subject to political bargains and calculations. In this context, one can note that there are fundamental differences towards the acceptance of the Agreement and in terms of respecting its principles and spirit within the political elite. Consequently, this ideological resistance among some parts of the elite creates numerous political obstruction and has delayed the implementation process. For example, while the government of SDSM and DUI in its mandate of 2002-2006, implemented the most sensitive obligations of the agreement, VMRO-DPMNE strengthened its public support by criticizing the agreement. VMRO-DPMNE openheartedly and actively supported the Referendum against the territorial organization in 2004; blocked the Parliament with endless debates during the adoption on the Law on High Education which created the legal framework for official opening of the Tetovo University; submitted an initiative on examining the legality of the Law on the Use of the Flags of the ethnic groups adopted in 2005 etc.

The first more serious challenge for the Framework Agreement emerged after the parliamentary elections in 2006 during the negotiations for creating a new Government. The election results were as follows: VMRO-DPMNE received 32.34% of the votes, DUI 12.8%, SDSM 23.24% and DPA 7.47%[125]. The President of the VMRO, Nikola Gruevski, decided to invite the DPA as representatives of the Albanian voters in the governmental coalition, even though this party did not win the majority of votes among the Albanian voters. The rationale behind such decision was that only the winning party has the right to choose the other partners in the government and that the Constitution does not anticipate any provision that would stipulate that the largest Albanian party has to be a partner in the government. Indeed, such provision does not exist, in fact there is no provision

---

124 For example, the election program of VMRO-DPMNE "Revival in 100 steps" which was the winning program for the party at the parliamentary elections in 2006, does not have a single sentence that refers to the endeavors of this party for the Framework Agreement Implementation. The program is available at www.vmro-dpmne.org.mk
125 Source: State Election Committee, www.sec.mk

saying that any Albanian Party has to be included in the coalition. In that manner, upon the changes in the government, another challenge emerged related to the multi-ethnic spirit of the Framework Agreement: which are the fundamental principles and should they be taken into consideration when governments are being formed in plural, multi-ethnic societies? In other words, should the governments be formed from the winners of the two respective ethnic blocks, considering the importance of ethnicity in Macedonian politics?

The second challenge of the Framework Agreement arises from the lack of regulation on how to ensure that solutions reached in a certain period will not be redefined or revised upon shifts in the government? The implementation needs to be ensured irrespective of the governing party.

The third challenge that emerged upon the shift of government is related to ensuring the functioning of protective mechanisms when the parliamentary majority does not have a sufficient number of parliamentary members from the minority communities. This majority is important as it is required to satisfy the "Badinter" principle when adopting legislation dealing with to the rights of the non-majority communities. The VMRO-DPMNE/DPA government acted unconstitutionally when it failed to constitute the Committee of Relations among the Communities[126]. It proved that way that the Framework Agreement has many legal gaps which enable the political elites to establish political control over the institutions which are supposed to safeguard the implementation of this document[127].

The fourth challenge refers to the question how to ensure that legislation deriving from the Ohrid Agreement, adopted in a previous

126 The domestic media reported that the VMRO-DMPNE Parliamentary Member, Anita Kiparizovska-Krstevska, right before the constitution of the Committee on Relations between the Communities, changed her personal identity and instead of Macedonian, declared herself as ethnic Vlach.
127 Consequently, in the Agenda on Political Dialogue dated November 27, 2006, DUI recommended calling-off of the Committee, new constitution and adoption of the Law on Committee on Relations among the Communities which will regulate the manner of declaring the personal identity of the parliamentary members. This draft-proposal of the law is now in parliamentary procedure.

mandate, will not be revised or annulled following a change of government. This question comes as a direct consequence in relation to the most recent decision of the Constitutional Court to annul several important articles from the Law on Use of Flags[128].

But the biggest challenge related to the implementation of the Framework Agreement is the fact that, although it has been incorporated into the Constitution, it itself is not a constitutional act, nor is a law that would oblige the ruling elites to implement it. In other words, the Framework Agreement is not a binding document from a formal and normative point of view. This is why, very often, its implementation depends solely on the political will of the government. Therefore, an imperative need emerges for seeking functional normative mechanisms that would ensure the implementation of the agreement without too much political bargaining and debate.

Conclusion

In light of the above stated, it can be concluded that the implementation of the Ohrid Agreement is the foundation of the democratization process in the multi-ethnic society of Macedonia. Therefore this process must not be undermined under any circumstances. Simultaneously, this process should not be held hostage to the will of the political elite in power. Since 2006, however, the Ohrid Agreement - the key to the European future of Macedonia - became a subject of unprincipled political bargaining for key questions that derive from it, including the question on use of the languages or resolving the status of the participants in the armed conflict in 2001.

Should the policy of revising the basic principles and the spirit of the Framework Agreement continue, an emerging question would have to be addressed: does Macedonia need a new, more advanced model of multi-ethnic organization of our society? If the contents of

---

128 In relation to this issue, it is necessary to mention that the initiative of examining the legality of the law has been submitted in 2005 by independent parliamentary members and members of VMRO-DPMNE

the Framework Agreement are constantly revised, maybe it should be concluded that this document has neither fulfilled the demands of the Albanians nor of the Macedonians. Is Macedonia ready to pursue a new model?

Izet Zeqiri

THE ECONOMIC CAUSES AND CONSEQUENCES OF THE 2001 WAR AND THE CONSOLIDATION OF THE ECONOMY AFTER THE CRISIS

Introduction

1. Political and Economic Inequalities - the Cause of the 2001 Crisis

The internal order of Macedonia, particularly the constitutional order and the political and economic discrimination, were the origin of the discontent of the Albanians, which turned into an armed conflict and became a source of conflict between Albanians and Macedonians. The truth of this conflict is only the equality that the state should have imposed with its rules, by treating Albanians in an equal manner, not with the prejudice that Albanians are equal, but with the effort to make them really equal through constitutional rules.

The Republic of Macedonia, created as a sovereign and democratic country, was facing and is still facing the same problems of economic and political inequality. These inequalities refute the conviction that *"Macedonia has political and economic stability",* which was preferred by the elite of Macedonian politicians and some deceived internationals. The disregard of the principles of political and economic equality is discrimination. Regarding this, we should mention the opinion of the distinguished American economist and Nobel Prize winner Paul Samuelson, who says that *"The differences in income are universal phenomena of the market economy. However, we call it discrimination when these differences in income stem from some unimportant characteristics such as race, gender or religion..."*

The societal-economic position and the economic discrimination of the Albanians happened as a result of the political

and economic discrimination exercised on Albanians starting from the First Interwar Yugoslavia to the modern so-called "democratic" society. The discrimination is based on the numerous policies of former Yugoslavia, which have incited the economic pressure towards Albanians. The state policy, the attitude and the behaviour of the majority towards the Albanian people from former Yugoslavia until today, both in the political and in the economic aspect, have been neither fully liberal, nor relatively so, but have continuously had prejudices. In the economic aspect, the authorities supported a severe economic nationalism implementing the principle of hermetic isolation as a means towards maintaining the privileged position of the ethnic group with economic advantages, which gained the wealth as a result of the inequality in the process of privatisation, equal distribution of wealth and material goods. The economic policy implemented so far by the national cohesion has produced economic and political discrimination, since the carriers of the economic policy were not led by the conviction for finding the optimal point from the aspect of the interest of all peoples living in Macedonia.[129]

1.1 The Unbalanced Economic Structure in the Regions Inhabited by Albanians

One should ask what economic structure does Macedonia have and what is the economic structure of the Albanian population. The answer would be that the current structure of the economy of Macedonia in the country-level was formed in very unfavourable political and economic circumstances, both in the more distant and in the more recent past, which caused the creation of such an unfavourable economic structure. This can be seen from the fact that the created economic structure did not develop those activities and sectors for which the most favourable natural and other conditions exist. On the contrary, the supported and developed activities and sectors were the ones with more unfavourable conditions. Such a situation caused the economic structure of Macedonia to be formed in abnormal political and economic circumstances.

---

129 Izet Zeqiri, Economic Realities (in Albanian) (Tetovo, 2005), p.136.

The state policy, previously in former Yugoslavia and now in Macedonia, not only prevented the economic structure from being formed by itself, under the influence of the economic development, the technical-technological advancement and the achievement of demand and changes in consumption, but it previously used state planning to build this unfavourable economic structure, whereas today, with the macroeconomic policy, it gives the orientation of the development of the economic policy. The role of the state in the creation of the economic structure should be focused on enabling the economy to develop proportionally, so that all economic activities and sectors are developed and the fulfilment of the needs of the society is the final goal.

Analysed from the regional aspect, the economic structure is undeveloped and not balanced, since there are many disproportions in the regional economic structure, which in fact represents one of the reasons of the disruption of the market and of the unstable economic development of the country. If the economic structure of the regions of Western Macedonia is analysed with all its elements, one would come to the conclusion that it is very undeveloped. The inter-regional and sectored strategy of economic development in Macedonia has had a national ethnic dimension and has been a result of political enterprises, since the carriers of the economic policy had never built a sustainable policy of economic development, based on a proportional economic development, in accordance with the specifics of each place, be it economic, societal, social, cultural or political. This is reflected in the policy of regional development, since the primary sectors, such as industry and mining, metallurgy, metal industry, chemical industry, etc., which are very important producing economic sectors, are not at all developed in regions inhabited by Albanians. These economic sectors directly affect the economic structure of the Albanian population, since it is directly connected to the development of the economic activities and sectors in the region that is to the economic structure of the country. The lack of development of the economic structure in Western Macedonia has created an undeveloped economic structure of the Albanian population which, according to the activity and the occupation, is an inactive population. From the aspect of participation in the process of production, it is an individual agricultural population and a population partially involved in the

tertiary sector (trade, tourism and service activities). It is the duty of the carriers of the economic policy, including the Albanian political parties, to get involved in the improvement of the economic structure in the regions where Albanians live. This should be done through building a development strategy not only within the economy of Macedonia, but in international dimensions as well, which would include finding adequate forms, methods, ways and measures of applied economic policy for overall economic development of the country. Through the strategy of economic development, the Albanian factor should lay down the global, developing framework of the economy, relying on the internal and external factors of development. This should be a long-term development strategy, which would lay down the main directions of development that would, through time, be turned into medium-term and short-term plans. It is a duty of the Albanian economic players, together with the political parties, to get involved in the balancing of the economic structure in Macedonia during the participation in government, since the current economic structure is not due only to inherited recidivisms from the previous system, but also a result of the weak efforts in economic issues of the economists who have been in power during the last ten years.

1.2. Albanians did not Receive their Ideal Share of Ownership, which Belonged to them with the Privatisation Process?

One of the most important changes that brought the creation of the new ownership structure is the transformation process which began in the end of 1988 and proceeded with the legal provisions of 1989/90, when the transformation of social ownership in other ownership forms began. This process started with the 1989 reforms and continued with the 1993 Law on the Transformation of Social Capital, where the possibility was given for social enterprises to be transformed in various forms of mixed enterprises, often joint-stock companies, which issued internal shares that could be bought only by employees in those enterprises, even with a considerable discount. One of the basic principles of privatisation was the sale of the social capital, where enterprises are organised as joint-stock companies and companies with limited liabilities with defined private owners.

With this law, the big and medium enterprises were transformed into joint-stock companies according to different approaches the enterprises chose together with the Agency for transformation of socially-owned capital. One of the most preferred ways of privatisation was the sale of enterprises to company managers, which effectively discriminated against Albanians. This method was a real barrier for the involvement of Albanians in the privatisation process, since there were no Albanian managers who would get actively involved in the process of privatisation in any social enterprise.

The privatisation, i.e. the transformation of social capital, was to be a complex social-economic and political process. The reason is that, in this process, the elementary relations of production were changed, the previous meaning of social ownership was changed, and the economic-social position of Albanians was made more difficult, since in circumstances of social ownership, every Albanian had the right of ownership in the imagined defined ideal share of social assets (as it was called: in the joint labour). In the Albanian regions most of the employees were ethnic Macedonians due to the country's politics that only Macedonians should be employed in successful companies. When the privatisation began, the managerial teams, which were all of Macedonian ethnicity, took control over the companies and gave stocks to their employees. Therefore, what previously functioned as a collective property of the Albanians and the Macedonians, now became Macedonian property.

For circumstances in Macedonia, not only was this method of privatisation inappropriate, but it also incited a lot of elements of "black" economy:

- as a result of the inefficiency of the main state market mechanisms, through which the role of the state in the process of transformation and privatisation of social capital was carried out. The fact that the market did not function properly incited the development of the black market.
- as a result of non-application of the necessary measures of control by the state over the method of privatisation of the social capital.

- this method of privatisation made it possible for the managers of social enterprises to become "profiting elites", which quickly acquired "the transitive capital" on the basis of informal economic transactions.

The participation of ethnic Albanian employees in the total number of employees in the publicly owned enterprises was 4-5%. But, as a result of this privatisation model, only 1% of the privatised capital fell under their control, regardless the undisputable contribution in its creation.[130]

This situation makes us understand that Albanians in centres of power did not raise their voice as much as it was needed when the law and the method of privatisation were considered. This is more a political than an economic issue. Things become clearer considering the way how Macedonia as e bi-national country functions.

1.3. The Unemployment Among Albanians, a Problem that Undermines the Trust in the Society

There have been discriminating attitudes and practices in the area of employment of Albanians by the state. This discrimination in the labour market still continues; the discrimination of Albanians in the labour market, where the demand and supply for labour meet, reduces the supply of Albanians for work, thus generating differences in the creation of various groups with unequal chances of employment. This is a situation only with Albanians, whereas non-Albanians find work more easily. Moreover, on the main positions in many state and civil areas and services, these young people are continuously promoted in their profession, whereas their Albanian colleagues are discriminated and degraded. The structure of employees on managerial levels in private as well as privatised companies, presents strong evidence for these claims. So, the non-Albanian young person has a very big advantage in employment when compared to the young Albanian in the

---

130 Rufi Osmani, Alternative political and economical opinions (in Albanian) (Gostivar,2006) ,p.83.

labour market, since all those state institutions and joint-stock companies, now privatised, have their doors opened for the others but closed for the Albanians. An Albanian might get a job from official or unofficial connections he/she might possibly establish with some powerful person or from his/her connections with some well-known person. This situation cannot be tolerated any more, since it represents a difficulty for the existence of the Albanian family. Besides, what is more worrying is that the unemployment has the power and the tendency to reproduce itself, thus creating a self-renewable class of unemployed. There is a general opinion backed by many examples from real life that people without strong connections cannot get employment.

Data shows that the number of unemployed people in the dominantly Albanian areas in the Republic of Macedonia is very high (see tab.1)

Tab.1: Unemployment in the Albanian inhabited cities in the Republic of Macedonia

Nr.	City	Total unemployed	In the city	In the villages
1.	Skopje	89884	72894	16990
2.	Tetovo	28360	11057	17303
3.	Kumanovo	32225	22886	9339
4.	Gostivar	16515	9012	7503
5.	Kicevo	8735	5549	3186
6.	Debar	4575	2828	1747
7.	Struga	8728	2974	5754

Source: Report of The Agency for Employment of the Republic of Macedonia, 2003

Unemployment among Albanians is at a very high level, including the long-term unemployment, particularly since the

overwhelming majority of youth is unemployed. These are the problems with the educated unemployed, who enter the labour force looking for a job and wandering on the streets. Albanians face other problems as well, since today the majority of Albanians (particularly women) do not enter the labour force that looks for a job in Macedonia. If the national structure of labour force in Macedonia is analysed, one can see that inequalities are present not only in the unemployment of Albanians, but also in the non-participation of Albanians in the labour force which actively looks for a job. The unemployment rate in Macedonia would be much higher if all unemployed Albanians in rural areas would be registered. The reason for the non-participation of Albanians in the labour market are the various inequalities in the employment policy, the lack of educational institutions in areas inhabited by Albanians and their lack of education as a factor of emancipation and development, which would enable the most vital part of the population to be prepared to enter the competition race as part of the labour force in Macedonia. If we use supplementary indicators and other analysis of why Albanians are in an unfavourable economic position, we would conclude that this is due to the unequal distribution of income, where a big percentage of income goes to a small percentage of the population, since the rich have more income than the poor. The unemployment and the unequal distribution of income have caused the social indicators in many regions inhabited by Albanians to be very low.

The following data shows that, as a result of the implementation of the Ohrid Framework Agreement, by the end of 2005 the structure of employees in the public administration in the Republic of Macedonia was as following (see. Tab.2):

Tab 2: Ethnic structure of employed in the Public administration in 2005

Macedonian	70,254	81.4%
Albanian	9,448	13.4%
Serbian	1,172	1.7%
Turk	890	1.3%
Roma	357	0.5%
Vlach	332	0.5%
Bosniak	180	0.3%
Others	667	0.9%

Source: Annual national program for preparations for the entrance of
Macedonia into NATO 2004-2005, p.11

Another proof for the high level of unemployment in the Albanian
regions in Macedonia is the fact that, from the total number of
Macedonian citizens that work abroad, 80% are Albanians.[131]

It is important to prevent unemployment arising from
discrimination, since it leads to worsening of the problems faced by the
deprived groups, resulting in under-class and the development of a
"culture of poverty". Such a culture of poverty creates individuals who
are unable to use the opportunities given to them and who lack the
initiative to get off this 'addiction' to social aid. However, this country
should use effective policies to treat the problem of extreme
unemployment among Albanians and to integrate the social justice and
the social progress by improving our wellbeing, since otherwise there
will be many reasons for the youth to lose its trust in the society.

---

131 The Union of Albanian economists, The economics and social development of the Albanian
land and their regional and global integration (in Albanian) (Skopje, 2000), p.504.

2. The Power in its Forever Deceitful Essence

Albanian political parties did not manage to achieve full equality during the transition period in Macedonia, since in their initial position they did not manage to establish the elementary freedoms of Albanians and the implementation of the principles of justice in constitutional, legislative levels. The lack of equality of Albanians in Macedonia during the 1990s and the continued inequalities in all areas of life posed the question of truth and politics, continuously receiving the answer that truth is powerless, whereas politics is the very power, which in essence is forever deceitful. These are the reasons why Albanians positioned themselves outside the current political field, refusing all Socratic convictions which were continuously promoted by the supporters of the step-by-step approach that "it is better to suffer the evil of the others than to do evil".

The longer the 2001 crisis lasted, the more the leaders of Albanian political parties became convinced that the solution of the crisis cannot be achieved with fragmentary acts, but with a cooperation that would lead to a full strategy, written in one place, which would be presented as a joint normative model-plan of the Albanians for the solution of the crisis. When the crisis escalated, the strengthening of political and military circles was needed with the aim of creating a joint platform for peaceful and harmonic development of the civil society, respecting the ethnic identity and the interests of all citizens of Macedonia. [132]

The joint normative model-plan of the military (NLA) and political factor (the political parties) for the solution of the crisis, which is close to the aim that will be put into action, confirmed the thesis that the **road** towards equality and justice was much shorter, even though it seemed long. That road was a long one, since for ten years it was required to be uncovered with political means, whereas today, for a very short time, for five months, that equality can be achieved only by political means. This was done by NLA, not with

---

[132] For more see Etem Aziri in: The Implementation of the Ohrid Framework Agreement, Friedrich Ebert Stiftung, Skopje, 2003, pp. 83-93. Available at: http://www.fes.org.mk/pdf/Ohridski_alb.pdf

friendly memorandums and fruitless political games, but by
implementing a clear order of military and diplomatic steps,
challenging the conventional wisdom of the West and the
multidimensional internal political and party reality for the
achievement of the demands of Albanians in Macedonia.

The agreement achieved in Ohrid should be understood as a
Peace Accord, where the military and the political factor (the NLA and
the Albanian political parties in Macedonia), by coordinating their
activities, produced a significant addition to the results of a ten-years'
political process. It contains a wide variety of goods, such as peace and
security, freedom, justice, equality and democracy. This Agreement,
which will materialize in the near future, should ensure justice that will
spread its fruits among all members of the society, in such a way that
the Albanian would not have a justified complaint that he/she has been
treated unjustly and that he/she would not continue to be fed with fear,
to live with fear and to die with fear.

We could conclude that if we compare the conflict in
Macedonia, with all its human and material consequences, to the wars
in former Yugoslavia, in aspect of human losses, it cannot be classified
as a full-scale war.

2.1. Implementation of the Agreement for Political Equality instead of Fruitless Political Games

With the agreement achieved in Ohrid, the President and the
heads of political parties, as effective leaders of the state, judged on
what is acceptable and what is just with significant international
mediation. They have built the acts for implementation of decisions
that led towards the equality of Albanians, and the obstructions of
small Macedonian parties have been ineffective. The implementation
of the Peace Accord between Albanians and Macedonians, guaranteed
by international representatives, has faced serious challenges, and will
possibly be delayed, but it is difficult to be blocked. This will happen
as a result of the fact that Macedonian political leaders turn the
attention away from the implementation of the political agreement on

the basis of the foreseen dynamics, since their narrow focus does not tend to lead them to changes where Albanians would become equal with Macedonians.

Besides the small Macedonian parties and individuals, MPs also gave contradictory signals about the Agreement. However, they knew well that these changes, on which the fate of the country depended, should be supported in a principle-based procedure and should be carried out in a pragmatic way, according to the circumstances that were already created. Those who had the vote of the people should not think that in the parliamentary procedure they will make any change in the achieved agreement, since it is clear to all of us that the implementation of constitutional changes was between the right and the wrong political compromise.

MPs should have known that the failure to carry out the constitutional changes in the Parliament would not be a political agreement to stop the war, but an aim that would recreate the war. In these situations, it was necessary for the international representatives to regulate the balance, so that the leaders would somehow be given their necessary therapy to face the legislative changes.

The politicians in Macedonia, who pretended to have some "international" strategic mentality, treated all these issues deeply as internal legislative operations, only with some foreign, international additions, since a government created by political pressure would always be a servant of those same politicians.

3. The Economic Consequences of the 2001 War and the Consolidation of the Economy after the Crisis

The democratic development of the country through economic and political reforms made us think that we were continuously solving a big part of the, so far unsolved problems, whereas they were, in fact, being recycled in new problems as potential sources of discrimination of Albanians in Macedonia. There lie the reasons of the beginning of the war conflict for a full economic and political equality. These

irrational acts of the Macedonian political elite or of the quasi-
intellectuals of the new millennium, who did not find it justified to
solve these discriminations within the institutions or within peace,
which means "they have eyes, but they are not seeing", "they did not
know how many losses would a victory cost them" and "no matter
which side calls itself a winner, there are no winners in a war since all
lose", brought the country to a war, and with it, to total economic
collapse, as well. In order to have a stable economy, a lot of time and
work is needed, whereas in order to destabilize it, only a wrong step in
governing is needed, which will have unforeseeable negative
consequences and dimensions for a longer time.

The economy became a hostage of the war by splitting into
Albanian and non-Albanian. Regions inhabited by Albanians
experienced complete economic stagnation in all sectors. Agriculture,
as the main economic activity of the biggest part of these areas, was
blocked in the cultivation, collection and sale of agricultural products
by Macedonian military forces. This situation was deeply felt by
farmers of these areas, since the land was the only source of income for
them. In the market, there was a destabilisation of the prices of
necessary products for life and of some other products and services, as
a result of the isolation of these war regions from other "free" parts and
other countries. Albanian enterprises suffered an economic collapse
and became insolvent towards domestic and foreign partners. It was a
moment when Albanians were endangered both in the living and in the
economic aspect. The capital created and accumulated for years by
farmers, emigrants, Albanian businessmen, was in every minute in
danger of total destruction, which proves the racist, destructive feeling
of the Macedonian governing structures against Albanians.

The economic losses from the war were big. We can express
the economic loss of the country as the sum of the destroyed value of
material goods - social wealth, of unplanned state expenditures as a
result of the war and of opportunity costs of the domestic economy (the
lost or unachieved profit during the war period, including the net-
exports). Therefore, one can conclude that the domestic economy will
continue to be in a chaos in the medium-term.

A clear picture for this economic chaos are the numerous financial indicators.

The trend of positive economic results was interrupted in the year 2001, as a result of the crisis and increased risk levels. The fall of both domestic and foreign investments and economic activity resulted in a 4.5% decrease of the GDP.[133]

This fall of the GDP was a result of the continuous war during a six-months' period, which was followed by a reduction of production activities, mainly as a result of the obstacles for supplies of raw materials, the fall in aggregate demand and in external trade. Industrial production decreased by 8.8% compared to the previous year (fall of production of reproduction materials by 15.1% and fall of products for wider consumption by 1.2%). An exemption in this was the high rate of production of work assets (a rise of 31.6%), which is not enough to compensate the fall of the other two components. Analyses in the structural aspect show that there was a monthly fall of production in 16 of 32 industrial sectors, which make up 42.2% of the total production. The value of external trade during those six months was USD 1,387.3 million, of which exports were USD 576.9 million and imports were USD 810.4 million. It is clear that there is a deficit in the external trade balance of USD 233.5 million. The crisis should also be viewed from the position of the foreign exchange reserves. We can see that, until the end of 2000, their movement had a positive trend in the National Bank of the Republic of Macedonia, while until the end of June 2001, as a result of the war, they fell from USD 1,097.6 million to USD 822.6 million. The annual inflation rate on the basis of consumer prices in the period January-December 2001 was projected at 2.2%,.[134]

---

133 National Bank of the Republic of Macedonia: The macroeconomic consolidation of the Republic of Macedonia after the Ohrid Framework Agreement, London 2004 (A paper presented by the Vice Governor Fatmir Besimi).
134 The data are used from: Macedonian Statistical Center, 2002 Report

3.1. The Consolidation of the Domestic Economy after the Crisis

The consolidation of the domestic economy after the end of the crisis was achieved in two ways. The first is from own sources of the domestic economy, i.e. from the national income. However, this possibility will not yield the necessary results, since in Macedonia there is a stagnation of production (blocked exports), a budget deficit, a low level of foreign exchange reserves, etc. The second way is the development of integrative financial processes with international institutions related to investments, loans and aid from various countries, such as IBRD, IMF, IFC, EBRD, etc. The state should also have a more liberal policy towards foreign investors by creating a favourable environment for them.

Particularly important for the consolidation of the domestic economy will be the Conference of International Donors that is planned to be held for Macedonia and will be organised by the European Union. It will probably be held after the ratification of the Ohrid Agreement or at the same time with it. All of this will bring about the rehabilitation and the recovery of the domestic economy. A contribution to relax the situation would also be given by the implementation of free trade agreements between Macedonia and Bulgaria, Turkey and EFTA, as well as the negotiations for signing such agreements with Albania, Ukraine, etc.

4. The Reconstruction and Development of the After-war Regions

The reconstruction and development of the after-war regions is a primary issue for the state, helped by the international factor, to mobilise the main development factors, particularly human, material, technical, financial, organisational, etc. and to use them in function of the reconstruction of the regions destroyed from the 2001 war. Bearing on mind that the very economic reconstruction and recovery is a complex problem, in this situation it is necessary to create a general program of reconstruction and recovery of the regions involved in the 2001 crisis.

As a result of the 2001 crisis in Macedonia, there were damages in 6,643 objects, in 76 inhabited places and in 18 municipalities. On the basis of the IMG report, the damages are divided in four categories: in the first category there were 3,256 objects with a damage of 5-20%, in the second category there were 1,523 objects with a damage of 21-40%, in the third category there were 712 objects with a damage of 41-60% and in the fourth category there were 833 objects with a damage over 61% (According to the IMG Report 2002). The reconstruction and rehabilitation of houses started after the conflict. Most of the houses of the first and second categories were included in the Shelter Program, which was financed by the donor community in coordination with UNHCR and other institutions. The financial construction for their reconstruction and rehabilitation, aimed at creating normal conditions for living, was projected in the amount of EUR 33 million. The status of reconstruction and rehabilitation of houses in Macedonia is not completed yet and there are still homeless families.

On the basis of information and reports, houses of categories with higher damage are not reconstructed yet, i.e. only 995 (64%) of the houses of the third and fourth category are reconstructed. It is expected that 117 houses will be reconstructed until 31.12.2003, 99 houses until 31.03.2004 and 95 houses until 31.08.2004. This is a very slow dynamics for the rehabilitation of houses of the third and fourth category. The justification that additional time and money are needed is not valid, since there was a proposal that from the EUR 274 million promised at the Donors' Conference, 10-20% (EUR 27-51 million) should be dedicated to the reconstruction and rehabilitation of regions that were involved in the conflict.

The thesis of the current leaders that the reconstruction and recovery of these regions is an issue for international organisations, is unacceptable. The issue of the reconstruction of houses and rehabilitation of regions involved in the 2001 crisis is not an issue only for the international community, since these institutions help the reconstruction and do not perform all the work related to the reconstruction and rehabilitation. The Government of Macedonia should do the additional work until the complete reconstruction. With the latest changes of the Law on Obligatory Relations, articles 6 and 7,

ratified in September 2001, the state is responsible for damages that are
a result of acts of violence in the territory of the Republic of
Macedonia and it takes the responsibility to bring all the damaged
objects in the previous condition. In addition, on the basis of articles
166 and 174, the state is required to regulate all issues of compensation
for all damages that are a result of demonstrations and manifestations,
to repair all the destruction and to bring them in the previous condition
(the case of Bitola).

On the basis of the Government's Action Plan, adopted in
February this year, the Vice-Presidents of the Government were
directly involved in the trust-building measures, in following the
reconstruction and recovery of crisis regions and in undertaking
measures:

1. to encourage the continuation of the reconstruction and the
   finishing of all works by mid-2003;
2. to reconstruct the local infrastructure in order to create living
   conditions in these regions;
3. to encourage the donor countries to meet the promises given at
   the Donors' Conference through their diplomatic
   representatives;
4. to manage the funds from the Donors' Conference for
   reconstruction and recovery.

5. Economic Recovery of the Regions Involved in the 2001 Crisis

The recovery does not imply only the rehabilitation and
reconstruction of the housing sector damaged from the crisis. There are
also other necessary programs that would help in the improvement of
the social infrastructure in these regions, such as schools, health
institutions, technical infrastructure such as water supply, energy,
transport, social and humanitarian support, etc. This is a responsibility
of the state and the international management group, created in
accordance with the United Nations Resolution 179, as a specialised
inter-governmental organisation which has, since 1993, been actively
participating in the rehabilitation of regions after crises. However,

there are no results in this aspect and there are no investments in the public infrastructure. The regions involved in the conflict are undeveloped regions, with an almost destroyed infrastructure. These regions do not have clean drinking water, they do not have schools, pupils go to schools in very bad conditions, they do not have first-aid stations, roads, continuous electric energy and health and social security. On the basis of some surveys, 85-91% of people of these regions say they do not have access to television channels, to secondary schools, to centres for social work, to cultural institutions and to social aid. They are simply without health and social protection and without any minimal standard of economic and security aid.

The regions involved in the crisis today face extreme poverty. Over 90% of the population of these regions has less than 70% of the average income at national level and lives in extreme poverty. In the area of social security, the situation in these regions is very difficult and was made even more difficult by the following: the establishment of irrational criteria for meeting the conditions to receive social aid from the Ministry of Social Work and Policy.

Another issue is the complicated procedure for receiving social aid or, as an inhabitant of Lipkovo says - the cases of social aid are decided in offices, without looking at the real poverty. In the area of social protection, articles 34 and 35 of the Constitution of the Republic of Macedonia guarantee minimal social and economic protection to all citizens of Macedonia.

The Government in 2003 promoted the Project of Agrarian Reform. With this project, arable land, financial support for various seeds, various materials and possibly agricultural machines will be given free of charge to people who use social aid and who would be applicable for this. This project started in Sveti Nikole, whereas Shtip, Gevgelija and Strumica are planned for the next year. It seems that this project does not take into account the users of social aid in regions destroyed from the crisis in the Polog area, where land used by various cooperatives is well known. This program could have been carried out

in these regions as well, since the state itself owns nearly 132,000 hectares of agricultural land. [135]

The Government did not manage to strengthen the social-economic rural structure, to create real trust measures by investing in the public infrastructure and various transfers towards the social protection of these regions. The Government, the international institutions and the non-governmental organisations, through concrete programs, should help in the reconstruction of the regions destroyed by the war. This would imply the reconstruction of the destroyed and burned houses, investments in the destroyed infrastructure, investments in the recovery of destroyed economic capacities, etc. In order to soften the problems of these regions and enable the people strengthen their existential capacities, concrete measures are needed, such as:

– Investments that would result in improvement of the living standard for a better life, improvement of rural public infrastructure, etc.
– Investments in light infrastructure, which implies improvement of services related to commercial activities of companies through legal forms, education focused towards small businesses, research and development;
– Assistance in financial and non-financial means for the development of small and medium enterprises;
– Local investment funds, helped by foreign credit institutions, with the aim of turning over the existing enterprises and encouragement of establishment of new businesses. These local initiatives should be established as partnerships among various levels of the private sector, the government and domestic and foreign non-governmental organizations.

---

135 State Program for Agricultural Reform,2003

Sali Ramadani

POWER-SHARING AND INTERNAL SECURITY

Introduction

After the inner armed conflict in the country and after the compromise reached in Ohrid to end the hostilities and start peace-building[136], the state and the society have been confronted with big challenges, particularly for the police which had to change its image in the society, especially to take the role of promoting good inter-ethnic relations.

The period during the armed conflict had contributed to bad relations with the Albanian community in particular, and confrontation between the two large ethnic communities in the country and had divided them, thus creating mistrust and hatred. The Albanian community had negative feelings towards the national security forces—police and army - which targeted them during their fighting. Demands and expectations from the police were running high and it had to give gradual proves for its development and achievements on the basis of the reforms agreed in Ohrid, through which could be seen and be assessed the developments and the achievements of the new policies for the establishment of the legal state and the Rule of Law. So, police forces were expected to make a significant contribution to the return of safety and stability in the country, in order for the police to be demoted from the militarization of the time of the armed conflict; furthermore, they should return and restore law and order in the crisis regions[137], contribute to confidence-building, involve members from

---

136 The parties that negotiated the compromise and signed the document (the Ohrid Framework Agreement) are the political representatives of the Albanian and Macedonian community in the country.

137 The Macedonian Government has presented the Plan for the return of armed forces of the Republic of Macedonia in the previous crisis regions on the meeting held on 4.12.2001.

non-majority communities, decentralize its authorities, etc. In parallel with the implementation of these measures, the police had to undertake inner reforms[138], in order to adapt to the current situation and the European integration process. The reforms include police ethical standards and other organizational norms according to the best model practices[139]. The implementation process of the Ohrid Agreement and its basic principles continues at this point to be a central issue of the policy-making in Macedonia[140], although it faces polarized ethnic-based policies. Furthermore, the differences in the interpretation of the Ohrid Agreement[141], which cause delays in implementation and, sometimes not full completion in practice, have been particular visible in the sphere of police reform.

It is worth saying that most deadlines set out in the Ohrid Agreement have not been respected.

There are constant negotiations and calculations over measures to be implemented. The losers and the potential political winners are calculating those measures in all political parties, even publicly. This kind of approach has an impact in weakening the political readiness for sincere recognition of the Ohrid Agreement as a true value; it should not be recognized with statements or overbearing enforcement. The implementation of the Agreement should be perceived as an on-going process, which has to be harmonized with the broader process of democratization. This is the foundation for developing a multiethnic Society in Macedonia, inter-ethnic tolerance and cohabitation.

---

138 Many European countries are organizing their police forces as an important part of the process of promoting and consolidating the democratic ideas and the values in the society.
139 CO-POL (2002) 9, European Code of Police Ethics (Rec (2001) 10), IV A,12 - Police has to be organized in the adequate manner to enjoy public respect as a professional law-enforcement structure that does a public service
140 The implementation of the Ohrid Agreement has been a part of several programs of political parties, as well as the national government
141 The implementation of the Ohrid Agreement is usually described as a completed process in the public statements of Macedonian political parties' representatives. They focus solely on the legislative changes, unlike non-majority communities' political representatives (in particular Albanians) who claim that this process is not completed and the spirit that derives from this Agreement has to be integrated in the governing philosophy. These opposed positions appeared on surface in the recent political dialogue between DUI (opposition party that has the majority of Albanian votes) and VMRO-DPMNE (major political party in the Government)

In the prism of the Framework Agreement, the main components of the Ohrid Agreement foundation are related to power-sharing policies in the field of interior affairs, decentralization[142], non-discrimination and equal representation[143].

The on-going police reform[144] is extremely important, not only that it has started with the implementation of the Ohrid Agreement, but it also ensures the adequate balance needed to fulfill the objective, while installing basic democratic values in the police service. The legal framework for the process of the police reforms was established with the implementation of the Law on Police[145].

In the focus of this observation, occurs the dilemma of the authentic obeisance of the principles for reaching the goals of the Framework Agreement during the process of law regulation and implementation in practice on the part of internal affairs and the police.

Development of the Decentralized Power[146] in the Aspect of the Interior Affairs or the Police

The decentralization of power can be seen as a strong pillar on the basis of which multi-ethnic democracy should be built, in order for it to be sustainable. Policies should be directed towards the prevention of ethnic tensions and conflict, which lies within the power-sharing among the ethnic communities.

The development of the decentralized power constitutes the headword of the Framework Agreement and creates a bond with the

---

142 Ohrid Agreement, Basic Principles 3.3 and Annex B/4
143 Ibid, article 4.2 and Annex C/ 5.2 and 5.3
144 Police Reform Strategy, adopted by the Government on 11.08.2003. These reforms are a long and complicated process of establishing a modern police organization, suitable for democratic society based on the Rule of Law, respect for basic human rights and freedoms. Undoubtfully, it facilitates the process of achieving several strategic goals, such as police efficiency, better organization, professionalism and effectiveness, technological superiority, better motivation and transforming the police into a social service. This is going to increase the quality of life and citizens' feeling of being secured.
145 Law on Police (Official Gazette no. 114 /03.11.2006)
146 Ohrid Agreement, Basic Principles 3 and Annex B/4

ethnic context that displays as inevitable, even in the power-sharing of the police.

The principle of work through decentralization of the components brings the process of decision-making closer to the problems and as a result of better opportunity to finding the right solution; there is a general understanding that the decentralization of competences results in a better decision-making including the police. Furthermore, it increases the quality of law enforcement through a greater sense of concern for the local population, their personal protection and access to justice; it reflects the opinion of specific community for police work and contributes to peace-building between the police and citizens through regular communication procedures and practical cooperation, whose aim is to ensure that the police is aware and responsible for the needs and interests of the local population[147].

The territorial organization of the Republic of Macedonia[148] ensures that non-majority communities at national level have access to local governance in a great number of municipalities where they constitute a majority.[149] The Framework Agreement for this purpose foresees a new selection system for the local heads of police by the municipal councils[150] which will increase the probability. This increases the chances for applicants belonging to the majority ethnic group in the municipality to elect a local head of the police, although one proposed candidate has to belong to the non-majority community in the given municipality[151].

In the text of the Framework Agreement, the central point of the development of the decentralized power on the side of the police is given to the function of the local heads of police placed within the municipalities, thus respecting the compact hierarchy structure of the police. The Ministry of Interior (MOI) proposes candidates from the

---

147 Ibid, 3.3.
148 Law on Territorial Organization, 2004
149 Albanians are majority in 16 municipalities, Roma and Turk population in 1 each
150 Development of Decentralized Government - Paragraph 3.3 of the Framework Agreement: "local heads of police will be selected by municipal councils from the lists of candidates proposed by the Ministry of Interior".
151 Changes of the Law on Internal Affairs (Official Gazette no. 38/2002) and Law on Local Self-Governance Article 36, Paragraph 1 and 12 (Official Gazette no. 5/2002)

staff of the police forces and has the right to demote them[152], while the competence of the Municipal Council[153] is to elect the local head of police from one of the proposed candidates.

However, the solutions and the principles set by the Law on Police related to the reorganization and the decentralization of power, seem not to reflect the intention of the Framework Agreement[154]. The approach towards this principle is shifted and is developed through the principle of "disconcentration" of competences in the higher instances of the hierarchy, which means a softer version of strict centralization.

The expectations from the Law on Police were much higher, because it was supposed to be a modern legal tool that reflects the new reality and aims at higher professional standards, while reflecting the new reality. Instead, it seems that these reforms are limited to corrections and adaptation of the professional terminology and naming the organizational and administrative structure, with the tendency to necessarily fulfill the demands for harmonization with European legal standards.

Furthermore, the Law describes the organizational components and does not explain the precise connections of the organization structure in their vertical and horizontal relations. I consider that the description of the legal norms of the competences of the organizational units will ensure law enforcement in a more detailed manner, more autonomous and with a greater responsibility, as well as would define the roles and relations between every unit of the structure in general.

However, this Law makes a clear distinction between the pillars of political-strategic responsibilities and the operative functions. The Public Safety Bureau is established as a part of the Ministry of Interior and the regional model consisted of two levels is re-established within the organizational structure of the police, which will be dependent on the Bureau.

---

152 Law on Police, Article 24
153 Law on Local Self-Governance, Article 36, Paragraph 12-14
154 This is the first time a Law on Police being adopted in the country and not approved by the Parliamentary Committee on Inter-ethnic Relations. This means that the Law was adopted without an ethnic consensus (Article 164 of the Parliamentary Rulebook)

The reconstruction of the geographical map or territorial reconstruction of the police authorities - now consisted of 8 Sectors for Internal[155] Affairs, instead of the previous 12 sectors[156] and 38 police stations with general authorization, each of them responsible for several municipalities, instead of the former Department of Internal Affairs.

Despite the argumentations that the increase of the number of sectors will increase their dependency from the central level in the law enforcement, due to the lack of capacities for regional management, without taking into consideration the criteria (population density, number of inhabitants, etc), especially in the regions inhabited by the non-majority communities, specifically Albanians[157].

Given the fact that the police stations are fully dependant[158] on the Sectors of Internal Affairs, the relevance for decision-making by the commanders that are members of the non-majority communities is immobilized by the will of the heads of the sectors. On the other hand, according to the headquarters of the Sectors of Internal Affairs in cities populated with majority of the Macedonian community, the leadership, according to the analogy, is given by the Minister to members that are part of the major ethnic community. This has been proven in practice so far. So, the relevant position for decision-making in indirect manner is exclusive for the members of the major community.

Although the Law on Police gives the foundation for police reforms, the idea of establishing a respective organizational structure of the police in every municipality is totally left aside, which is foreseen as an objective of the Ohrid Agreement, section B paragraph 4 of the Framework Agreement "laws related to the police stations placed in the municipalities... foresee that every local head of police is elected from the given Municipal Council concerned." This

---

155 Law on Police Article 20: SIA Skopje; SIA Bitola; SIA Veles; SIA Kumanovo; SIA Ohrid; SIA Strumica; SIA Tetovo; SIA Shtip
156 Law on Police, Article 20
157 The strategy for the reform of the police regulates the basic criteria that should be fulfilled in order to establish the SIA. Final decisions are political decisions which are regulated by the Minister and they should reflect the balance between the interests
158 Law on Police Article 23. Within SIAs there are established police stations with general authorization, for doing the police work directly in the given territory

terminology is also used in the adopted or changed laws after the Framework Agreement[159].

The decentralization of the police force, as an obligation deriving from the Ohrid Agreement, is carried out through the mechanism of appointing local heads of police. However, the Law does not prescribe any management function to them, instead they are considered enforcement agents in the given region.[160].

This organization structure ensures transmission of ideas and positions in both directions - between the Municipal Council and the MOI, through written periodical reports. Local Heads of Police do not have any direct responsibility or authority for decision-making at the meetings with the Municipal Councilors, related to the public safety. On the other hand, the Sectors for Internal Affairs as regional units that have the police stations under their dependence[161] - the heads of these sectors are appointed by the Ministry of Interior at its discretion. As a result, the concentration of authority and importance at this level makes them very dependant and they could be demoted at any time.

Having on mind the above described procedure, we could say that the selection process of the police chief with general responsibilities is a paradox formality, which causes a misbalance among Municipal Councils in their right to choose the responsible police chief for their municipalities. It means that not every Municipal Council has the right to elect through voting, even if they are Commanders of the police stations. If this is left like this, the development of the decentralized police authorities, as set in the Framework Agreement, will lose sense.

The Law on Police gives a specific enumeration of all police stations, specifying the municipalities with a police station[162], though there is no possibility to increase their number up to the number of municipalities[163]. It is worth mentioning that in the year 1995 with the,

---

159 Law on Local Self governance and changes of the Law on Internal Affairs
160 Law on Police, Article 23 and 24
161 Ibid, Article 21
162 Ibid, Article 23
163 Law on Territorial Organization, Article 10 (total number of municipalities is 84)

now abrogated, norms of the Law on Internal Affairs it was foreseen to have one police station for every municipality[164].

Considering the MOI organization structure after the Framework Agreement and the reforms, the legislator adopted several changes in the terminology:

- "the Council elects the head of the MOI regional unit in the given municipality..." [165] and "the election of the head of the MOI regional unit..." [166]. The notion 'MOI regional unit' corresponds with the actual Sectors for internal affairs (and the Bureau). This is the reason why the initial idea was that local heads of police be elected from the Municipal Councils in the given police region, which was later changed at the level of police station.

So far, this mechanism of electing the local heads of police has not been applied in practice. It is soon expected for this process to start, meaning that the practical application of the police decentralization has not started yet[167].

In this sense, in order to satisfy the goals set in the Ohrid Agreement and to establish a new sustainable organizational structure and not to be put in question by the members of the non-majority communities, the solutions set in the Law on Police should be elaborated in time, in order for the dilemma to be closed once and for good.

---

164 With different donations new objects of the police stations in Matech, Tearce, Harachine, Zherovjane, Saraj, etc. are being reconstructed and built

165 Law on Local Self-Governance (Official Gazette no.5/2002), Article 36, Paragraph 1/12: The Municipal Council elects the chief of the regional unit of the MOI, according to the Law

166 Changes of the Law on Internal Affairs (Official Gazette no.38/2002) have added a new paragraph 4 to Article 20 for the "selection of the chief of the regional unit of the MOI" and now has been extended to Article 20-A and 20-B

167 The Law on Firefighters (Official Gazette no. 67/2004) is also a part of decentralization. This authority is transferred from the MOI to municipalities

Nondiscrimination and Equal Representation of Non-majority Communities in the Police Forces[168]

A mono-ethnic police structure and discriminatory practices in the law enforcement are always a key cause of conflict in multiethnic societies.[169] Equitable representation of the members of the communities should be in proportion with the ethnical composition of the population of the country.

This principle derives from the Ohrid Agreement[170] and has been recognized as a basic principle of the Constitution of the Republic of Macedonia - guaranteeing equal and adequate representation of all citizens in the national institutions at all levels[171].

During the process of employment in the Ministry of Interior[172] and in the Police, regardless of their background, the persons should be represented in equal and adequate manner, in accordance with the professional standards and criteria[173].

It should be noted that, while regulating with laws of this Constitutional norm, the focus is only on the employment of the persons in the Ministry of Interior or the Police. In this way, there are no explicit aw directives for the fulfillment of the obligation of the Constitutional norm. In this manner there is a logical dilemma: What counter-action should be taken if there is no need for new employments and if there is no need to increase the number of employees for the functional needs of the institution?[174]

---

168 Ohrid Agreement, paragraph 4, Annex "C" paragraph 5.

169 European Code of Police Ethics

170 Ohrid Agreement, Annex C

171 Constitution of the Republic of Macedonia, Article 8 has been extended with Amendment VI (November, 2001) according to the Annex A of the Ohrid Agreement

172 Changes of the Law on Internal Affairs, Article 48-A

173 Law on Police, Article 96

174 Recently, the Government brought a Resolution on adoption of the Strategy for fair and adequate representation in the bodies of state administration, of the communities that are not majority, on 29 January 2007.

The Action Plan of this strategy predicts that aims will be reached through filling-in the working positions which will be empty because of some persons being retired, leaving the working places on voluntary bases, getting fired or other reasons.

The balance between equitable, fair and adequate representation, needs a more careful approach considering all the moments that determine the authentic solution strived by the communities, which has not been articulated in practice, as it should. Even after all these years since the Ohrid Agreement and the subsequent legislative reforms, the equitable representation does not reflect completely the percentage of the population of the non-majority ethnic communities in the total number of the employed members of the MOI at national level. Furthermore, there is no balanced proportion at regional level and in the municipalities i.e. police stations, in decision-making bodies and at different levels (police officers, public servants, authorized staff, etc). The most important problems are the lack of equitable representation at the senior level of the Ministry, which is crucial for decision-making, monitoring and planning. In other words, the need for sophisticated mechanisms focused on 'consensual' management with the institutions is inevitable, without damaging the hierarchy and its organization structure.

This would be a way to prevent majorisation and enhance the feeling of being equal and relevant among the representatives of all ethnic communities, who would not perceive themselves as being a tool that serves to the bigger ethnic group. In most of the cases, senior police officers from different communities are appointed by ethnic Macedonians. Once all representatives of non-majority communities undertake their full and equal responsibility for their actions, successes and failures, they would contribute to capacity-building of their institutions and confidence-building among the citizens and towards the MOI. Police should be held accountable not only to the government, but to the citizens as well, because its efficiency depends on the public support they receive[175].

Certainly, the process of equal representation is complex, particularly with the MOI, due to its broad geographic scope, vertical hierarchy, the systematization of positions and different authorities, specific nature of work and functions. Equal and adequate

---

Does this mean that waiting for the fulfillment of equitable representation will last infinitely or will stay an exclusivity of the governmental coalition agreement?
175 European Code of Police Ethics

representation is not a simple measure to change the constant misbalance and achieve a certain percentage of representation[176]. Instead, it has to be supported by institutional means, promoting it as an ongoing process that has to be maintained and developed.

Involvement of non-majority community representatives among the security services is a priority for confidence-building, thus it is foreseen in Annex C of the Ohrid Agreement, which states that "the parties commit themselves to ensuring that the police services will generally reflect the composition and distribution of the population of Macedonia"[177]. So far, the implementation of this commitment is not completed within the provided deadline in the Annex "C", of the Framework Agreement, though there are progressive developments in this direction. Counting the numbers of the employed persons through public concurs, after the Ohrid Agreement, one could notice, for example, that not even three hundred was the number of the employed Albanians in the entire MOI on the territory of RM. Below are the statistical data for the representation structure in MOI and the bodies therein, that reflects the situation by 31.08.2006[178].

---

176 This issue is advocated only by the representatives of ethnical non-majority communities, while Macedonians are indifferent and make political calculations out of it
177 Ohrid Agreement, Annex C (5.2)
178 http://www.siofa.gov.mk/

	Total		DSC		BPS		Ministerial Cabinet	
	No.	% From the total No.	No.	% From the total No.	No.	% From the total No.	No.	% From the total No.
Total	**13164**	**100,00**	**534**	**100,00**	**4534**	**100,00**	**539**	**100,00**
Macedonians	10645	80,86	460	86,14	3754	82,80	501	92,95
Albanians	1917	14,56	57	10,67	617	13,61	20	3,71
Turks	74	0,56	4	0,75	13	0,29	1	0,19
Serbs	243	1,85	7	1,31	72	1,59	10	1,86
Vlachs	0	0,00	0	0,00	0	0,00	0	0,00
Bosniaks	24	0,18	0	0,00	7	0,15	0	0,00
Romas	83	0,63	1	0,19	20	0,44	1	0,19
Others	178	1,35	5	0,94	51	1,12	6	1,11
Heads	**1103**	**8,38**	**3**	**0,56**	**406**	**8,95**	**24**	**4,45**
Macedonians	927	7,04	2	0,37	356	7,85	22	4,08
Albanians	113	0,86	1	0,19	33	0,73	1	0,19
Turks	6	0,05		0,00	1	0,02		0,00
Serbs	23	0,17	7	0,00	7	0,15	1	0,19
Vlachs	0	0,00		0,00		0,00		0,00
Bosniaks	2	0,02	1	0,00	1	0,02		0,00
Romas	7	0,05	2	0,00	2	0,04		0,00
Others	25	0,19	6	0,00	6	0,13		0,00

	Total		DSC		BPS		Ministerial Cabinet	
	No.	% From the total No.	No.	% From the total No.	No.	% From the total No.	No.	% From the total No.
Experts	**2986**	**22,68**	**385**	**72,10**	**885**	**19,52**	**144**	**26,72**
Macedonians	2615	19,86	317	59,36	814	17,95	130	24,12
Albanians	258	1,96	54	10,11	44	0,97	10	1,86
Turks	12	0,09	3	0,56	2	0,04		0,00
Serbs	55	0,42	5	0,94	15	0,33	3	0,56
Vlachs	0	0,00		0,00		0,00		0,00
Bosniaks	3	0,02		0,00	1	0,02		0,00
Romas	6	0,05	1	0,19		0,00		0,00
Others	37	0,28	5	0,94	9	0,20	1	0,19
Administration	**8538**	**64,86**	**129**	**24,16**	**3034**	**66,92**	**327**	**60,67**
Macedonians	6601	50,14	125	23,41	2384	52,58	306	56,77
Albanians	1524	11,58	1	0,19	534	11,78	8	1,48
Turks	56	0,43	1	0,19	10	0,22	1	0,19
Serbs	161	1,22	2	0,37	47	1,04	6	1,11
Vlachs	0	0,00		0,00		0,00		0,00
Bosniaks	19	0,14		0,00	5	0,11		0,00
Roma	64	0,49		0,00	18	0,40	1	0,19
Others	113	0,86		0,00	36	0,79	5	0,93

At this point, there is no strategic or operational plan in the Ministry, which would support human resources policies and career management and professional development, aiming towards the successful realization of this long-term strategic interest for the country, foreseen by the Constitution.

There is a lack of secondary legal framework that would set the principals of the service, guarantee transparent procedures and institutional protection mechanisms[179]. One of the examples is that there are several officers who have been employed without a university degree and in the meantime have obtained one, but even so, they have still not been promoted according to the new educational statute in the proper working places.

There are no special training or upgrading programs financed by the state[180], with the objective of professional enhancement of non-majority community representatives. This would help them in fulfilling all professional criteria, resulting in professional promotions that would change the actual discrimination, due to the experience needed for all given positions[181]. This means there is no strategic and planned approach that would move from quantity to quality.

Also, there are no institutional mechanisms for monitoring of the representation, i.e., the human resources management and career planning of the members of the non-majority communities.

The period when all systematized working places should be adjourned by adopting them in accordance with the ongoing reforms in the police, is a good moment to be coordinated with the issue of the representation of the members of the non-majority communities in the

---

179 Article 127 and 128 of the Law on Police does not foresee the adoption of this legal act
180 International assistance has been widely present, especially in the police reforms (ethical code, working procedures, international monitoring, professional consultations for faster police deployment in the sensitive regions). Several training and assistance programs have been implemented in the meantime. With the OSCE assistance, our MOI has implemented trainings with a three-months' duration and later year-round trainings for different important issues, in particular multi-ethnic police forces. With OSCE assistance and Helsinki Committee for Human Rights, several roundtables have been organized related to human rights and police activities in democratic societies
181 It is a paradox to make the evaluation solely on years of experience at this age of modern management

changing environment. Things will become more complicated after the completion of the process of job systematization when names of persons will be attached to each working position within an organizational unit, especially considering the European optimal benchmarks of one policeman per 300 citizens; therefore, it will not be possible to make simple mathematic operations[182].

One of the obstacles this process faces is the lack of political will among the political representatives of the majority community in regard to finding fair and adequate solutions. The reason given for delaying the full implementation of this measure is the fear that it will jeopardize the effective police work, create parallel police service, overburden their staff and cause mistrust among police officers, who will fear that newly employed staff from non-majority communities will take over their jobs. This fear is reflected in the indifferent behavior towards the newly employed staff, which is perceived solely as a forced percentage that has to be achieved, without including them in the regular activities. This 'hesitation' is reflected in the Law on Police, as well. Years of experience are one of the basic criteria for all leading positions, giving priority to professionalism instead of equal representation. Reading between lines, criteria related to years of experience and professionalism guarantee that the positions will be held by police offices from the major community.

This would not be a problem if there was great offer from the members of all communities in order for them to be elected, especially on the side of the police commanders-in-chief, which is closely linked with the development of the decentralized power. The fulfillment of the legal condition - the years of working experience - can be a serious obstacle in the selection of candidates from the ranks of the members of the different communities compared to the actual employed ones.

This could happen because of the fact that the voting is done in the Municipal Councils and according to the present voting system, if then noone is elected in the first and the second round, as a result of elimination there should be at least three candidates for three lists (two

---

182 Law on Police (Article 5) defines a newly created category of "police servants"

of which are proposed by the Minister and one by the Council).[183] If we take into consideration the probability of pooling the candidacy or demoting it by the Minister and repeating the voting procedure and multiplying with the number of police stations, when there is an opportunity that one of them is elected from the non-majority communities, there will be a risk of lack of staff within different ethnic communities. Moreover, the additional conditions which should be fulfilled by the candidates, such as: having appropriate high education, special management skills etc. will certainly lead to further decrease of the number of potential candidates, that will pass the filters of the selection process to a level that might jeopardize the normal development of the process.

It is likely that the new staff employed after the armed conflict will not have the chance to be in the running [184] for Commanders-in-Chief of the Police stations because the majority of the employments of this period where dedicated to the working place – "police officer", foreseen for persons that qualify with high school.

The search for solution among the "old" personnel (besides the fact that their number, especially of the ones with a university degree, is rather small) and personnel belonging to a given community, considering the obsolete method of working, would be difficult, since it is unlikely that they would prove to be useful in building confidence with the population and the police, which is the main goal of this process.

Establishing a legal and institutional infrastructure for this purpose is the only alternative for the complete success of the implementation of this obligation arising from the Ohrid Agreement. Sooner or later, this should be done. In this sense, a stronger barrier would be established towards the police staff which does not belong to any political party.

---

183 Law on Police, Article 24.
184 Certainly that should be done by internal job announcements in the Ministry for the realization of this process.

3. Progress and Implemented Measures in MOI Related to the Framework Agreement

We have noticed that the undertaken measures and attempts in the MOI have resulted with success and have contributed to relaxing and stabilizing the security situation in the country[185].

The Government adopted the National Plan for the return of security forces in former crisis region at the meeting held on 4 December 2001, as an integral part of the implementation of the Framework Agreement[186]. For this purpose, the Government has assigned a national coordinator for all activities foreseen by the National Plan, which was established at the level of coordinating body for crisis management, with the function of coordinating all actions undertaken by the MOI, Macedonian Army, municipalities and the international missions in Macedonia. This plan foresaw gradual return of multiethnic police patrols and interim police stations in the crisis region. Another plan was drafted afterwards, known as the "Police plan after the implementation of the basic plan", which foresaw follow-up activities for confidence-building between the citizens and police and community policing, aiming towards awareness-raising and qualitative cooperation. The implementation of the second Annex (end of hostilities) of the Agreement has been completed with the successful voluntary disarmament of the NLA, organized by the international community, which was present in the country after the end of the conflict. The success of this mission came as a result of the good cooperation and influence exercised by the former military authorities and the international community. The implementation of the Law on Amnesty has a crucial importance in this process[187].

---

185 Currently, there are no peace-keeping missions in Macedonia, since it is considered to be a country with a sustainable security situation

186 The ultimate goal of the Ohrid Agreement was to stop all hostilities, return the political stability and safety in the country

187 Law on Amnesty (Official Gazette no.18/2002)

An important step in confidence-building among the citizens of Macedonia is the adoption and implementation of the Law on Voluntary Disarmament and Legalizing Weapons[188].

In the chapter of "Education and Use of Languages" and local self-governance, it is foreseen that in municipalities where at least 20 percent of the population speaks a particular language, that language shall be used as an official language in addition to the Macedonian language. In this regard, the Parliament adopted changes of the Law on Road Safety[189] and Law on Public Registry Books[190]. In accordance with Section 6.8 of the Agreement, documents of all citizens whose mother tongue is different than Macedonian, may request their documents in their mother language. Several changes of existing laws were adopted in this direction: Law on Personal Identification Documents[191], Law on Travel Documents[192] and Law on Road Safety in the section of personal documents[193].

In relation with Annex C - "The implementation and the measures of confidence building", the Codex of Police Ethics is also adopted[194]. Furthermore, the Law on Citizenship has been changed as well[195], due to the fact that it has been generating discrimination since the independence of the country, affecting thousands of non-majority community representatives, particularly Albanians, who have been living in Macedonia for decades but, due to their origins from other parts of the Yugoslav Federation (mostly Kosovo), lacked Macedonian citizenship.

---

188 Law on Voluntary Disarmament (Official Gazette no.37/ 2003 and 38/2004).
189 Changes on the Law on Road Safety (Official Gazette no.38/02), Article 194, Paragraph 3
190 Changes on the Law on Public Registry Books (Official Gazette no.38/02), Article 3-A
191 Changes on the Law on Personal Identification Documents (Official Gazette no.38/02 and 16/2004) Article 5. MOI started to issue these ID on 15.05.2003
192 Changes on the Law on Travel Documents (Official Gazette no.20/03 and 46/04), Article 28. MOI started to issue these passports on 06.12.2004
193 Changes on the Law on Road Safety (Official Gazette no.38/02), Article 291
194 Code of Police Ethics (Official Gazette no.03/04) was adopted to facilitate the implementation of the basic principles and recommendations of the European Code of Police Ethics (19.09.2001). Police officers are obliged to respect this Code, including Article 18 therein, which foresees community policing. There have been several workshops about police in the multiethnic society, focusing on challenges and demands of this work. This is a project foreseen by the Stabilization and Association Agreement with EU, its objective is to raise the awareness of the citizens and better conflict resolution planning.
195 Law on Citizenship (Official Gazette no.8/2004)

The changes in this Law stipulated citizenship based on residence, rather than ethnicity, as was the case earlier.

At the end, we can say that the political will for changing the Law on Citizenship[196] is linked with the nature of the Ohrid Agreement, because it was not changed since the independence of the country, even though this Law should have been harmonized with the European Convention for Citizenship in some parts. The political representatives of the non-majority community in the country interpreted the Law on Police as a source of discrimination that does not legalize thousands "*de facto* citizens of RM" members of other ethnic communities (particularly Albanians) who have been living in the territory of RM from the moment of succession of the Yugoslav federation, majority of them originating from Kosovo. The changes of the Law were intended in favor of the permanent solution for this category of citizens and this norm was implemented successfully.

This and other achievements have undoubtedly contributed to the relaxation and stabilization of the security situation in the country and confidence-building in the democratic progress of the country.

Conclusions

One should bear in mind that the reform process of the police is very expensive, in all aspects, including economic and time aspect. The continuous returning in order to correct the changes imposes high expenditures. Because of this, there should be a fair approach towards settlement and bringing to life of the sustainable principles, in order to achieve the aim of finding and setting the best possible solutions in line with the Ohrid Agreement.

Strong legal and institutional means have to be established, in order to guarantee progress and maintain this process, offer equal chances and integration to all non-majority communities in the service. There should be cultivated the "Gemini" principle of the division of

---

196 Law on citizenship (O.G. no. 8/2004)

work and cooperation, especially for the integration of the members of ethnic communities.

The adoption of the new Law on Internal Affairs will set, the basic principles, establish special institutions for human and career management and monitor the process of representation and nondiscrimination of the members of non-majority communities. Also, the reform of the Directorate for Security and Counterintelligence as a body incorporated within the Ministry should start on time.

Strategic planning has to be clear and transparent for the development of these processes. The focus should be put on - how it is being done and not only what is being done.

The Law on Police has to be improved, in order to avoid the conflict with the Law on Local Self-Government and it is of particular interest that a consensus be reached with all political parties that represent the non-majority ethnic communities during the process of its voting.

Those changes should regulate the issue of the "mandate" of the Commanders of the police stations. Since it was decided that they are elected with the votes of the Municipal Council, it remains to regulate the mandate. The only known fact is that the Minister has the right to demote them. It could be assumed that every new Minister can use this right and demote all the commanders of the police stations and the procedure of voting starts from the beginning. In this sense, the police service remains very vulnerable to the change of authority and, political influences. The conditions should be harmonized through "positive discrimination" for the members of non-majority communities.

It is necessary to find a solution for the use of the language of communities in the police service, due to the fact that it is closely related to the dignity of the individuals, especially when they take the oath for police service in Macedonian, instead of their mother tongue..

When taking into consideration that the unitary multi-ethnic state has the only alternative of dividing the power among the ethnic

communities, and its democratization is strongly based on respecting the established procedures, one should be aware in order not to neglect the details because they constitute the entirety. The soul of the Ohrid Agreement should serve as a guide to building a long-lasting cohabitation!

Rizvan Sulejmani

CONSENSUS DEMOCRACY AND POWER-SHARING IN MACEDONIA

Local Self-Government

In order to examine if and to what extent a consensus democracy is present in the Republic of Macedonia, one needs to define the term "consensus democracy". Consociational or consensus democracy is a type of democracy that varies from the liberal democracy and the majoritiarian democracy. It is applied in segmented societies and multi-ethnic states. This theory is linked to the Dutch political scientist Arent Lijphart. This type of democracy has four basic characteristics: 1. a government based on a broad coalition of parties of the most significant segments of a given plural society; 2. mutual veto rights and protection of the vital minority interests; 3. proportionality as a basic measure in determining the political representation and allocation of funds; 4. high level of autonomy of the segments while solving internal issues.[197] In order to have this type of democracy in practice, some prerequisites have to be fulfilled: first, there is a need for a multiple power balance (The equilibrium includes two elements: firstly, equilibrium or approximate equilibrium among the segments, and secondly, existence of at least three segments. This implies that all segments are minorities. Multiple equilibrium is more favorable than double equilibrium of power or a hegemony of one segment. When one segment is dominant, the leaders will try to dominate over the minorities. If the segments are divided in smaller components, they will try to take over the majority and not negotiate or cooperate with them)**;** second, the small size of the country in question; third, a separation of the segments; fourth, the existence of tradition of mutual agreements among the segments, and fifth, existence of cross-cutting divisions[198]. On the basis of these features and preconditions, we shall

---

197 Savo Klimovski, *Politics and the institutions* (Skopje: Prosvetno Delo, 2000), pp. 231-233.
198 Arend Lijphart, *Democracy in plural societies* (Skopje, 1994), pp. 59-101.

analyze the Republic of Macedonia in two time intervals – before 2001 and after. The conditions and the factors are more of a statistical category and we shall define them now. The elements of the consociational democracy are dynamic and they shall be defined separately in the two time intervals.

As far as the first condition is concerned, i.e., multiple balances of the segments, the situation is as follows: referring to the national composition, the Republic of Macedonia is a multi-ethnic, multi-confessional and multi-lingual state. The communities live in a largely national homogenous environment. There is also fragmentation based upon economical development, urbanization, education, and demographics. The 2002 census data show that the total population figure is 2,022,547 inhabitants of various ethnicity. 64.2% of them are Macedonians, 25.2% Albanians, 3.8% are Turks, 2.7% Roma, 1.8% Serbs, 0.5 % Vlachs and 1.8% other[199]. Upon detailed analysis of these data, the following correlation is noted: the ratio Macedonians vs. Albanians is 2.5:1, the ratio Albanians vs. other communities is 2.3:1, while the ratio Macedonians vs. other communities is 1.8:1. This correlation allows for categorization of different communities in three groups: the first group encompasses Macedonians, the second - Albanians and the third group - representatives of other communities. Such a ratio is very close to the ratio of the German-, French- and Italian-speaking groups in Switzerland. [200]

The second precondition, i.e. a multiparty system has been fulfilled since 1990. Every community has its own political party. Macedonians and Albanians have up to three or more political parties in the Parliament, while the other communities have up to two. It is only the Vlachs, who are not represented with their own party in the Parliament, but via representatives in other parties. The correlation among the parties is dynamic and that is why we shall define it as the correlation in the period when the analysis was performed.

The third precondition, i.e. the small territory of the country refers to the fact that the Republic of Macedonia with its 25.717 km2

---

199 Republic of Macedonia, State Statistical Bureau, Skopje, www.stat.gov.com
200 Urs Altermatt, *Etnonacionalimi në Europë* (Tirana: Phoenix, 1994), p.148.

[201] is among the smallest countries in Europe. The political leaders have the opportunity to communicate frequently, while some of them are personal acquaintances from the political sphere**.** The idea is to note that in smaller countries it is easier to communicate and make a contact. The contact goes smoother when the leaders know each other personally, as well**.**

The fourth precondition refers to separation of the segments. National homogeneity varies in different parts of the country. In certain parts or regions, the communities, i.e. the segments are over 95% homogenous in the regions in which they are concentrated. On the other hand, in some parts there is a mixed population, as well. Considering the numerical data, it is almost the same number of Albanians and Macedonians that live as minorities at municipal level (92,466 Macedonians and 92,763 Albanians). In percentages, that means that 7.12% of the total numbers of Macedonians live as minorities at municipal level in comparison with the 18.22% of Albanians that live as minorities at municipal level, as well[202]. But this is not what Lijphart refers to. When he talks about separation of the segments, he means that they are geographically separated, which facilitates the ability to have an autonomy.

These data lead to the conclusion that the Republic of Macedonia can fulfill some preconditions completely and others only partially. This means that the first precondition, i.e. balanced proportion of powers, is not completely fulfilled. Considering the numerical and percentage data, the number of the Albanian population is not to be under-estimated. However, the dominant majority are the Macedonian people, but not in such numbers as to be hegemonic. The third group represents other minorities that are divided into smaller segments. The second and the third precondition may be considered as fulfilled. Macedonia is considered a small country where a multiparty political system is in place. The fourth precondition refers to the division of segments. The lines of ethnic division in certain parts are rather clear, but in certain areas or regions they are not so clear. These elements which are considered as a precondition for consensus

---

201 Republic of Macedonia, State Statistical Bureau, Skopje www.stat.gov.com.
202 Territorial division, 2004, Ministry of Local Self-Governance, Statistical Bureau.

democracy are static. Some data that are related to the size of the segments are variable. Demographic data are variable[203] as well as the migration which is expected to influence the formation of segments[204]. If the preconditions are a static category, then the consensus democracy is variable and we shall analyze it in two time intervals as specified below.

Macedonia Before 2001

Following the example of the other former Yugoslav republics, the Republic of Macedonia proclaimed independence via Referendum organized on 8 September 1991. The question was formulated controversially: "Are you in favor of an independent and sovereign state of Macedonia, with the right to enter in future alliance with sovereign states of Yugoslavia?". [205] The referendum question was a compromise between the dominant political parties, but did not reflect a consensus among the communities. Relations with the other former Yugoslav republics and the rest of Yugoslavia [206] were a particular concern of the government at the time[207]. The Albanian community representatives insisted on a referendum question that that would refer to the internal relations in the state rather than the relations with the rest of Yugoslavia. In the course of the political debate several amendments were proposed by Albanian Members of Parliament, but they were not accepted. This was the primary reason why Albanian leaders did not encourage voters to participate in the Referendum. Despite the Referendum having a positive outcome, it was boycotted by the Albanian population. The same happened later in the same year, when the Constitution was adopted on November 17th. In all phases of

203 The birthrate within the Albanian, Turkish and Roma population is much higher than the one of the Macedonian, Serbian or the Vlach population, see statistics.
204 The opening of the two universities in Albanian language in Macedonia significantly increases the number of high educated staff that migrate from rural to urban communities. They can alter the national structure of the population, especially in the western part of Macedonia and Skopje, see statistics.
205 The Official Gazette where the Referendum was published
206 At that time the largest Yugoslav Republic, today's state of Serbia aspired to keep Yugoslavia complete, or at least be the legal heir to the state which was falling apart.
207 Dimitar Mircev, *The Macedonian Foreign Policy 1991-2006* (Skopje: Az-Buki, 2006), p.110.

the Adoption of the Constitution, the Albanians participated in parliamentary and public debates. The discussions of the Albanian Members of Parliament were in favor of constituting a multiethnic state in which Albanians would be a constitutive people in the state. All amendments of Albanian MPs were rejected by a majority vote in Parliament[208]. That was the reason why the Albanian Members of Parliament did not vote in favor of the constitution and left the Parliament in protest during the voting process. In the course of the adoption of the Constitution, no broader consensus among the communities was achieved; something which was supposed to be reached with the Referendum. It was supposed that certain percentage of the Albanian population would participate at the Referendum. This was due to the fact that the Albanian leaders did not openly call for boycott of the Referendum. The issue was left to own judgment of the individuals. The number of Albanians that participated in the Referendum was notably small. This circumstance disabled the Macedonian elite to conclude that a consensus exists at the lower level in the communities, and that the problem is to be found within the Albanian political elite, not within the communities.

No consensus was reached among the political elite, as well. The decision-making system was based on majority vote, disadvantaging non-dominant communities. When the Constitution was written, there was a consensus within the Macedonian community and with the international community,[209] but not among the other communities.

The consensus among the political parties and with the international community was confirmed by the fact that all political parties of the Macedonians were in favor of the Constitution and the Badinter Committee gave a positive opinion that the Republic of

---

208 Here we focus on the Albanian community because the other smaller communities did not have any special demands.

209 In order to develop joint position on the situation in former Yugoslavia, EU decided to form a Committee led by the famous French expert in Constitutional Law, Mr. Badinter. The assigned task was to define criteria under which the future states will be recognized. This meant that Macedonia needed to obtain a positive estimation from this Committee, as well as confirmation that all criteria for recognition as independent and sovereign state are fulfilled.

Macedonia fulfilled all criteria for becoming an independent state[210]. This approach of building a state by which solely the requests of international actors were met, but not the requests of all of its citizens, has made the Macedonian political parties responsible and the international community "part of the problem and not part of the solution" [211]. No balance between the internal needs and the external criteria was reached.

Under this Constitution, the Republic of Macedonia was constituted as a national state of the Macedonian people[212], while complete equality was provided for the other communities. This approach was noted in the Preamble, which stated that "...as well as from the historic fact that Macedonia is constituted as national state of the Macedonian people in which …." [213]

The responsibility for this development is located with the largest community - the Macedonians (this denotes the fact that the responsibility was entrusted within the Macedonian people as the biggest and the driving force of the state). With its centripetal force, this community should have neutralized the centrifugal forces of the other communities that are striving to dissociate from this center and incline towards other centers outside Macedonia. The creators of the concept (among which Frčkovski, who is being cited as well) of a centralized state, envisaged that the Macedonians would be the spine and the driving force, which will strongly adhere the smaller communities to Skopje and in that way prevent disintegration of the state. Only a centralized state with homogenous administration can

---

210 On 11 January 1992, the Arbitrary Committee of EU submitted a report in which Estimation No. 6 was included. It elaborated that the Republic of Macedonia fulfills all criteria for recognition as independent state. Badinter gave several reviews: At first, he underlined that Yugoslavia was in a phase of "dissolution". Then he presented some criteria referring to the rights of the minorities which should be respected. In the same report, he emphasized that Croatia does not fulfill the criteria set for recognition, while Macedonia and Slovenia do. Many believe that this was a political mistake, because it inspired Bosnia to a Referendum as well. It may be that it has a legal validity, but it turned out at the end that it was a fatal political mistake.
211 Christopher J. Bickerton, "States without Souls. Contradictions of state-building in 21century", Paper Prepared for SAID Conference "Sovereignty in the 21 Century", Oxford, 29 October 2005,http:www.said-workshop.org/bickerton.oxford.paper.doc
212 Savo Klimovski, op. cit. p. 139
213 Decision on Proclaiming the Constitution No. 08-4642/1 dated November 17th, 1991 (Preamble text of the Constitution).

deal with centrifugal political forces within the Albanian bloc that would strive to orient the Albanians towards Prishtina or Tirana. More precisely, it will discourage those who thought that the well defined position of the Albanians could be followed by a secession opportunity[214]. Time will tell that not enough "glue" was made to establish an internal homogeneity among the communities with national, religious and language differences. Such a homogeneity is essential for successful maintaining of these differences in a fragmented society[215]. It is thought 'time-has-shown' and not 'time-will-tell'. It has already been proven that there was not enough "glue" for the communities to remain interlinked**.**

The position of the Albanians in the Republic of Macedonia was conveyed in a letter sent on 21 December, 1991 to the EC Council of Ministers and the Arbitration Committee of the Peace Conference for Yugoslavia in The Hague. The letter was sent by the Parliamentary Group of the Democratic Prosperity of the United Political Party of the Albanians (this implies PDP, the only party of the Albanians at the time, because there were no other Albanian political parties) in Macedonia, active at that time[216]. It became clear that the communities in the Republic of Macedonia have different values and goals; the accent here is on the number. The Albanians were, for the first time, organized in parties based on national grounds and the Macedonians were mostly ruling and had all of the power in the last years after the communism. Their political cultures and values are different, mostly referring to the fact that the Albanians have very little experience in working in institutions. This adds to the different level of education, religious and other traditions in the family. There was a tendency within the Albanians for collective voting, i.e. absence of women in the

---

214 Ljubomir D. Frčkovski, "Elective model and political dynamics in Macedonia", *Forum Analitika*, December- January 1998, No.1, p. 47.
215 Richard M. Bird. "Asymmetric Fiscal Decentralization: Glue or Solvent?". Working Paper 03-09, April 2003, International Studies Program. Andrew Young School of Policy Studies, Georgia State University.
216 The second paragraph of that letter stipulates: „... we agree that the Republic of Macedonia should be recognized as independent and sovereign state...", continuing further in line 1 that the adopted constitutional solutions do not provide guarantees „…for the rights of the nationalities and the ethnic groups…". The subsequent sections list which rights are affected starting with the right for the use of the language, preserving the cultural identity, high education, symbols, informing and proper representation in the institutions of the system.

political and the voting process, or mildly said, their insufficient involvement i.e. that they have "heterogenic political culture or fragmented"[217]. On the other side, it also became apparent that the communities within themselves have a homogenous political culture. The homogenization based on national bases regarding these matters leads to the conclusion that "unity and homogenization" is also a consequence of the homogenous political culture within the communities**.**

For the purposes of successful democratization and political stability, it is desirable to reach a consensus on core issues, within and between the communities countrywide. Should such consensus not be reached within a certain timeframe, then we can say that we have a fragile or weak democracy[218]. Such a consensus should be reached on three levels, i.e. a) consensus on the level of the whole community, i.e. the main consensus, b) regime consensus or procedure consensus, c) political consensus. The main consensus, i.e. consensus among the communities is desirable and serves as a support to the democratic process. Since such a consensus could not be reached, what remained was a consensus on the other two levels. The process of reaching such a consensus, and especially a consensus on the rules of conflict resolution, is an essential condition, even a democratic need[219]. In the case of the Republic of Macedonia, the consensus was not reached at several levels.

Democracy in Macedonia Before 2001

We shall review the elements of consensus democracy from two aspects – as a tradition and as a norm. This analysis will focus on the aforementioned four elements of consensus democracy: how the coalitions were formed; the possibility of using a veto; proportional representation; and autonomy of the segments.

---

217 Herbert Marcuse, *The End of Utopia, Five Lectures* (Boston: Beacon Press, 1970), p. 63.
218 R.M. Maclever, *The Web of Government* (New York: Macmillan, 1947), pp. 5, 4.
219 Giovanni Sartori, *Edhe një herë për teorinë e demokracisë, botimi I tretë* (Tirana: Ditura, 2006), p. 124.

Let us first turn to how coalitions were formed. There was no constitutional or legal obligation to have all communities or segments represented when forming a government[220]. Although there is no constitutional guaranteed participation of all society segments in government, it has become a tradition to have representatives of the other non-majority communities, especially the Albanian community, in each government since 1990[221]. In addition, there have been several instances when the government included all bigger political parties or enjoyed their support: the first government formed after the first parliamentarian elections in 1990 known also as the "technical government", and the wide-coalition government formed during the 2001 conflict. Both governments, supported by all major political parties, were of a temporary character and did not last longer than a year and half.

The first government after the technical government (in 1992) was comprised of the Social Democratic Union of Macedonia (SDSM)[222], the predominantly Albanian Party of Democratic Prosperity (PDP), and some minor political parties, although the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO–DPMNE) won those elections. The second and the third government (1994 coalition SDSM with PDP), in 1998 VMRO – DPMNE and DPA (DPA was not the winning party within the Albanians) were formed by the largest Macedonian party and one political party of the Albanians, which does not necessarily has to be the largest Albanian party, as well as with the participation of some other minor political party. The tradition of forming a coalition government has been respected so far, having included a core Macedonian winning party and one Albanian political party. This party does not necessarily have to be a major political party in the Albanian electorate, but it is the party chosen by the Prime Minister. Such tradition has a tendency to create a bi-party political system[223] having two major Macedonian parties interchanging in the

---

220 See Article 90 of the Constitution of the Republic of Macedonia. Decision on Proclaiming the Constitution No.08-4642/1 dated November 17, 1991.
221 The stenographs of the voting process when electing all of the governments until now, should be reviewed.
222 The SDSM is the successor party to the League of Communists.
223 Ljubomir D. Frčkovski, op. cit. pp. 47-51.

government, as well as interchanging Albanian parties in the government

The second core aspect of the consensus democracy is the veto right for non-dominant groups, which as a right was not provided for by the Constitution.[224]. There were tendencies to overcome certain political situations. Having the ambassador Gert Arens acting as a mediator in 1992 and 1993, there were some attempts to solve certain political situations during the disintegration process of former Yugoslavia through cross-community negotiations in practice, but the veto right was not available. In 1997, a group of Albanian intellectuals prepared a project to establish a Pedagogical Faculty in Skopje. They presented some solutions to overcome the situation with the University in Tetovo, where no common solution was reached which would enable the Albanians to fulfill their needs for education on their mother tongue.

The Law on High Education is considered as the biggest political failure in terms of reaching a cross-community compromise. The Albanian representatives insisted on having the possibility for high education in Albanian language, but no agreement was reached. On 17 and 19 December 1994, three municipalities in western Macedonia with predominant Albanian population—Tetovo, Gostivar and Debar—decided to form an Albanian-language University on their own initiative[225].

Although the Albanian political party PDP was in power at central level, it supported this idea at local level in those municipalities. In addition, the second Albanian party, the Democratic Party of Albanian (DPA)—in opposition at that time—also supported the project. The state did no recognize that university[226]. The second unsuccessful attempt to reach an agreement was the Law on National Symbols. In July 1997, the Mayor of Gostivar, Rufi Osmani, a

---

224 See Constitution of the Republic of Macedonia – the section on government and assembly. Decision on Proclaiming the Constitution, No. 08-4642/1 dated November 17th, 1991..

225 The Law on High Education from that period provided the possibility for the municipalities to be founders of high education institutions (the law from that period should be examined).

226 In the police raid on 16 February, among the many injured, student Abdilemin Selami lost his life.

charismatic and young politician from DPA raised the Albanian flag in front of the municipal building. Under pressure of the second political party in power on central level at that time, PDP, the Parliament adopted the Law which regulates the use of the flag in reduced form. In the late evening hours of 8 July the Law was adopted. Early the next morning, the police intervened and removed the flag, which resulted in casualties and many injured[227]. There were some further attempts for consensus building, but generally Albanians were outvoted by the Macedonian majority.

Proportional representation was neither a norm nor a practice in Macedonia before 2001. The Albanian community has not been proportionally represented either in the parliament or in the government since 1990. At the first parliamentary elections held in 1990, with a huge mass mobilization and maximum participation of the Albanian voters, Albanians were represented with 23 Members of Parliament or 19.20%, while at the following elections the number of Albanian Members of Parliament decreased to 19 or 15.8%. Finally, at the third Parliamentary elections Albanians were represented below the percentage in relation to the national level (with the 1981 census, Albanians were registered with 18,3%, and these results were not recognized by them. The 1991 census was boycotted, so the numbers of the census were always questionable until the last census in 2002)[228]. Although there were ministers from the other communities in the government, especially from the Albanian community, their participation remained below their population share (in terms of numbers and political power)[229].

Far worse was the situation in the state institutions. According to the Statistical Office, in 1998, Albanians were represented by 3.1% in the state administration[230]. Similarly, in the other state organs and

---

227 The police intervention on 9 July 1997 claimed the lives of three young demonstrators while hundred other were harassed and convicted, including the Mayor of Gostivar Rufi Osmani and the Mayor of Tetovo Alajdin Demiri.
228 Slavko Milosavlevski and Mirce Tomovski, *The Albanians in the Republic of Macedonia 1945-1995 Legislation – Political Documentation – Statistics* (NIP Studentski Zbor, Skopje, 1997), p. 329.
229 See stenographs of the election of government in the Parliament
230 "Statistical Yearbook of the Republic of Macedonia 1998", State Statistical Bureau of the Republic of Macedonia, Figure 46.

institutions, Albanians were severely under-represented. More descriptive is the situation in education. If the percentage of Albanian students in 1990/1991 was 27% in the elementary education, the percentage of enrolled students in the secondary education for the same year was 3.6% only. For the sake of comparison, in the year 1950/1951, during communist times, the percentage of enrolled students in secondary education was double, 6.3%. The same situation refers to the high education; this implies that in the high education, as well, there was higher percentage of enrolled Albanian students than 40 years later.

Comparing the years 1953/54 and 1993/94, we can see that in 1953/54, 2.1% of all students were Albanian, while forty years later, in a pluralist and democratic system, the percentage of graduate Macedonian students was 88.5% and only 1.5% Albanian ones[231]. Similar proportions could be found in other segments of public life[232].

As for the possibility of communities enjoying some degree of autonomy in their decision-making, no such possibility exists according to the Constitution. There was one attempt to regulate the autonomy on behalf of the Albanian community in 1992. On 11 and 12 January 1992, a Referendum was held for the Albanian population in Macedonia on political and territorial Autonomy of the Albanians in Macedonia. The referendum question was the following: "Are you in favor of political and territorial autonomy of the Albanians in Macedonia?"[233]. The Referendum was organized and carried out by the political parties of the Albanians in Macedonia. According to the organizers, the Referendum was proclaimed a success, having the Albanian population voting in favor with vast majority. The Referendum was held semi-legally, organized by the Albanian parties. There were no election lists or something similar. Data from the

---

231 Slavko Milosavlevski, Mirce Tomovski, op. cit. pp. 355-366.
232 These are mainly percentages of representation of the Albanian community because there are more available data for this community. Equally bad is the situation with the Roma and the Turkish community, while the other two communities, the Serbian and the Vlach, proportionally viewed, are in better situation even in bigger percentage that their actual representation on national level is.
233 Here it is not possible to cite an official document because the Referendum was not permitted by the official authorities. Neither the question, nor the results were ever published in any Official Gazette.

parallel census that was organized after the one boycotted in 1991, were used as election lists and data. At a press conference held in Gostivar, which at the time was considered as Headquarters of the intellectuals, the Referendum was greeted as successful because 98% voted in favor. Various statements were given in attempt to give an answer to the question what is the number of the voters that participated. However, the most mentioned number was the one of over 300,000. Such documents were not officially published because the authorities prosecuted the organizers. In some places the Referendum was organized secretly, going from one house to another.

With a special act, the Parliament annulled the results. The local self-government was one area in which the demands of the Albanian community could have been fulfilled. This area is regulated by Article 114 to 117 of the Constitution. These articles did not provide for substantial political rights at local level, thus not reflecting the fact that not much from the demands of the Albanian community was included. No special, autonomous or political rights for the communities are regulated with these Articles. One can detect that the government has a clear vision without the local government included, by understanding the views of the author of the laws in this area, Prof. Vlado Poposki , when he underlines: One thing was clear, the municipalities should not be "political communities", meaning that they should not transform into some form of political autonomy[234]. The two main laws, the Law on Local Self-Government (1995) and the Law on Territorial Division (1996), embodied these norms. Article 17 of the Law on Local Self-Government stipulates the competences of the municipality which can be performed independently, but in most of these competences the phrase "in compliance with the Law" is added[235]. Such approach is also noted in the Law on Territorial Division[236]. In response to the reactions of the Albanian political parties, the author of the Law on Territorial Division stated that they thought that they were "marginalized and ghettoized[237]". Still, with some smaller concessions, an Albanian party voted for this law. This

---

234 Vlado Popovski, "Pandora's Box Remained Closed", *Forum Analitika*, December-January 1998, No. 1, p. 90.
235 The Law on Local Self-Government, „Official Gazette" , No. 52/02.
236 The Law on Territorial Division of the Republic of Macedonia, „Official Gazette" 49/96.
237 Vlado Popovski, op. cit. pp., 106-107.

was seen as a success by the governing Macedonian political parties[238]. Another important segment for the multiethnic communities is the cultural identity and the use of the language. The use of the language was regulated by Article 7 of the Constitution. This Article distinctly stated in the first paragraph that the Macedonian language and its Cyrillic Alphabet is defined as the official language of the state. The language of communities[239] is in "official use" in addition to the Macedonian language in the municipalities where these communities are majority (over 50%), while in the municipalities where the communities are in significant numbers (over 20%) this language can be used under conditions regulated by law. Even at local level, this language is not in autonomous official use, but can be used in addition to the Macedonian language. This implies that the language is not an "official language", but is in "official use". The lawyers treat this as one level lower than the official language, along with the "Macedonian language". In more plastic example, this would mean the following: each document that will be issued to an Albanian customer, aside of having the document issued in Albanian language, shall also be provided with a Macedonian translation, without having the customer ask for that.

In comparison with the solutions provided in the 1974 Constitution regarding the use of the language, these solutions are more restrictive[240]. Particularly relevant is Article 8 of the Constitution, line 3 prior to the constitutional amendments of 2001: "The representatives of the nationalities have the right to found cultural and art institutions, scientific and other associations for the purpose of expression, nurture and development of their identity[241]". These are elements that can be viewed as a form of autonomy, for instance when it is indicated that they have the right to establish cultural and art institutions. The main idea is directed towards private institutions. It does not refer to scientific associations, i.e. high education institutions,

238 The Party of the Albanians which participated in the central government voted in favor of the Law, despite the remarks, because they were aware that majority principle will be applied.
239 The term "communities" is in use after 2001 with the constitutional amendments as substitute for the term "nationalities" which was used in the 1991 Constitution.
240 Slavko Milosavlevski, Mirce Tomovski, op. cit.. pp. 22-25.
241 Decision on Proclamation of the Constitution No. 08-4642/1, dated November 17 1991. (Article 48 line 30).

universities and academies (that was exactly where the problem was). There was no possibility to legalize the private universities. As a reminder – the previous Law on High Education allowed for the municipalities to be able to establish a University.

The above presented data provide an overview where it is clearly stated that the Albanians and the Macedonians were not "equal". When discussing inequity, it does not refer to having laws that directly discriminated the Albanian or the other communities like the Turkish or the Roma ones. But the constitutional and the legal resolutions combined with the political culture and tradition did not produce "equity" among the communities. Instead of being upgraded, negative tendency was noted with regard to the obvious differences in education, the access to institutions, the possibility of autonomous decision-making by the communities about their rights. Although the Albanian political parties participated in the government, they did not manage via the institutions to produce results that would improve these parameters. The inability of the institutions to solve the problems of the Albanian population created a big mistrust. The political division on national bases continued with some lower or higher intensity. The opinion that there should be an outer institutional solution grew ever stronger within the Albanian population. The outer-institutional approach of political acting resulted at the end with the armed conflict in 2001.

Democracy in Macedonia After 2001

In 2001, the Republic of Macedonia entered a deep crisis. An armed group[242], named as National Liberation Army (NLA) [243], committed several armed attacks against the state security structures and promoted their own political leadership[244] and political demands.

---

242 "Armed group" , the Parliament of the Republic of Macedonia , No. 07-1072/5, dated March 18, 2001.
243 Gëzim Ostreni, *Vështrim kritik mbi veprën 'Lufta në Maqedoni në vitin 2001' të gjeneralit Mitre Arsovski, Prof. dr. Stojan Кузev dhe gjeneralit Prof. dr. Risto Damjanovski* (Skopje 2006), p. 12.
244 Ali Ahmeti was promoted as a political leader who later formed the political party of DUI. He is the current leader of the biggest political party with majority of Albanian members.

These demands included a call for constitutional amendments and coincided with the statements of Albanian politicians who claimed that the Constitution is the crisis generator[245]. With no intention to elaborate what has led to the conflict (for which there are many theories and views), I will just mention the Ohrid Framework Agreement, which was signed under the pressure of this military formation. During the security crisis, a broad coalition was formed with the intention of helping in ending the conflict. The four biggest political parties in the Parliament – two Macedonian and two Albanian, VMRO-DPMNE and SDSM and the Albanian PDP and DPA[246], as well as some other smaller parties, formed this grand coalition. An all-out war was prevented by the Agreement negotiated in Ohrid. The Agreement was signed by the four leaders of the bigger political parliamentary parties, the President of the Republic of Macedonia and the EU and USA facilitators[247]. The Agreement was signed in the presence of the Secretary General of NATO, George Robertson and the EU High Representative for Foreign and Security Politics, Javier Solana, on 13 August, 2001 in Skopje. Although reached in unaccustomed conditions, the Agreement can be referred to as the first consensus between the political leaders in the state. When proposing the constitutional amendments deriving from the agreement, President Trajkovski emphasized:

"The Agreement that is in front of you is the result of incorporating the European values of human rights, democracy and compromise, eliminating the grounds for war and multi-ethnic conflicts in the Republic of Macedonia. It contributes to increasing the internal stability which directly reflects to peace in the region, as well,

---

245 The former President of PDP Abdurahman Aliti stated several times that the Constitution is the crisis generator in the Republic of Macedonia.
246 Previously, the leaders of the two political parties signed a document for harmonization of the goals with the NLA leader Ali Ahmeti in the Kosovo city of Prizren.

247 The Agreement was signed by the President, Boris Trajkovski, the VMRO-DPMNE leader and President of the Government, Ljubco Georgievski, the SDSM leader, Branko Crvenkovski, the PDP leader, Imer Imeri, the DPA leader, Arben Xhaferi and the facilitators, James Pardew as US representative and François Léotard as the EU representative.

and finally strengthening of the European and Euro-Atlantic perspective of the country"[248].

The Agreement includes four main pillars[249]: 1) the smaller communities, primarily the Albanian[250], agree to live in a unitary state, the Republic of Macedonia; 2) the preservation of the national and cultural identity of the communities which are not in majority is being guaranteed, in a state based upon a civil concept; 3) the multi-ethnic character of the society is reflected in the public life; 4) greater competences will be granted to local self-government.

The obligation to preserve the unitary character of the state is seen in section 1.2 of the first chapter "Basic Principles" where it is stipulated: "The sovereignty and the territorial integrity of the Republic of Macedonia and the unitary character of the state are unbreakable and must be preserved". Evidence that the state relies on the Agreement bases can also be seen in Amendment 4, i.e. in the following amendments referring to the Preamble where it is stipulated: "the main idea here is to highlight the fact that the sovereignty and the unitary character are undivided and should be maintained as it is said in Amendment 4 (the Preamble)". This amendment reads that this state is founded and formed upon the consensus bases (consensus) among the communities as presented below.

"…The Macedonian people, as well as all of the citizens that live within the state borders, and who belong to the Albanian, Turkish, Vlach, Serbian, Bosnian people[251]…" "have decided to constitute the Republic of Macedonia as independent, sovereign state.." [252].

---

248 Extract of stenograph from the President's speech before the Parliament when proposing the constitutional amendments in 2001.
249 Rizvan Sulejmani, "The Public in the Republic of Macedonia and the relations with the European Union and NATO–with special review of the process of decentralization", Master Thesis, 2007, pp. 143-148.
250 We say primarily the Albanian community because Macedonian and Albanian representatives have signed the Agreement which is an obligation for all of the communities.
251 The Agreement was negotiated by the Macedonian and the Albanian leaders, while the representatives of the other communities mentioned in the Preamble have neither participated in the negotiations, nor signed the Agreement.
252 Ohrid Framework Agreement, 13.8.2001 and the Constitution of the Republic of Macedonia with its amendments 1-18, 2002.

The word "have decided" concretely means that the decision to form a state was taken jointly, which means in agreement – all of the people that live on this territory have agreed to constitute the Republic of Macedonia as an independent and sovereign state. These two elements might be considered as a consensus of the political elite on the "ultimate values" [253]. No less important are the issues in line 1.3 of the "Basic Principles" chapter of the Agreement. There, it is stated that "the multi-ethnic character of the Macedonian society must be kept and reflected in the public life".

That might also be reviewed under the criteria – consensus on ultimate values such as liberty and equality. Such values are included in the Constitution of the Republic of Macedonia in the sections where the basic values and rights and freedoms of the citizens are underlined. Article 8 of the Annex to the Framework Agreement "Constitutional amendments", stipulates:

" (1) Basic values of the constitutional establishment of the Republic of Macedonia are: The main rights and freedoms of the individual and the citizens, adopted in the international law and determined with the Constitution."[254]

The guarantees for protection of the national and cultural identity are stipulated in Article 48 of Annex A, where paragraph 2 of the same article reads as follows: "The Republic guarantees protection of the ethnical, cultural and religious identity of the community, as well as protection of their language."

The qualitative difference in the preserving the identity is seen precisely in the word "guaranteed", which means that preservation of the cultural identity is not just a "right" as it was a previously defined solution, but now it is guaranteed by the state. To what extent these rights are regulated can be noted in the same Article where the areas in which the communities have the right to express their identity are stated. These areas include the right of expressing the national symbols, the right to establish institutions in the domain of culture, education, the

---

253 Giovanni Sartori, op. cit., p. 124.
254 Article 8 of the Annex to the Framework Agreement "Constitutional amendments"

right of education in mother tongue, etc.[255] As part of this list of rights, Albanians have managed to legalize the University which was founded by three Albanian municipalities and which operated with the self-contribution funds provided by the Albanian population since 1994.

An agreement, i.e. consensus on the "rules of the game or the procedures"[256] on important issues is noted in section 5.1 and line 5.2 of Chapter 5 of the Framework Agreement. This section elaborates the "special parliamentary procedures", by which the Parliament should vote by a double majority principle, i.e. the majority of the Members of Parliament and the majority of the Members of Parliament who do not belong to the majority community, i.e. the Macedonian community. Issues upon which the Parliament decides with double majority principle are the laws that directly treat questions related to the culture, use of language, education, personal documents and the use of symbols, as well as the Laws on Local Self-Government, local finances, local elections and municipal boundaries. The Law on Local Self-Government is adopted by a two-third majority, requiring to have a majority of the Members of Parliament who claim to belong to the non-majority community (i.e. the Macedonian) voting in favor.

When electing judges in the Republican Judiciary Council, judges of the Constitutional Court and members of the Security Council[257], as well as the Public Attorney, there is a need for an agreement among the communities, because these elections are performed in the Parliament with a double majority. The composition in these institutions indicates in an indirect manner that when decisions will be taken, in most of the cases agreement will be needed among the representatives of the communities. Since this topic is being reviewed, we should elaborate another very significant element - the Committee for relations among the communities. The Committee includes equal numbers of Macedonian and Albanian community representatives, both having seven representatives, while the other communities, Turks, Vlach,

---

255   The Ohrid Framework Agreement, 13.8.2001, Annex A, Constitutional Amendments, Preamble
256 Giovanni Sartori, op. cit. p. 124.
257 One third of the members in these institutions is elected with double majority or the Badinter majority, which means that majority votes of the Macedonian representatives is needed and majority votes of the other communities which are not majority on national level.

Roma, Bosniaks and Serbs have one representative each. Decision-making in this Committee is by majority voting, which means that there is no veto right. This Committee reviews the questions referring to relations among the communities in the country and adopts views and recommendations for their resolutions. The Parliament is obliged to discuss and takes decisions upon these views and recommendations. The Committee has another very important competence. In case of dispute on the use of the double majority principle in the Parliament, decisions on the procedure are adopted by majority of votes in the Committee[258].

It cannot be said that something has been anticipated for "special governing or special politics; this implies that there is no special manner of governing, e.g. exact number of ministers from the communities that would participate in the government, special manner of diving the funds, special policies for the communities which cannot integrate, even asymmetrical governing as well etc.[259]". We can say "specific politics" or more precisely "principle politics" which derives from the "Basic Principles" of the Framework Agreement, section 1.3 where it is stipulated: "The multi-ethnic character of the society must be preserved and reflected in the public life". Further on, Article 8 of Annex A on the Basic Values in the Constitution stipulates: "Equal representation of the individuals of all communities in public bodies on every level and in various areas of the public life." This could be viewed as requiring proportional representation, although many experts do not interpret it that way. In all of the laws this is made operational using the term "adequate and just representation" which, in many cases, is not interpreted as 'proportional" or "equal" representation. This kind of interpretation is also given by Danilo Frčkovski, an expert that participated in the development of the Ohrid Agreement including the Law on Local Self-Government**.**

At the end we shall discuss in more detail the decentralization as part of the Framework Agreement.

---

258 Ohrid Framework Agreement, 13.8.2001, Annex A, Constitutional Amendments, Article 78.
259 Giovanni Sartori, op. cit., p. 124.

Decentralization After 2001

The discussion of decentralization will be framed in the context of the segmental autonomy of Arend Lijphart. Decentralization in the Republic of Macedonia is considered as devolution[260], following the principle of subsidiarity[261]. Decentralization is included in section 1.5 of the "Basic Principles" in the Framework Agreement: The development of the Local Self-Government is of crucial importance for securing citizens' participation in the democratic life and upgrading and respecting the identity of the communities". That means that via local democracy, two goals must be achieved: "greater citizens' participation in the democratic life", and "upgrading and respecting the identity of the communities". The first part involves more representation rather than autonomy in the decision-taking process. The second part could be interpreted more as a basic value or principle, rather than a segmental autonomy. This conclusion can also be drawn from the reform process. The Strategy on Local Self-Government was adopted in 1999 and (only) upgraded in 2001, but not amended. The strategy was based upon the constitutional resolutions on decentralization from 1991 and was not adjusted to the new constitutional resolutions from 2001. Out of political reasons, it is said that all of the adopted documents are built upon an agreed strategy. This was in line to create an impression that these reforms are not due to any pressure or threat made in 2001. Rather, the decentralization process is presented as a strategic goal of Macedonia and that this was only the necessary update with new constitutional resolutions. It stipulates:

"The most important goal of the reform of the local self-government system is the creation of a local self-government based upon the principles of democracy and decentralization. It should have the right and ability to regulate and manage the public civil affairs in a responsible manner maximizing the public wellbeing. That also includes establishing conditions in which the local authorities will bring the local self-government closer to the citizens via its democratically elected bodies and responsible management. Using its autonomy and financial security, the

---

260 Rizvan Sulejmani, op. cit.
261 Conclusion of the Government of RM No. 23-6734/1 dated November 23, 2001.

local authorities will provide quick and qualitative resolution of the everyday problems related to local self-governance"[262].

No conclusion can be made yet as to whether the goal of decentralization was to grant autonomy to certain segments. The additional documents which define the goals of the decentralization, have not been altered much during the implementation process. For example, the "Action Plan for Implementation of the Local Self-Government Reform 2002-2004", adopted in November 2001 stipulates: "The reform of the local self-government should ensure transfer of competences on the level closest to the citizens, enabling in that way total focus of the central government towards implementation of the exact strategic tasks of national importance" It is also difficult to conclude from this abstract that decentralization provides the communities with special opportunities and authorizations to decide about questions of their interest. The above stated does not lead to the conclusion that the goal of decentralization is to create a legal opportunity for communities to enjoy a degree of autonomy. It can least be interpreted as some sort of territorial autonomy.

The process of decentralization in the Republic of Macedonia began with the adoption of the Law on Local Self-Government, the Law of Local Self-Government Finance, the Law on the City of Skopje and last, but not least, the Law on Territorial Organization of the Local Self-Government in the Republic of Macedonia. These four laws are crucial, but not the only ones which regulate the process of transfer of competences from state to local level. In order to regulate the process of decentralization, it was essential to change and amend some 40 other laws, as well as to adopt many by-laws in the transfer of competences part solely[263]. If these four laws are analyzed, it can be concluded that such establishment of the local government can hardly develop in a level of cultural autonomy on ethnic grounds because: 1) the Constitution and the Law on Local Self-Government guarantee one layer of local governance, except for the city of Skopje as a special local self-

---

262 In the Strategy on Reforms from the: Session of the Government of RM held on November 23, 1999.
263 „Detail Plan on the transfer of competences and resources", Conclusion No..19-1354/1dated April 25th, 2005.

government unit[264]; 2) The Law on Fiscal Decentralization[265] does not provide complete autonomous financing, and 3) The Law on Territorial Organization of the Local Self-Government of the Republic of Macedonia[266] is not developed by the criteria of creating pure ethnic municipalities nor has followed the ethnic basis.

The map shows the new territory organization based upon prior adopted criteria[267]. Many municipalities are of mixed ethnic composition. Large number of them has a majority population which is not the majority population at the state level: out of 84 municipalities, 32 are with a large mixed composition, which means that there are communities in this municipalities which are not the majority on state level (Albanians, Turks, Roma, Serbs) with over 20%. That implies that there are two official languages, the Macedonian and the language of the community which is represented with over 20% population in the municipality. In these 32 municipalities, there are 828,785 residents or 41% of the total population in the state, on a territory that covers 29.31% of the overall state territory. Nineteen municipalities are with a majority population of the communities which are not the majority at state level, 16 have an Albanian majority, 2 a Turkish and one a Roma majority[268]. The national flag of the community which is a majority in this municipality can be raised in addition to the state flag[269]. In these municipalities the chief of the police station is elected by the Municipal Council following the recommendation of the Minister of Interior, having one of the proposed candidates be the representative of

---

264 Article 117 of the Constitution and the Law on Local Self-Government „Official Gazette" 52/02.
265 Law on Fiscal Decentralization, " Official Gazette of RM" No. 61/04.
266 Law on Territorial Division of the Local Self-Government in the Republic of Macedonia, "Official Gazette of RM", No. 55/04.
267 Basis for the criteria were the Articles 16, 17, 18 and 22 of the Law on Local Self-Government, "Official Gazette", 52/02 and the existing 123 municipalities of the Law on Territorial Division of the Republic of Macedonia, "Official Gazette, 49/96. It must be noted that when adopting this Law, in many cases, the criteria have not been fully respected due to the pressure by the public and the political parties, see Rizvan Sulejmani, op. cit., p.153.
268 Rizvan Sulejmani , (2007) "The Public in the Republic of Macedonia and the relation with the European Union and NATO – with special review on the process of decentralization", Master Thesis, page:153.
269 Ohrid Framework Agreement, Basic Principles, section 7. Identity Expression, as in section 7.1.

the community which is a majority in that municipality[270]. There are 577,656 residents in these 19 municipalities or 28.56% of the overall population in the country inhabiting the area of 13.96% of the overall state territory. These are the data for those municipalities with a majority population represented by the communities. These data are from the Ministry of Local Self-Government and statistics. The purpose is to have an idea about the territorial and numerical figures at national level.

Politically assessed, there is sort of an asymmetry in these 32 municipalities as far the rights of the communities are concerned, in terms of using the language, the flag and the election of the chiefs of police stations. One thing should be made very clear: in these 32 municipalities in which over 20% of the communities are not majority at central level, there are 19 municipalities in which these communities which are majority at national level, are majority on local level. In these 19 municipalities, the official language of the community is the one of the communities which are majority at local level. When the municipal council elects the "head of the police station of first level"..., if there is such a station, the law implies that the Minister in charge of proposing candidates, must propose one candidate from the community that is majority in that municipality. The flag of the community which is in majority can also be used along with the flag of the state community. In other municipalities where there are over 20% (17 of 32 in total) representatives of some community, their language is the official one in the municipality.

Moreover, there is no legal regulation for supplementary budget funds for implementation of these additional rights which definitely is a problem in implementing these measures.

---

270 Ohrid Framework Agreement, Annex B, section 4, Laws that refer to the police located in the municipalities.

Regional and European Experiences

Two examples of consensus democracy in the region are Bosnia and Herzegovina and Kosovo[271]. These examples are not the most fortunate choices, especially because most experts do not consider Bosnia a study case. Referring to Mirjana Kaspović's beliefs, Bosnia is not a functional state and therefore should not be taken as an example.[272]. Kosovo is also a problematic example with some experiences from the temporary Constitution, while the Ahtisaari's Plan[273] is still a proposal yet to be adopted. There are also other examples elsewhere in Europe, such as Northern Ireland, Romania and Hungary. Although the first two examples might not be the best choice, they are still the closest to the reality in Macedonia. If Bosnia and Herzegovina is analyzed on basis of the characteristics of consensus democracy as defined by Arend Lijphart, i.e. grand coalition, veto rights for communities, proportional representation in the institutions and autonomy of segments, the result will be that both the state and the entity governments need broad coalitions. In the Federation, eight ministers should be Bosniaks, two Croats and five Serbs. Similarly, in the Republika Srpska, five ministers should be Bosniaks and three Croats. At national level, the quotas are divided upon the "two-to-one" principle – two thirds are from the Federation and one third from Republika Srpska. In Bosnia and its entities constituent people enjoy a veto right for issues which are of vital interest for the entities or the people. The proportional representation is guaranteed on the state level as well in the entities. The structure of entities and cantons also can be seen as a form of segmental autonomy.[274] This implies that for Bosnian example this theory is in

---

271 By the Resolution No.1244 of the UN Security Council, Kosovo is a UN Protectorate, and its final status is not defined at the moment.

272 Mirjana Kasapović, "Bosna i Hercegovina: deset godina nakon Daytona," Status, No. 9 (2006), pp.44-73.

273 Martti Ahtisaari – the former President of Finland and special envoy of the UNC Secretary General as a mediator in the negotiations on the final status of Kosovo, between the representatives of the Kosovo Albanians and the representatives of Serbia. Mr. Ahtisaari is supposed to submit a proposal – resolution on the final status of Kosovo before the UN Security Council.

274 Florian Bieber, "Consociationalism—Prerequisite or Hurdle for Democratization in Bosnia?" *South-East Europe Review*, Vol. 2, No. 3 (1999), pp. 79-94.

practical use. But how much it is functional and whether it gives the expected result, is not a subject of this analysis.

Kosovo is the second example in the region where a multi-ethnic, highly fragmented society, is constituted as a protectorate. The goal is to have proportional representation of the communities at every level with a limited veto right and a cultural autonomy for the Serb community which represents less than 5% of the population[275]. The representation for communities is guaranteed by the Constitutional Framework in Parliament and government. There are 20 seats guaranteed for the Parliament, 10 for Serbs and 10 for the other smaller communities. There are no conventional veto rights, but the Special Representative of the UN Secretary General, at his own judgment, can put a veto on the adoption of a law or decision pursing the request of some of the communities who feel that some vital interests have not been respected[276]. In the section on "constitutional rules", the Ahtisaari's Plan proposes Kosovo to be a multi-ethnic society. The insignia of Kosovo will reflect the multi-ethnic character with two official languages, Albanian and Serbian. For issues related to vital interests of the communities, the Parliament will apply the double majority voting principle, majority of the Members of Parliament and majority of representatives of other non-majority communities. The government and the governmental institutions will reflect the multi-ethnic character of the state. The President of Kosovo will represent the unity of Kosovo[277]. The following is stipulated in the same document referring to the part on decentralization: In addition to the general competences, the municipalities with Serbian population (the document lists these by name) will also have competences over the hospitals, while the Municipality of Mitrovica will have certain competences over the University in Serbian language. The municipalities with Serbian population will be competent for preserving and upgrading the cultural and religious particularities at local level and will play a significant role in the selection of the chiefs of police stations. The municipalities will have the right to cooperate

---

275 Wolfgang Sporrer, "Trajtimi i "çështjes etnike" në Kosovë", *Shfaqja e korniyave të ndarjes së kompetencave në Evropën Juglindore: Përparësitë dhe dobësitë, Punëtori Interaktive, Tetovë, Maqedoni 26-29 Mars 2003* (ADI. 2003), p. 3.

276 Ibid, p. 5.

277 The Ahtisaari's Plan, available at www.unosek.org.

with the municipalities and the institutions in Serbia, including the right to gain financial donations based upon adequate and clearly defined parameters in the Agreement[278].

No matter how inadequate for comparison with Macedonia are the examples of Bosnia and Kosovo, due to the circumstances under which the political and the democratic life is developing, these examples can still be used to compare the division of power among communities and institutions. The same refers to applying the theories of Lijphart in their and our communities. We shall not engage in analyzing some of their experiences in terms of functioning of the democracy and the institutions, because within the two countries there are foreign missions and civil protectorate established. Macedonia has its own internal and external specifics, and in that line certain experiences can be taken into consideration, but not copied**.**

Conclusion

For national, religious, cultural and historic reasons, the Republic of Macedonia is a segmented and fragmented state. During the period as a independent state, Macedonia has proven to have a heterogeneous political culture. During its establishment, it did not succeed to reach a consensus, such as on the referendum question, because the Albanian community boycotted the Referendum on Independence. Furthermore, no consensus was reached on the 1991 Constitution, because the Albanian representatives in the Parliament did not vote in favor of that Constitution. Consensus among the political elite and the legal representatives was reached for the first time in 2001 over the constitutional amendments and the laws adopted after that constitution, for which double majority is needed.

Despite the constitutional amendments of 2001, the articles referring to election of a President of the state and its competences were not amended. The President has many competences in the area of

---

278 Ibid "Decentralization"

defense, external policy and judiciary[279]**.** At some stage of the negotiations, there were some ideas and proposals by the Albanians to create a function of deputy president or vice-president that would be elected by the Albanian or some other non-majority community. This position was to be completely ceremonial with very few competences, but envisaged to symbolize the unity of the communities.

Electing the government, the capacity with which communities will participate, as well as the allocation of funds is based upon majority voting, rather than special rules. During the implementation of the Framework Agreement, problems arose over the status of the NLA veterans, the use of the Albanian language in the state institutions, the manner of electing a government, the manner of electing the members of the Committee on Inter-ethnic Relations[280], as well as financial decentralization[281] Even with the constitutional amendments, the Republic of Macedonia did not create opportunities for the minority communities to independently decide upon issues that directly involve them, or more precisely, there are no elements of territorial, political or culture autonomy for communities. Macedonia has no common string for connecting all of the communities. Patriotism is understood and promoted in various ways. Certain political subjects are more focused on the national patriotism[282], while others favor state patriotism[283], or the constitutional patriotism[284]. In

---

279 Article 80, 84 of the Constitution of the Republic of Macedonia.
280 Seeing the intensity of these debates, they become more of a political dialogue. The biggest political party of the Albanians –DUI, which is considered as the winning party among the Albanian electorate, is presently not in the Parliament. The reason is because the leadership feels that is has wrongfully been left out of the government and that other issues of the Framework Agreement have been violated. In the dialogue with the Prime Minister and the leader of the biggest party in power, VMRO-DPMNE, DUI's leadership requires the fulfillment of the following conditions in order to return in the Parliament: resolution of the status of the NLA fighters, the list of laws that need to be voted by double majority, the manner of electing the membership of the Committee to be regulated by Law, the Law on use of the Albanian language in the state institutions as well as electing a government with double majority or popularly known as majority by Badinter. The name was given after the French expert in constitutional issues Robert Badinter who gave a positive opinion on the 1991 Constitution and was also engaged in drafting the constitutional amendments in 2001.
281 Increasing the financial means for the municipalities was requested by ZELS – The Association of Local Self-Government Unit, before the commencement of the second phase of the decentralization process, i.e. the fiscal decentralization.
282 The right-wing political parties VMRO-DPMNE from the Macedonian Parties and DPA from the Albanian are mostly active on this issue.
283 SDSM and some of the smaller parties of the Macedonians.

order to stabilize the country in the longer run, it will be necessary for Macedonia to function like a classic consociational state:

- – The Framework Agreement needs to be considered as an act of reconciliation and negotiations for a more democratic, more stabile and more European-like state, having victims and actors from the both sides being treated equally. The most important thing in having a new beginning is - making peace with the past. What needs to be done firstly is to define and historically situate the year of 2001. It would be best if this event is given a positive connotation. The victims of this event should have the same treatment. One group refers to the defenders of the Constitution and their task as soldiers to safeguard it. The other group represents revolutionaries which democratized and made Macedonia more European. (The French and the other revolutions were violent at the time, leading to many casualties, but the changes that were created due to these events are considered as founding values of the European states). So in that line, if the events of 2001 contributed to a more stabile, democratic and equal Macedonia, the gains of this war can be treated in a positive historical context for Macedonia.
- - To start redefining the manner of electing the President of the state and the functions he/she performs and possibly he should be a consensual individual. The position of the President should be a ceremonial one, expressing in that manner the symbolic "unity of the state through the unity of the communities". This might be conducted by an amendment of the Constitution where all competences of such an institution would be regulated, as well as the manner of election. The manner of election might be by a double majority, as well as election of a President and vice-President simultaneously at direct elections where candidates would come from different communities. The elections in the Parliament should be by a double majority,

---

284 DUI can be considered as constitutional patriots considering the Constitution that was developed after the Framework Agreement.

election by a rotating mandate etc. Such a regulated position of the President with many competences without the possibility to reflect the multiethnic character of the state is not in function of uniting the state by uniting the communities. One way to secure the main function of democracy is to have direct responsibility of the voters and enhance the mechanism of accountability. Either one of the aforementioned election-methods has clear way of engaging responsibility and accountability in front of a huge part of the voters that can never elect a President from their communities**.**

-   To guarantee proper representation of the communities in the government and the management bodies (in the government), as well as agreement for allocation of funds among the communities.

-   To establish a mechanism of veto which will not be used. This veto would refer to difficult questions regarding the sovereignty of the state. Among such questions, the following might be included: signing international agreements that would significantly alter the Macedonian position in the region and wider; or altering the state border regulated with Article 74 of the Constitution. Albanians have no protective mechanism for these two issues. As a reminder, one should refer to the referendum question on independence. Then, an opportunity was given to join an alliance with other Slavic states. Signing of such an agreement or altering the borders with referendum leaves the Albanians in another position inside the state, as well as with regard to the region as people (segment) in Macedonia. Since that is less likely to happen, I believe that such a veto for these types of questions would not be used, but can be a kind of intimidation so that such thoughts are discouraged.

-   To ensure the establishment of the "social autonomy" for the bigger communities [285] or "local self-government for

---

285 Arend Lijphart, *Patterns of Democracy. Government Forms and Performance in Thirty-Six-Countries* (Yale university Press, New Haven and London, 1990), p. 191.

the minorities" [286]. We are preliminarily discussing about the Albanian population. This issue becomes quite tangible since the independence of Kosovo. This new state becomes independent developing a new "Kosovo identity". One of the conditions that they need to hold fast to is not to join some other state. That implies that all historic Albanian figures that were calling on a unique Albanian state, should be replaced with new ones from the more recent history, pointing on a new historic and cultural identity. This newly created situation will put them in a non-favorable position. There will be a need for a new place where these issues will be debated and a new joint politics for the Albanians in Macedonia to be created. From a historical and cultural point of view, the Albanians in Macedonia are closer to the Kosovo Albanians since they have lived together in the past 100 years. On the other side, they are now developing their identity in a new multiethnic culture where the only thing they have in common is the language. And even the language might alter as well (there are initiatives from some circles of Albanians in Kosovo stating that the unified Albanian language should be amended). The new Kosovo state shall have new state symbols differing from the Albanian flag that was widely accepted by all Albanians no matter where they were. These are new challenges that require hard political decisions for the Albanian cultural and ethnical identity in Macedonia. One such social autonomy would be the place where these issues would be debated and a joint policy for the Albanians in Macedonia would be reached. These issues cannot be resolved partially, per municipalities, regions or political parties.

- Regulation of a Law for the use of the official languages. The law should regulate not just the right of having the Albanian language as official one in the state, but also it would create mechanisms for obligation to implement that

---

286 Shoqata për Iniciativa demokratike dhe grupi ndërkombëtar për të drejtat e pakicave, "Raporti i shkruar për Hungarinë", *Shoqata e kornjave të ndarjes së kompetencave në Evropën Juglindore: përparësitë dhe dobësitë, Tetovë, 26-29 Mars, 2003 Maqedoni*.

right. Financial means would be foreseen in the budget, control mechanisms would be invented to stimulate the usage, but it would also create penalty provisions for not respecting that right. Experience has proved that even in cases where it is regulated as a right only, and not as an obligation, without financial support or inspection control or penalty measures, practically such a right shows no actions. Unfortunately, as a result of having a not respected right we come to political tensions and misunderstandings

- Strengthening of the conflict resolution mechanism among the communities via the Committee. The task of the Committee is not to discuss how the law will be adopted; will it be by a double or regular majority. The Committee should be a body where issues of multi-ethnic character will be discussed. It will elaborate issues that might create further problems as a preventive approach. The Committee should then propose resolutions to the Parliament. The Committee should also discuss economy issues, like how to promote the economic integration among the communities. This will help improve the political integration of the communities and the state. The Committee should also raise the issues of human safety as preventive measure for conflicts. In one word, it should be a body where constant debates will be held. Within this Committee, a professional administration should be established as well; maybe also analytical centers and institutes that would investigate issues of multi-ethnic character. Members of this Committee would propose solutions to the politicians or develop programs for prevention and resolution of conflicts. The Committee should not be a political fire-brigade for conflicts, but rather a "watchdog" of good inter-ethnic relations

To strive to have these changes accepted via referendum where each of the communities will separately express its opinion. If the referendum is successful, the Agreement should be elevated in a myth, and the state should develop a constitutional patriotism. What might be the answer to the question: what if the referendum is not successful?

The answer is that we don't have many alternatives. The dilemma must be resolved – do Macedonians and Albanians live together because it was "meant so", or because it is their "choice"? In my opinion, there are two concepts upon which the political and democratic life in Macedonia will develop. The first one is to accept the idea that it was meant for these people to live together. This means the communities should learn to live with the "fear" and based upon that, build their further strategies for the future of the country. Using more vulgar phrasing, this means that they should live with a knife and gun under the pillow not knowing when the danger will appear. This manner of living and developing democracy is actually quite well known. In fact, fear and mistrust have often been the reason for the development of a society. It advances the competition to seek for better position and power in the society. It also means that the other party is constantly observed. Activities taken by one party produce counter-activities by the other party. That is in one aspect the situation today in Macedonia. Politicians step forward on daily basis with the political proclamations that the communities respect and tolerate each other. However, investigations have revealed that the state is divided on national basis and that there is a huge mistrust regarding the strategic goals among the communities. This manner of functioning is very difficult and unpredictable to manage. Any serious disturbance in the region might potentially turn a political crisis into a security crisis.

The second way refers to making a choice: facing the unknown. The political leaders, the theoreticians and the analysts should open the Pandora's Box. They should try to explain its contents to the citizens. They should explain the advantages of living together and the price that they have to pay for that. They should persuade them that it is worthwhile giving a chance to this way of living. At the end, they might test their opinion at a Referendum. If the persuasion is successful over a longer period of time, the axes would be buried; security and political stability could be reached. In a safe environment, democracy will be developed and it would lead to having rights for everyone. At the end, this would lead to equity and, once and for all, the vicious circle of instability would be disrupted and the period of long-term stability would come.

If there is no successful referendum, then the concept of a state would be developed in which people would live together because it was meant so. Such a concept would be developed based upon fear and mistrust as I have described it above. I believe that one should try to convince us of the fact that living together in a multiethnic community might be a good choice**.**

Xheladin Murati

EDUCATION AND USE OF LANGUAGE

"Every nation can be educated quicker only in its language" (K. Miladinov).

"Today, education is the most important world problem; if it is used rightly, it will build a better society; otherwise, it can destroy us" (J. Pickering).

1. The language challenge, approaches and premises

The use and importance of a language at the state level, particularly in the area of education and culture, is expressed in the programs of all political parties, including the Albanian parties. As far as the Albanian language is concerned, there is no support for this demand due to the absence of awareness among many state officials. The neglect of this elementary right does not favour the freedom and civic and national equality.

Language is a component part of the spiritual culture and a constituent element of many nations. Therefore, a key challenge is full equality of languages. The use of language is multidimensional: as a language of teaching in education, as a language of science, art and creation, as a language of politics, as a language of publications and mass media, and as a language of intercommunication.[287]

One of the problems which the development policy of Macedonia faces today is the need to define the use of language, as a

---

287 For more details, please see Xh. Murati, "Problems of the Language Culture" (in Albanian), *Shqyrtime albanologjike*, No. 5 (1998), pp. 149-159.

general demand for the achievement of equality and democratisation of life.

The state and the language policy should be modernised, the official attitudes should reflect social reality, their tendencies and aims should respect the objective reality of society, the concepts and standards offered should be treated in an extensive manner, the modalities and chances for the advancement of the language in education and in other areas should be advanced and the points of view and confrontations should be softened and reduced.

Language is the elementary pillar, value and essence of many national identities. Due to this, the language policy should build a strategy for the operationalisation of the free and right use of language. This is how it should be incorporated in education and in the system of education. On the one hand, changes in the language policy depend on changes in the general life in society, whereas on the other hand, they also depend on its regulation in education.

In Macedonia, the Albanian language had the status of a minority language, with a limited, even discriminative use. This continued until the change of the system into a society of political pluralism, despite the fact that socio-linguistic realities had changed and the space of the use of Albanian language was now different.

After the 2001 crisis, the constitutional changes brought about the advancement of Albanian language to the rank of the second official language. It is explicitly excluded from the functions of international communication and in places where the percentage of Albanians is less than 20%.

Today we can more objectively evaluate the achievements, but also the many weaknesses in the implementation of language rights in the sphere of education.

In the following part, I will try to identify the problems and weaknesses of the use of language in education, which is a serious challenge for institutions, politics, carriers of state functions, etc. This challenge is evident in the following aspects:

1. The Framework Agreement is not being accomplished with the foreseen dynamics

2. The failure to carry out the official use of language

3. The use of Albanian language in personal documents and in the communication with institutions, particularly in education

4. The Framework Agreement remains a challenge for the policy of extension of the right of the use of language (the modernisation of political concepts, the establishment of real standards for the use of language, the language should be understood as an elementary condition for national equality).

2. Achievements and contradictions

Since 2001, there have been considerable advances in the use of language in education, without neglecting other segments of activities (culture, health, public administration, etc.). At the same time, many problems remain unresolved. Probably there are still contradictions and obstacles towards the process of giving the Albanian language a truly equal status so that it would be used equally as an official language, without restrictions.

I will elaborate in two stages what are the achievements and where do contradictions appear in the use of language in education: the definition of the use of language in the Constitution and the operationalisation in the laws pertaining to education.

Regardless of these two, from the point of view of achievements and problems it faces, I view the regulation of language and its use in several directions and in a wider constellation, such as:

- the options and alternatives of development of the society,
- the democratic development of the society,
- the relations of ethnic communities,
- the human rights,
- the internal political stability, and

- the contradictions, conflicts and possible risks from the inadequate and poor treatment of the language in all segments of life in the society.

I think that language is primarily a social phenomenon, which lives and develops in areas where it functions and it is used (including the administration and institutions).

2.1. The Constitution and the status of language in education

The Constitution of the Republic of Macedonia lays out the use of language in the state. It defines the most general approaches for the level of its use in the state level, including education.

The regulation of language in the Constitution was changed in constitutional amendments stemming from the Ohrid Framework Agreement, which raised a lot of issues regarding the use of language. I can freely say that Albanian gained an elementary recognition and an elevation to a sustainable level. However, there are dilemmas and problems in practice.

The Constitution treats the issue of the use of language in two articles: Article 7, which has been amended by Amendment V, and Article 48, which has been amended by amendment VIII.

Article 7, i.e. amendment V with 7 paragraphs, states: "The Macedonian language, written using its Cyrillic alphabet, is the official language on the whole territory of the Republic of Macedonia and in its international relations.

Any other language spoken by at least 20% of the citizens is also an official language, written by using its alphabet, as specified in this Article.

Personal documents of citizens speaking an official language other than Macedonian and its alphabet shall be issued in the

Macedonian language and its alphabet, as well as in that language and its alphabet in accordance with the law.[288]

Article 48, amended by amendment VIII, which has 6 paragraphs, states:

"Members of communities have the right to freely express, foster and develop their identity and community attributes, and to use their community symbols (paragraph one).

The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities (paragraph two).

Members of communities have the right to instruction in their language in elementary and secondary education, as determined by law. In schools where education is carried out in another language, the Macedonian language is also studied (paragraph four).[289]

It is clear that the Constitution does not regulate the implementation of language in university education.

Regardless of the general definition of the use of language in education and in other fields, the changes needed in the language policy do not fully meet the expectations of many in the Albanian community. This is also due to the lack of documents which would operationalize the use of language in detail. Therefore, this imposes the need for building a strategy for the implementation of the language in entirety and its functioning in education institutions. This is necessary since Article 48 gives a general framework, which is not accurately defined.

It is necessary for constitutional definitions to be more precise in the definition of the use of language. The current situation leaves a number of question regarding the regulation of the use of language in education and in other areas open. Even though Albanians are given the right for using Albanian language, it is restricted in some aspects

---

288 The Constitution of the Republic of Macedonia with constitutional amendments I - XXX
289 Ibid.

Therefore, even a high court official confirms that "The use of the Albanian language is guaranteed by Constitution, but its use is brought under question because of the fact that this issue is not regulated by law..."[290]. The Albanian language is not used even in the institution where this official works, which should protect constitutionality. How can we expect it to be used in other institutions?

In order to achieve the implementation of language rights in the education, there is a need for a better definition in a law, where the use of language would be treated in an integral and complete manner, covering all segments of state and society. The operationalisation into separate laws breaks up and divides the language in its practical implementation. In absence of operationalisation, criticisms given both for the form and the level of implementation of language are justified. Therefore, this is not an issue for a dilemma any more, since, despite the restrictions and weaknesses, the language and its use in education is carried out and it should be defined in legal norms.

2.2. The regulation of the use of language according to education laws

The use of language in the elementary, secondary and university education is regulated by laws for the organisation of educational activity (the Law on Elementary Education, the Law on Secondary Education and the Law on University Education).

Article 8, paragraph 2 of the Law on Elementary Education[291] and Article 4, paragraph 2 of the Law on Secondary Education[292] state that: "For members of the communities who follow the education process in a language other than Macedonian and its Cyrillic alphabet, the educational-teaching work is carried out in the language and the alphabet of that community, in a manner defined by these laws.

---

290 *Fakti* (Skopje), 28.3. 2007.
291 The Law on elementary education (in Macedonian), The Official Gazette of the R.M., nr. 44/1995 and amendments.
292 The Law on secondary education (in Macedonian), The Official Gazette of the R.M., nr. 44/95 and changes and amendments.

Paragraph 3 of these articles makes it compulsory for members of these communities to study Macedonian language as a study subject:

The quoted articles allow:

1. The process of teaching in the mother tongue
2. Books, handbooks, school literature and others to be in the mother tongue
3. The maintenance of the pedagogical evidence in the mother tongue (the diary on school work, the diary of the class, the minutes of exams, as well as the planning of the educational-teaching work).

On the other hand, the use of language in the pedagogical documentation is regulated by Article 82, paragraph 2 of the Law on Elementary Education and Article 74, paragraph 2, of the Law on Secondary Education.

According to the mentioned paragraphs, the pedagogical documentation, that is:

1. The registry of pupils
2. The registry for the final exam
3. The registry for the graduation exam
4. The registry for the international graduation
5. The registry for the specialised secondary education
6. The diploma
7. The grade certificates
8. The certificate for the professional exam
9. The certificate for work training
10. The pupils' record book
11. The transfer card

are filled and given simultaneously in Macedonian language and in the language of the community, i.e. in Albanian.

It is evident that, for inexplicable reasons, the independent use of the mother tongue in the mentioned documents is not allowed, and thus it loses the status of equality. Therefore, my attempt was to make an elementary analysis of the use of language in education with the aim

of building objective and real standards of the language policy. This would allow us not to downgrade the language, but to reflect a national political responsibility, since there can be no changes without responsibility. The policy based on the principle of equality and equal chances of communities for the use of language in education and in other segments of society opens perspectives, ensures justice, stability and tolerance in the society.

2.3. The definition of language in university education

Language in university education is not laid out in the Constitution, although it is used in the institutions of university education. This is regulated with the Law on University Education[293]

The Law on University Education regulates the issue of the use of language in education with Article 95.

Paragraph one of this Article states that teaching in the institutions of university education is carried out in Macedonian language.

Paragraph 2 states that teaching in state institutions of university education for the education of educators and teachers for elementary education can also be carried out in the language of the members of nationalities.

Paragraph 3 states that, when teaching is carried out in the language of nationalities, Macedonian language is studied as a separate subject, and that at least two other subjects of the teaching plan of the faculty are studied in Macedonian.

Paragraph 6 states that, with the aim of protecting and developing the cultural identity of nationalities, teaching in state

---

293 The Law on University Education (in Macedonian), The Official Gazette of the R.M., nr. 64, 2000.

institutions for university education is carried out in the language of nationalities for art subjects, as well.

With the adoption of the Law on University Education, the Law on Languages in the Teachers' Faculty is repealed.[294]

In the university education, i.e. in the State University of Tetovo (SUT) and the South Eastern European University (SEEU), Albanian language is used in accordance with Article 95 of the Law on University Education. This means that in the SUT:

- teaching and lectures are carried out in Albanian,
- two study subjects from the study plan are taught in Macedonian,
- the entire documentation is written in Macedonian and its Cyrillic alphabet and in Albanian, and it is filled and given in two languages, in Macedonian and in Albanian (diplomas, certificates, confirmations, etc).
- the registry is kept in Macedonian and in Albanian,
- the index (student's booklet) is written in two languages, and it is filled only in the student's mother tongue,
- the entire communication with state institutions is carried out in Macedonian.

The language in the SEEU is used similarly as in the SUT, on the basis of Article 95:

- teaching and lectures are carried out in Albanian and in a foreign language, depending on the lecturer,
- the documentation is written in three languages: Albanian, Macedonian and English, and it is filled in the student's mother tongue,
- the documentation is kept and given in Albanian,
- students do not have an index (student's booklet),

---

294 The Law on Languages in which education in the Teachers' Faculty "Sv. Kliment Ohridski" in Skopje is carried out (in Macedonian), The Official Gazette of the R.M., nr. 5, 1997. This law, which has 7 articles, regulated the use of languages. Article 1 stated that teaching in the Teachers' Faculty in the study groups for pre-school and primary education (grades 1-4) is carried out in Macedonian and in the language of nationalities. Article 2 states that two subjects from faculty's curriculum should be taught in Macedonian (Macedonian language with the culture of expression and National history).

- the communication with state institutions is carried out in Macedonian,

- the registry is kept in the mother tongue,

- the administration regarding exams is kept in the mother tongue of the student or of the lecturer that carries out the teaching,

- two subjects are taught in Macedonian,

- the diploma is written and given in three languages: Albanian, Macedonian and English.

In the Teachers' Faculty in Skopje and in the Department of Albanian Language and Literature in the Philological Faculty in Skopje, the status of language is different, and it is all in Macedonian. In fact

- Teaching and lectures in the Teachers' Faculty are carried out in Albanian, with the exception of two subjects that should be in Macedonian (as defined by the Law on University Education)

- In the department of Albanian language and literature, half of the teaching and lectures are carried out in Albanian (with the justification that there is a lack of scientific personnel)

- In both of these institutions, the entire documentation (index, diploma, certificates) are written in Macedonian and filled and given only in Macedonian.

In the Teachers' Faculty, it is not allowed the names of professors in offices to be written in the mother tongue.

In addition, the Teachers' Faculty is not given permission to open post-graduate studies in Albanian, although it meets all the professional and scientific conditions, while this is allowed in the Teachers' Faculty in Bitola.

In both universities in Tetovo, the language policy is treated correctly, although a decisive constitutional and legal articulation is absent, whereas in the two institutions in Skopje there is a radical reduction of the implementation of Albanian, which is totally incomprehensible, since the language is not used in the documentation and in communication with institutions.

3. General tendencies and current problems

The education policy for studying in the mother tongue and for the studying of the Macedonian language by non-Macedonian pupils, such as Albanian pupils and others, has been treated as an achievement of national equality in education. Today, both *de jure* and *de facto*, language in education remains a serious problem with national relevance and with wide implications in the social-political life.

The general status of language in education and the changes that I argue for, reflect the status of the language in society. The issue of language in education should be discussed as part of the strategy of democratisation of the society and its explicit conceptualisation.

Language has an important societal, social, political, national and pedagogical dimension. The Republic of Macedonia should be interested in finding a solution of this issue, but it restricts it, even though it declares that language is a factor that promotes national equality. In this context, its implementation gains a political function, not a national and pedagogical one. An important aspect is the extension of language teaching in all segments and levels of education.

In the conceptualisation of modern solutions for the implementation of language in education, we should start from social changes, real relations and, in this context, the language policy should be in the function of democratisation of education and society in general. This conceptualisation should start from global goals, and the primary focus should be on the expression of the wider national interest in education and of particular interests in the concrete social environment.

A continuous problem of educational institutions has been and still is the written communication and correspondence. A question arises on how schools carry out the written communication. The answer is that official documents are received and sent in Macedonian. Such a policy requires serious changes both at the local and at the central level

The relationship between the Macedonian language, as a state language used by all communities, and the Albanian language, as a language used by the members of this community, remains with certain restrictions. This relationship reflects and generates crisis between the two ethnic communities, since it is built on the basis of the subordination principle, not on the basis of complementarity.

What also continues to be a source of conflict is the regulation of the use of language in **education among other areas**, where there are open problems. For instance, it is illogical for the documentation (grade certificates, diplomas) to be written and filled in two languages (Macedonian and Albanian).

The regulation of the use of language in all areas of society, such as health, police, administration, courts, etc. is of particular importance. It is not logical for the court process to be carried out with an interpreter if all parties are Albanian and the judge is Macedonian.

4. Proposals for the solution of the problem

In the previous section of the chapter, I have given a detailed analysis of the status of language in the Constitution and in the laws that regulate its use in the educational sector. As far as the use of language is concerned, there are no reasons for its restrictions or for its partial use, as it actually happens. For instance, the language is used in the evidence, but not used in the documentation. Why? The disregard of the role of the spoken and written language in social issues should be solved from the perspective of a national strategy, rather than as part of daily politics. What should be changed in order to improve its status in society?

The experience so far suggests the need to reconsider the legislation that regulates the use of language in education and elsewhere. In this context, the following conclusions stand in front of the institutions:

- Macedonia should free itself from the dominance of concepts that view multi-ethnicity in terms of majority/minority and should treat it as a consociational relation between nations, as it is done in other European countries with such ethnic realities.

- The status of the Albanian language should be regulated with the Constitution and with laws, since that is the only way it can be protected from institutional discrimination.

- The inequality or the discrimination of the language of an ethnic group implies an unequal and discriminatory treatment of the speakers of the language of that ethnic group.

- The language in education should be used with its entire capacity, since otherwise it becomes provincial, dysfunctional in the system, it generates crises, disagreements, political tensions.

- The barriers present in the road towards the achievement of language equality in education and in other areas should be eliminated; the use of language should not be politicised in the extreme, since it represents the essential element of the nation, whereas the language policy should contribute towards its operationalisation.

- The state should build a progressive philosophy of the language policy, which would be based on reason or political compromise, i.e. on the procedures and the spirit of consensual democracy; the use of language should be liberalised.

The solution would be in the direction of constitutional and legal formulation, which would create conditions for an extensive and equal use of language in all areas of life.

Such a constitutional and legal mechanism would contribute towards the vision and the perspective of equality of the Albanian community in the multi-ethnic country.

5. Factors for change

The practice so far regarding the issues of education and the use of language poses dilemmas and demands which take a key place in the social-political complex. This implies a series of factors that could contribute towards the improvement of the situation.

The following factors have an important role in this process:

1. State institutions (the Parliament, the Government, certain ministries) which are obliged to adopt legal norms and other acts for the improvement and advancement of the status of language. They influence the formulation of the language policy with their authority and activity.

2. Political subjects and many social associations could contribute as direct participants in the creation of the opinion for a wide use of language in education and in other activities.

3. Mass media (written and electronic), which are renowned for their strong influence in the creation of the opinion for a wide extension and use of language in social levels and segments.

4. The school as a more civilising institution articulates values and standards in the affirmation and wide use of language.

5. Scientific and professional associations and intellectuals should defend the use of language not only in education, but in all areas, as well as in personal documents and the communication with institutions.

Emil Atanasovski

EDUCATIONAL SEGREGATION OF COMMUNITIES IN MACEDONIA; AN UNSUSTAINABLE POLICY SEVERELY HAMPERING INTEGRATION EFFORTS

Introduction

For the purpose of discussing the educational segregation of communities[295] in Macedonia, this article shall examine the constitutional and legal provision on education in Macedonia. The paper will focus more specifically on the Macedonian and Albanian community and the parallel language education systems that exist in the country. I shall argue that the present institutional, linguistic and educational setup in the Republic of Macedonia creates an unsustainable segregated education system. As a result, the two numerically largest communities[296] in the county that comprise almost 90% of the population of Macedonia almost never meet in the educational institutions through the course of their education life. Thus the educational segregation creates a number of political, educational and social difficulties which severely hamper integration efforts in post-Ohrid Agreement[297] Macedonia. Segregation of communities in the educational system especially in primary and secondary education is a policy that cannot reflect the 2001 constitutional changes and should be modified to promote greater integration of communities.

After regaining independence in 1991, not much has been done to change the heritage of the education system of Former Yugoslavia. During socialist Yugoslavia, schools in Macedonia provided

---

295 The Constitution of the Republic of Macedonia uses the term "communities" to refer to different ethnic groups composing the population in Macedonia. Before the constructional changes in 2001, the term nationalities was used.
296   The two numerically largest communities in Macedonia are the Macedonians and the Albanians.
297 Ohrid Agreement is another name for the Framework Agreement reached by the political parties and the international community in Macedonia ending the armed conflict in 2001 between the Macedonian security forces and ethnic Albanian rebels.

instruction in Macedonian, Albanian, Turkish and Serbian language. The same policy continued after 1991. Very similarly as in former Yugoslavia we can say that pluralism in Macedonia has been bought at the expense of segregation, rather than integration. The education system in Macedonia is maybe the most visible symbol of the country's ethnic segregation. To my own opinion, the institutional setup of the education system in Macedonia, especially in primary and secondary education, is a major factor contributing to the increased cleavage and widening gap between the two major communities.

According to the 2002 census carried out in Macedonia, the total number of inhabitants in the country was 2,022,547[298]. The two numerically largest communities Macedonians and Albanians make up 89.4% of the total population. Macedonians make up 64.2%, while Albanians make up 25.2% of the population.

In terms of the make-up of the two largest ethnic groups in education, Macedonians, which constitute 64,2% of the total population participate in primary education with 55.7%, in secondary education with 72.9% and in higher education with 79.4% of the total enrolment. On the other hand, Albanians, which are 25.2% of the total population, participate in primary education with 33%, in secondary education 20.7% and in higher education with 15.5% of the total enrolment[299]. These data show that in secondary and higher education, Macedonians have higher participation rates, while Albanians have a higher participation rate in primary education.

The Constitution and the Framework Agreement

Communities in Macedonia are recognized by the state as groups with specific rights and privileges. Education and language rights are recognized in the Constitution of the Republic of Macedonia and in subsequent legislation. Prior to introducing the factual data on

---

298 State Statistical Office," Census of Population, Households and Dwellings in the Republic of Macedonia", 2002, Book 13.
299 Ibid., Book 13.

participation of communities in the education system, I shall examine
parts of the existing legal framework in Macedonia.

Article 48 of the Constitution of the Republic of Macedonia
deals specifically with the rights of education of communities and
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
> out in another language, the Macedonian language is
> also studied."*

The Ohrid Framework Agreement marked a new development
in the area of education and use languages in Macedonia. Article 6.1 of
the Framework Agreement states:

> *" With respect to primary and secondary education,
> instruction will be provided in the students native
> languages, while at the same time uniform standards for
> academic programs will be applied throughout
> Macedonia. "*

Another important provision for higher education of
communities, developed more specifically for the Albanian
community, was envisaged with the Framework Agreement. Article
6.2 of the Agreement states:

> *"State funding will be provided for university level
> education in languages spoken by at least 20 percent of
> the population of Macedonia, on the basis of specific
> agreements."*

I believe it is important to define the true goal and purpose of
the Agreement and the constitutional changes resulting from it. Often it
is said that the constitutional changes were aimed at accommodating
minority rights of the Albanian population. Undoubtedly, the
Agreement reinforces the collective rights of communities, specifically
the second biggest community in Macedonia - the Albanians, but the

true essence of the Agreement touches the question of community participation in political life and power-sharing.

The Agreement put an end to the armed conflict in Macedonia and developed a "power-sharing" model between the two biggest communities. The aftermath of the FA is debated constantly and the center of the debate is the liberal and the federalist positions regarding the Agreement.

If we look at the basic principles of the Framework Agreement, especially item 1.2 and item 1.3 we will see two opposing items. Item 1.2 of the FA states

"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".

On the other hand, item 1.3 of the FA states

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

These two items represent the underlying theme for the constitutional changes in Macedonia in 2001. The Framework Agreement tries to reach a compromise where Macedonia remains a unitary state, but at the same time, there is an increase in collective rights and established mechanisms that ensure those collective rights. The compromise is known as the Macedonian power-sharing model.

Subsequently following the Ohrid Framework Agreement, there were a number of developments in primary education legislation that deal with the right of communities to receive education in their mother tongue. These changes were made as a result of the constitutional changes taking effect on November 17th 2001 and the need to adjust legislation proposed by the Framework Agreement. Changes in the

Law on Primary Education[300], the Law on Secondary Education [301] and
the Law for Higher Education[302], and the establishment of the State
University in Tetovo[303] marked the changes in post-Framework
Agreement education laws in Macedonia.

Five years after signing the Framework Agreement there are
questions in which manner is Macedonia aiming to preserve diversity.
The "power-sharing" model which emerged from a war crisis and a
peace agreement that put an end to the war conflict actually admits the
division of society along the ethnic lines. At the same time, there is an
attempt to bridge the ethnic gap with this model. The "power-sharing"
model therefore contains solutions that can be used for both purposes;
integration of the country as well as disintegration, if they are
misused[304]. It is argued that the power-sharing provisions laid out in
the Agreement push Macedonia closer to the creation of a *de facto*
Macedonian-Albanian bi-national state, rather than promoting a civic
oriented, multi ethnic state and that the envisioned political
decentralization undermines state capacity and authority[305].

Macedonia is one of the last remnants of the differences and
colorfulness of the Ottoman Empire and a place where there was never
forming of nations as an ethnically homogenous entity. In Macedonia,
there are still shadows of the Ottoman Empire which was a "non-
territorial federation" of different religious communities "millets", so
the integration of citizens is still not completed, despite the half
century of state imposed atheism[306]. Five years after signing of the FA,
the question remains whether Macedonia will preserve diversity in a

---

300 Law on Primary Education "Official Gazette of the Republic of Macedonia", No 52/2002;
Law on Primary Education "Official Gazette of the Republic of Macedonia" No 63/2004.
301 Law on Secondary Education, "Official Gazette of the Republic of Macedonia", No 52/2002;
Law on Secondary Education, "Official Gazette of the Republic of Macedonia" No 67/2004.
302 Law on Higher Education, "Official Gazette of the Republic of Macedonia", No 49/2003.
303 The Law on Establishment of State University in Tetovo, "Official Gazette of the Republic
of Macedonia", No 08/2004.
304 Mirjana Malevska, "What kind of political system did Macedonia get after the Ohrid Peace
Agreement" *New Balkan Politics*, No. 9 (2005), p. 6.
305 Jenny Engstrom, "Multi-ethnicity or Bi-Nationalism? The Framework Agreement and the
future of the Macedonian state" *Journal of Ethnopolitics and Minority issue in Europe*, No. 1
(2002), p. 18.
306 Ivica Bocevski "Who do you belong to vs. Who are you, Liberal and Federalist reading of
the Ohrid Agreement", *FORUM Analitika*, 2006.

"unitary" model or the *de facto* federalization of the two biggest communities will lead to territorial federalization as the only way to preserve the nation's diversity in one country.

One of the key topics in answering this question will be the process of education in Macedonia. We cannot avoid the fact that the segregated education system does not create sufficient common meeting points for the two largest communities. Thus, it is important to see which interpretation of the Framework Agreement will prevail. The federalist one, that views the communities coexisting one next to each other, or the liberal reading, which views communities interconnected in all institutions of society and education, is key in answering this.

The lack of political culture and the democratic deficit in Macedonia also severely hamper the "integrationist" effects of the Framework Agreement. But beside the obvious difficulties that Macedonia is facing, it can be said that, for the first time, there is a constitutional mechanism that channels the inter-community dialogue within the institutions and the dual majority rule inevitably forces the diverse communities to cooperate between each other.

If the country strengthens common institutions where communities meet, we will see the liberal view of the Framework Agreement prevailing and greater communication of communities in all institutions. If the common institutions grow weak, we might see the prevalence of the federalist view of the Framework Agreement.

The Education System in Macedonia

The overall educational system of the Republic of Macedonia consists of Pre-school education; Elementary education; Secondary education; Higher education; Postgraduate studies; Doctorate; Education of adults and Informal education[307]:

---

307 Answers to the Questionnaire for the preparation of the European Commission's Opinion on the application of the Republic of Macedonia for membership of the European Union. "Chapter 18 Education Training and Youth".

Pre-school education is not compulsory. The educational process is conducted in Macedonian. For children belonging to the communities, separate educational groups are formed in the kindergartens and pre-school centers, which are within the primary schools. The educational process there is conducted in the mother tongue of the children[308].

Macedonians participate with 55.7%, while Albanians with 33% of the total enrolment in primary schools[309].

The total number of schools in Macedonia is 1012. 764 are in Macedonian language of instruction and 280 are in Albanian language of instruction. From the total number of class section - 9974, Macedonians comprise 6478 and Albanians comprise 3087[310]. Even though there are almost 3 times more schools with Macedonian language instructions, data show that there are only two times more class sections of Macedonians. This clearly shows higher participation rates of the Albanian community in primary education. One of the reasons for these figures is the ageing Macedonian population at the expense of the young Albanian population in Macedonia.

Primary education in Macedonia is compulsory. With regards to primary education, the pupils of the communities learn Macedonian as the official language of the Republic of Macedonia. Educational activity is conducted in the language and the alphabet of the communities. Most notably, Article 8 of the Law on Primary Education[311] states:

> *"For members of the communities that follow the classes in language different from the Macedonian language and the Cyrillic alphabet, education is conducted in the language and alphabet of the community in a way determined by this law"*

---

308 Ibid., Chapter 18.
309 State Statistical Bureau, Statistical Review 2.4.08, 2.4.2.07, 2.4.3.07
310 Ibid., 2.4.08, 2.4.2.07, 2.4.3.07
311 Law on Primary Education "Official Gazette of the Republic of Macedonia" No 63/2004.

Secondary education in Macedonia is not compulsory. Pupils attend the secondary education free of charge. The Law on Secondary Education[312] grants the right to conduct secondary education not only in State, Municipal (public) secondary schools, but also in private schools. The pupils of the communities study the Macedonian language and the law grants them the right to attend classes in their native language[313]. Notably, Article 4 of the Law for Secondary Education[314] provides that:

> *"For members of the communities that follow the classes in language different from the Macedonian language and the Cyrillic alphabet, education in the public state high schools is conducted in the language and alphabet of the community in a way determined by this law"*

The higher-education institutions in Macedonia are associated in four universities: St. Cyril and Methodius University in Skopje, St. Clement of Ohrid in Bitola, The University of South-East Europe in Tetovo and the State University in Tetovo and at the private Faculty for Social Sciences - Skopje which is integrated in Inter-University Conference[315].

The Law on Higher Education [316], most notably the Article on the right of communities to study in their native language, is Article 95 which states that:

> *"Classes at higher education institutions are held in Macedonian language. Members of the communities, in order to express, nurture and develop their identity and other characteristics, have the right the classes they follow in state educational institutions for certain study programs to be held in the language of the community, different from the Macedonian language, in accordance*

---

312 Law on Primary Education, Official Gazette of the Republic of Macedonia" No. 44/95.

313 Answers to the Questionnaire, op. cit, Chapter 18.

314 Article 2, Law for changing and amending the Law for Secondary Education, "Official Gazette of the Republic of Macedonia" No 67/2004.

315 Answers to the Questionnaire, op. cit, Chapter 18.

316 Law on Higher Education, "Official Gazette of the Republic of Macedonia", No 49/2003.

*with this law and the statute of the higher education
institution. Financing from the state will be provided for
higher education learning in the language spoken by at
least 20% of the population in Republic of Macedonia."*

Based on the current institutional setup, the students from the
Albanian community in Macedonia have the option of attending any of
the state universities which offer instruction in Macedonian language.
such as Cyril and Methodius University in Skopje, University of St.
Clement of Ohrid in Bitola, the private Faculty of Social Sciences in
Skopje. They can also opt out for the recently formed State university
of Tetovo which provides instruction in Albanian or the University of
South East Europe in Tetovo which provides instruction in Albanian-
Macedonian-English. The adoption of the Law on Establishing a State
University in Tetovo created normative and legal prerequisites for
larger access to the higher education of the minority communities such
as the Albanian and other communities[317].

Comparative data from the Ministry for Education and Science
of Macedonia show an increase and improvement of participation of
the Albanian community in higher education in the last 12 years. If in
the year 1992/93, out of the 26,299 university students in Macedonia,
Albanians comprised 2.23% of the total enrolment at Universities, the
situation was much different in the year 2004/2005. In 2004/2005, out
of the total 61,556 university students, Albanians composed 15.50% of
the total number of students[318]. The increase in the participation of
students from the Albanian community can be attributed to several
factors, such as an increase in private and state-funded higher
education institutions (the SEE university and state University in
Tetovo) that offer instructions in Albanian language in addition to the
existing state-funded higher education institutions where there is a
preferential quota system for the students from the Albanian
community.

---

317 Law on Establishing a State University in Tetovo, op. cit No 08/2004
318   Ministry of Education of the Republic of Macedonia, "Enrolled Students in undergraduate
and graduate studies, citizens of RM, by ethnic affiliation 1992/1993 – 2004-2005".

The higher education system in Macedonia differentiates from the primary and secondary education systems and is probably the only place where there are limited points of contact for students from the two largest communities. Recent development with the opening of private universities and increased competition in higher learning institutions have opened the way for greater interaction of both communities at the university level.

In an interview I conducted with two teaching assistants, one Macedonian one Albanian, at the University of St. Cyril and Methodius and South Eastern European University in Tetovo, I raised the issue of education segregation at university level education. According to Ms. Sc Dane Taleski, Teaching Assistant, Political Science Department, Ss Cyril and Methodius University:

> *"The effects of the segregation are not as great at the universities. More concretely, at the Faculty for Political Science at UKIM[319] in Skopje, we have experienced an increase in Albanian students. This is due to the liberal admission policy and the relatively higher quality of education offered with the lowest level of tuition rates from all universities.*
>
> *For example SEEU [320] has more and more Macedonian students. The Tetovo State University should become more open to other communities and offer instruction in Macedonian language. The system of quotas for communities at UKIM should be maintained. With the development of private universities and their high appeal to students from all communities, we can start focusing on quality of education, rather than language of instruction. If there is really a need for division of Macedonians and Albanian, I think we will see the creation of a private university offering instruction only in Albanian language."*

---

319 University of St. Cyril and Methodius Skopje, Republic of Macedonia
320 South Eastern European University Tetovo, Republic of Macedonia

In a subsequent interview with M. Sc. Ardit Memeti, Assistant Professor, Faculty of Law SEEU – South Eastern European University he stated:

> *"In terms of the parallel education system, I can not think of another way to solve this issue at the present moment because of the level of awareness of citizens. Some day I hope tat we will have programs that will offer lectures in Albanian, Macedonian and English in all higher learning institutions. One way to overcome the education segregation is for students to be encouraged to learn other languages and to create joint language programs at the universities. I don't believe that any community would denounce the right to learn in its native language but there could be bilingual and trilingual courses. I think the SEE University is a fantastic example, because our students have basic knowledge in Albanian, Macedonian and English and our University is the least ethnically burdened higher education institution in the country."*

Separated but Equal?

Besides the increase in number of students from the Albanian community in various levels of education, most notably in primary education and lately in higher education, there are very few points in the educational system where Macedonian and Albanians meet.

The system of primary and secondary education is totally segregated in Macedonia. Even in situations where Macedonian and Albanian students attend classes in the same school building, they do it in separate shifts of the day, thus avoiding any kind of physical contact. If Macedonian students attend classes from morning until afternoon, Albanian students attend classed from the afternoon until evening in the same school building and vice versa.

Conflicts in ethnically mixed schools in Skopje, Bitola and Kumanovo in 2003[321] strained ethnic relations even further and reinforced calls for full segregation of students in elementary and secondary schools.

Pre-school, primary and secondary education in Macedonia is not encouraging social interaction due to the fact that the education system allows children belonging to different ethnic groups to follow instruction in separate environments. Macedonian children predominantly go to school with their Macedonian peers, Albanians with Albanians, Turks with Turks and so forth. In former Yugoslavia this system of "separate but equal" tracks was originally meant to satisfy the social and cultural needs and even political ambitions of the country's divergent nationalities. In Macedonia, however, it has contributed to the creation of parallel, non-intersecting communities. Macedonia's educational system can thus only be described as chiefly ethnically segregated, at least concerning the two main ethnic groups of the country[322].

Past and current education programs developed by the Ministry for Education and Science and the Bureau for Development of Education do not have a single class or educational activity that Macedonian and Albanian students attend together. Even classes such as art, music and sports are not taken into consideration. Classes that promote ethnic and cultural awareness of different communities that students can take jointly in Macedonia do not exist in educational programs.

At present, there are no programs or projects aiming to introduce elective bilingual or trilingual primary or secondary education for the students from the ethnic Macedonian majority. Therefore, apart from the situations where minority students are studying some subjects in Macedonian language because of a teaching staff deficit, "there has been very little move in the direction of bi-lingual or multi-lingual

---

321 Ronny Myhrvold, "Former Yugoslav Republic of Macedonia: Education as a Political Phenomenon" *NORDEM Report*, No. 4 (2005), pp 30-38.
322 Ibid., pp. 18.

education. Separate systems of education have developed and been
supported in various languages[323].

Since the adoption of the Ohrid Framework Agreement in 2001
and its implementation, Macedonia has experienced significant change
on its path to becoming a truly multi-ethnic state. The amendments to
the Constitution were aimed at ameliorating the ethnic relations and
strengthening the multi ethnic character of the country.

Yet, even though considerable change is evident in the level of
participation of communities in the educational system, that same
system entrenches ethnic division and promotes segregation in the
country. As such, it is a danger to integration efforts and jeopardizes
the prospects of integration and cohabitation in Macedonia.

How can we expect mutual understanding between the
communities when the education system offers no meeting points for
the communities? How can we expect multicultural understanding
when students from different communities don't attend a single class
together in elementary and secondary schools? How can we expect
interaction when students are physically divided even when they attend
classes in the same school building?

It is only at university level where the two largest communities
meet in a very limited number. During twelve years of primary and
secondary education, the two largest communities don't meet and don't
learn together. At present times, it is unlikely that we will see a shift in
the education policy. What is worrying is the fact that the politics of
the Government of the Republic of Macedonia is further segregation in
primary and secondary education, rather than integration. This became
evident with the response after the ethnically motivated violence at
several primary and secondary schools in 2003. The response was
further segregation, rather than dealing with the rout causes of the
students behavior in those schools.

---

323   Duncan Wilson, *Minority Rights in Education: Lessons for the European Union from
Estonia, Latvia, Romania and the former Yugoslav Republic of Macedonia*, SIDA, December
2002, p.54.

Challenges and Recommendations

I am afraid that, unless there is a clear shift in education policy, accepted and supported from the main political parties in Macedonia, the education system of the country, especially primary and secondary education, will continue generating stereotypes, misunderstandings and lack of communication between the two largest communities.

The Ministry for Education and Science and the Bureau for Development of Education in Macedonia should initiate several steps to overcome the current educational segregation. Major effort should be focused on primary and secondary school segregation. Current programs at the SEE University should be further supported and language instruction at Tetovo State University should be diversified. Recommendations for the Ministry for Education and Science and the Bureau for Development of Education are: "Develop curriculum promoting ethnic understating and tolerance and introducing it at all levels of primary and secondary education in the whole country; Provide optional language courses in community languages all over the country; Develop a proposal for bilingual and trilingual education in selected courses in ethnically mixed primary and secondary schools; Promote joint classes in ethnically mixed schools between students of different communities; Classes in Art, Music, Sports, Civic education can be a common meeting point for students from various universities; Provide scholarship for students acquiring their education in bilingual or trilingual courses; Provide additional state funding to SEE University in Tetovo to increase enrolment and support trilingual education; Open Tetovo State University for instructions in language other than Albanian; Support the development and training of new teaching staff at state universities. "

If there is a political will to breakaway from the 60-years' old policy of educational segregation in Macedonia, there will be considerable challenges to introduce a new policy. At present, the policy in primary and secondary education in Macedonia can simply be named *"don't-rock-the-boat policy"* where every government buys plurality at the expense of segregation. At the expense of the political

short-term thinking, major policy actors in Macedonia fail to see that, if the country is truly going to represent its multi-ethnic character, it is intolerable to turn a blind eye to the fact that pupils and students learn in a segregated education system that doesn't promote dialogue and communication between the communities.

The right to study in one's own language is not under debate. What is missing is the lack of channels of communications and meetings points for communities in the educational system. At present, the educational system in Macedonia produces students that are totally unaware of the language, culture, customs and traditions of other communities. Instead of learning those characteristics in school, we are left to acquiring knowledge of others through other means and channels of communication, which leaves the door open for creating stereotypes and distrusts among the peoples of Macedonia.

The policy of educational segregation of communities can only strengthen the stereotypes and misunderstandings. In order to promote further integration of communities, there is a strong need to deal with the unsuitable elements in the current educational system in Macedonia.

Ixhet Memeti

POWER-SHARING AND THE IMPLEMENTATION OF THE OHRID AGREEMENT

Protection from discrimination

Rights and freedoms cannot be limited or granted by any authority. Instead, "Human beings are naturally free, equal and independent - authorities may only guarantee them"[324] as said by Locke. This means that no state or political will may be imposed upon them - rights and freedoms are integral and natural part of the social system. In principle, we would not be able to speak about democratic relations without proper systems for individual and unconditional implementation of human and civil rights and freedoms.

Non-Discrimination is one of the founding principles of human rights and freedoms in the modern world. [325] We have to begin from the practical implementation of the right to equality, in order to explain the essence of this idea. The right to equality primarily refers to the political and legal equality of citizens, eliminating any form of discrimination in front of the law.

The right to equality firstly refers to the political and legal equality, thus eliminating any form of discrimination in front of the law. Many constitutions in the world foresee different provisions for

---

324 John Locke, *Two Treatises of Government,* Peter. Laslett (ed.) (Cambridge: Cambridge University Press, 1988), the Second Treatise, par. 95.
325 Several documents are adopted at international level, such as: Convention on the Elimination of all forms of discrimination (1966), International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966), Convention on the Rights of the Child (1989), UNESCO Convention on Discrimination in Education (1960), UNESCO Declaration on Racial Differences (1978), UN Declaration on the Elimination of all forms of racial discrimination (1963), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
 (1995), International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families, Protocol (12) of the European Charter on Human Rights (1950), etc.

practical enforcement of the equality.[326] Beside the principle establishing of the equality in front of the law, this concept eliminates any given obstruction for the implementation of political, economic, social and cultural freedoms. This is the very basic value for the implementation of civil and human rights and freedoms, eliminating any form of discrimination or privileges. It has to be emphasized that in many countries, reality differs from the formal definition of equality and nondiscrimination. Many ethnic, religious, social and cultural groups remain deprived from the full implementation of real equality. Thus, many countries make attempts to eliminate it through the model known as *positive discrimination*. This means that the elimination of real inequality and discrimination, does not request only privileges for dominating groups, which have bigger influence. Instead, it requests practical measures, which will protect the groups without influence in ruling and political structures.

The system of ethnical equality is particularly important in multi-ethnic societies, due to the fact that it seeks to prevent the domination of a particular group, due to its size or for the economic, social, historical or cultural reasons.[327] The implementation of antiracist provisions, which derive from the Universal Declaration on Human Rights and different UN documents are aimed towards the creation of societies without discrimination. Yet, discrimination and racism are still present in many democratic and modern societies - their camouflaged forms are the only reason why it is difficult to recognize them.

Current commitments for equality and nondiscrimination are related with specific aspects of social life. Many commitments aim at eliminating discrimination in urban planning, infrastructure, public development, etc. For example, in France, citizens of Arab origin face many difficulties in finding jobs. Lack of effort to eliminate this phenomenon has been generating extreme reactions. There are other examples where specific communities live in ghettoes, without any infrastructure or hygienic conditions. In addition, some groups are

---

326 Canadian Charter, SA Constitution.
327 European Charter for Regional and Minority Languages (1992), Framework Convention for the Protection of National Minorities (1995) and Directives of the EU Council.

targets of racism, which is promoted by some media and other ways, such as the Internet. As a result, the European Commission has expressed its concern for racism on Internet and in publications.[328]

Economical, social and cultural rights are guaranteed with many international legal conventions, such are the Economy, Social and Cultural International Treaty and the European Social Chapter. Despite these international standards, there is indirect discrimination of communities or individuals in many countries when different communities are realizing their rights in process of employment in the state bodies and especially public institutions. The same applies to the figures in the field of education, where discrimination is indirect, but the state is the one to be held responsible, due to the fact that it has to eliminate all the obstructions in this direction.[329] We witness a number of cases around the world where different ethnic, religious or cultural groups are being discriminated against. Their unequal representation in social life represents discrimination and happens even in the countries with a long democratic history.[330] In particular, this can be seen in the equal representation of these communities in the national institutions. For elimination of different forms of discrimination, there is a need for inclusion and realization of the principle of positive discrimination which means that priority has to be given to representatives of minority or vulnerably groups in cases of equal conditions. US President Lyndon Johnson has stated that "Creating chances for everybody is not enough - we need to help our citizens to use the given chances."[331] Thus, legal statements are not enough to eliminate the discrimination. Specific actions are needed instead, which would guarantee real equality and equal approach in everyday life.

The Constitution of the Republic of Macedonia guarantees basic rights and freedoms to all persons and to citizens in particular. The Constitution is based on the universal definition that every citizen

---

328 European Commission, An Action Plan against Racism, COM, 1998, 183, final, 25.03.1998
329 Bob Hepple, "Discrimination and Equality of Opportunity – Northern Irish lessons," *Oxford Journal of Legal Studies*, Vol. 10 (1999), p. 408.
330 Examples stated in: Discrimination and Human Rights, The Case of Racism, edit by Sandra Freedman.
331 Lyndon P. Johnson, Address at Howard University, 4.June 1965, cited in Thernstrom, "Voting Rights, Another Affirmative Action Mess," UCLA Law Review, Vol. 43 (1966), 2031, n.22

on the Republic of Macedonia should be responsible for the present and for the future of their homeland.[332] The Constitution of the Republic of Macedonia foresees basic human and civil rights and freedoms as fundamental values of the Constitution. It emphasizes the right to equality with the definition that citizens of the Republic of Macedonia have equal rights and freedoms, regardless of their gender, race, color, ethnic or social origin, political or religious belief, social position and they are equal in front of the Constitution and Law.

The procedure for drafting a legal framework for the prevention and elimination of discrimination is in the final phase. This law will promote full and effective equality for all citizens and communities, regardless of their differences. The Criminal Code foresees sanctions for discrimination on the abovementioned grounds.[333] Many other laws foresee similar definitions and provisions for the prevention and elimination of discrimination, through mechanisms that prohibit discrimination or providing means for full equality. Several laws could be mentioned in this regard: laws related to courts and procedures, cultural issues, political parties and employment. The latter also prohibits the indirect forms of discrimination. Protection from discrimination is under direct competence of the judiciary. Unfortunately, judiciary has no special data on protection from discrimination. But here it should be stressed that in the Republic of Macedonia a constitutional rule is adopted that other control mechanism should take care of protection from this phenomenon and the Ombudsman institution especially. In addition to conventional discrimination, one can also identify a new phenomenon: discrimination based on political affiliation. Employments and promotions in the public administration and public institutions are planned by the ruling political parties. This phenomenon violates the rights of those who do not have any political affiliation or do not support the ruling parties.

We are facing many paradoxes in the struggle for equality and elimination of discrimination. According to the provisions on positive discrimination for gender equality, the Law on Election of Deputies

---

332 The Constitution of the Republic of Macedonia, article 9.
333 Criminal Code of the Republic of Macedonia

foresees that at least 30% of all proposed candidates in the lists should be members of both genders.[334] Objectively on this way through positive discrimination, formally by law, effort was made for equal representation of both genders in the politic.

Thus, the Ohrid Framework Agreement offers a good basis for civil society development and modern democracy in the Republic of Macedonia. The Basic Principles of the Ohrid Agreement foresee that Macedonia, as a modern democratic state, has to ensure the implementation of its Constitution, which would fulfill every citizen's needs, according to the highest international standards and permanent development of democracy. Article 4 of the Basic Principles ("Nondiscrimination and equal representation") of the Ohrid Framework Agreement foresees that the nondiscrimination principle and equality in front of the law should be fully respected. This principle will, or has been particularly applied in the employment process in the public administration and public enterprises, public finances and business activities, because it happens in practice some business to employ only some category of people (here it is addressed on national bases) or unduly practice of the law which forbids monopoly acting. It is not by chance that the Law on Equal Regional Development was brought[335] which, *inter alia*, aims at eliminating differences in economy aspect of regions which has different ethnic communities. The Ohrid Agreement foresees other mechanisms and procedures, which provide full equality and eliminate discrimination on individual or community basis. The process of setting common values imposes the need for setting specific results to be achieved, which would be enjoyed in equal manner by all ethnic, religious, language and cultural communities. It remains clear that we need to continue in the direction of achieving equal representation of all ethnic communities in the public administration, public enterprises and all other fields of public life, be that in the technical or leading level. This means that we have to eliminate the existing misbalance in all spheres of public life - in our society and state. Shortly after the adoption of the Ohrid Frame Agreement which, by the Amendments, became part of the Macedonian Constitution, several frame laws were brought which

---

334 Law on MP's
335 Official Gazette of RM No. 63/07

prevent and determine issues for disabling of discrimination in different fields (national, linguistic, employment, etc.). Also we need to act in the direction of eliminating all divisions upon infrastructural or development basis.

Since the Ohrid Agreement, there have been great improvements in terms of ending discrimination, but there remains much to be done, especially at the horizontal level, or in other words - real representation of marginalized groups in public life, which means a core action and not only a formal dimension. The legal aspects of the Ohrid Agreement have developed a different dynamic from its practical implementation. The existing institutions for equal representation must be reorganized and work on real grounds. At this point, all improvisations are unproductive and extremely harmful. Legal regulations should absolutely express real situations in every aspect with aim to be passable – functional. In opposite case, legal regulations wouldn't be functional but would only mean - words written on paper with insignificant aim for regulation of relations which can produce conflicts in practice. There is a need to enhance the legal aspect of the Ohrid Agreement, which has to be completed as soon as possible. It means that there is a need for the adoption of all laws which arise from this Agreement. In case this does not happen, we will see a different general impression of a hesitating Government, which is not ready to treat the state according to its multiethnic reality. The Ohrid Agreement offers grounds for political stability and democracy development in Macedonia. This, however, cannot be realized without a proper economical development and resolving the existing social problems in the country. The Ohrid Agreement does not contain specific definitions for economical relations and elimination of irregularities and indirect economic discrimination. The process of decentralization has shown that municipalities lack the required capacity for economical development and the implementation of economical policies[336]. Municipalities further lack local institutions and agencies that can shape the economical development and investment promotion. On the other hand, there are some issues which are not fully harmonized between the central and local level. The

---

336 Abdulmenaf Bexheti, Economical challenges and the Ohrid Agreement (Skopje: Friedrich Ebert Foundation, 2002) p. 174

process of privatization has been labeled as a mono-ethnical process because it was made through the model of the so called - managerial purchase of shares, but representatives of minorities were not part of the managers and employees (they participated only in small number in the state enterprises), which disabled the minorities to buy shares in the public capital. Thus, there is a need of finding stimulation measures, which would provide equal development at the national level, for which purpose the Law on Equal Regional Development was brought.

The legal framework of the Republic of Macedonia for the prevention of discrimination and promotion of full equality is dispersed in different legal acts which creates difficulties in its practical implementation. Thus, there is a need for an overall legal framework, which would be a ground for the work of all institutions (including ours) and more proper protection from discrimination. Our society is handicapped by the lack of this framework.

Proper functioning of national institutions is essential for the implementation of civil rights and freedoms and preventing all forms of discrimination. There are certain lacks in this direction, which must be improved, firstly through capacity-building and accountability of the institutions and then through special mechanisms with the aim to enable positive discrimination.

In this regard, the courts are responsible for the protection of civil rights and freedoms, based on the Constitution, ratified international conventions and national laws. Courts are competent to protect citizens from illegal acts of the State administration or other institutions with public mandates (administrative cases). Regular courts are competent to protect human rights. Although courts are responsible for the protection of human rights, there is no single case where any court has decided on a legal action related to discrimination. Unfortunately, there is no database regarding such evidence.

The Constitutional Court   is the state institution which protects the constitution - it protects human and civil rights related to freedom, religion, public expression, political actions and discrimination on gender, racial, religious, national, social and political

basis.[337] The Constitutional Court fulfills this function in two manners: it assess whether laws are compatible with the Constitution (which is its basic competence) and protects some citizens' rights and freedoms granted with the Constitution. The abovementioned fact for the national courts' work related to protection from discrimination is even more pronounced in the figures of the Constitutional Court. There is no single case where this Court has decided for the protection of human rights and freedoms, although it is responsible for this function. Besides this, there have been several requests from citizens for the protection of their rights. I believe that this situation is due to different reasons, but the main one is that this institution has no courage for undertaking such a step (of which I am convinced) by individual decisions for rejection of the citizen's requests (which are in not small number).

Another key institution in regard to non-discrimination is the Committee on Inter-Ethnical Relations. This Committee is a part of the National Parliament and reviews different issues linked to the relations between the ethnical groups, thus preventing discrimination or eliminating it where it exists in draft laws by giving opinions for elimination of discrimination rules in some laws which is obligatory for the Parliament. It also gives proposals and opinions related to specific issues. The Parliament of the Republic of Macedonia reviews the proposals given by the Committee and decides upon them.[338] This Committee consists of 19 members - 7 Albanian, 7 Macedonian MPs and 5 other MPs who represent the Turkish, Aromanian, Roma, Serbian and Bosniak community. In case one of those communities has no representative in the Parliament, the Ombudsman proposes one member, after consulting with the representatives of the given community. The Parliament of the Republic of Macedonia elects the members of this Committee, focused in the relations between different communities in the Republic of Macedonia.

The next body, which is part of the National Parliament, is the Standing Inquiry Committee for Protection of Civil Freedoms and

---

337 Rulebook of the Constitutional Court
338 The Constitution of the Republic of Macedonia and the Rulebook of the Macedonian Parliament

Rights. This Committee protects human rights and freedoms in case of their non-realization in practice or if violated from national or state institutions. This Committee may investigate the actions, related with the responsibility of public representatives.

National mechanisms for the implementation of the nondiscrimination principle are layered at two levels in Macedonia.[339] The first one is the special sector, part of the General Secretariat of the Government, which implements Government's policy related to the employment of non-majority communities. The protection of civil rights is also implemented as part of the international standards and promotion of mechanisms for implementation. At this level, within the Ministry of Foreign Affair there is a Department for Human Rights and the Ministry of Justice has its own Department for Human Rights, Analysis and Comparative Law Studies. Through law analysis of the comparative law regarding human rights, it gives opinions to the Government.

As far as gender equality is concerned, the Ministry for Labor and Social Policy has established a special Department for gender equality, which works on issues related to women's employment and gender equality promotion, in accordance with international conventions and domestic regulations.

There is no doubt that one of the most important actors for the protection of human rights and freedoms is the Ombudsman. Since the Constitutional amendments passed in 2001, the Ombudsman is responsible for the protection of nondiscrimination principles and the equal representation of all communities. This responsibility is exercised over national and local institutions and other public institutions.[340] These Constitutional changes have been completed with the Law on Ombudsman, adopted in 2003.

The Ombudsman monitors the actions of the state administration, prevents the disrespect of human rights and freedoms

---

339 Law on the Government of the Republic of Macedonia and the Rulebook of the Macedonian Government
340 Law on Ombudsman, 2003

and undertakes measures for the protection of nondiscrimination principles and implementation of equal representation of communities in state structures. In addition, some further competences of this institution, related to discrimination, might be necessary. At the same time, there is a need to make changes to the existing legal framework, in particular the aforementioned new anti-discrimination law.

This specific law would offer definition of all forms of *discrimination*, with different procedures for resolving cases related to discrimination and additional mechanisms for this issue. Many countries in the world have already adopted specific laws related to discrimination, and their positive results are quite dynamic. Bulgaria, Czech Republic, Slovakia etc. In the Republic of Macedonia currently in preparatory phase is the project of the Law on Prevention of Discrimination which, in my opinion, will contribute to the struggle against discrimination.

We must consider the fact that our society faces different forms of discrimination. Different groups and communities live in bad economical, social and ecological conditions. Non-implementation of specific measures to change this situation and to achieve equal regional development is one of the forms of collective discrimination. We can expect that the Law on Equal Regional Development will contribute to the improvement of situation and citizens will get equal possibilities. Yet, citizens are not aware of these forms of discrimination. They remain indifferent or unaware of this reality, which is a result of the former political system. Thus, it is needed to undertake all needed measures to raise the sensitivity for these issues. This could be done firstly through education, media campaigns and other public relation means.

Though at first glance, it may look like there are many legal provisions that ensure non-discrimination and provide effective protection, the actual situation does not provide the needed level of protection for human rights and freedoms.

Most of the cases related to proving discrimination remain unsuccessful, and this comes, *inter alia,* as a result of lacking a Law for nondiscrimination which would have clear, precise and functional

regulations for motivation of administration and courts especially for its implementation.

As a conclusion, we can say that, without a real and formal equality, elimination of discrimination is impossible. The concept of equality is an active process, which should be accompanied with specific actions, unlike nondiscrimination, which can be considered to be passive and sporadic.

Florian Bieber

CONCLUSIONS: THE OHRID FRAMEWORK AGREEMENT AFTER 7 YEARS

The Ohrid Framework Agreement has been a success story in ending an escalating conflict and banning the fear of a renewed conflict.[341] The number of Albanians employed in the public administration greatly exceeds the level before 2001 and the widespread discrimination many Albanians experienced has largely ended.[342] Furthermore, a number of highly controversial issues during the 1990s, such as higher education in Albanian, have been resolved and no longer stir the controversies they caused a decade ago. Protests and their violent suppression, as they happened in July 1997 in Gostivar over the hosting of the Albanian flag at the municipal building, are unimaginable today.

The agreement, however, can also be seen as a failure, as it was unable to fundamentally transform interethnic relations in Macedonia and ethnicity remains a potent force in the political debates of the country. Most citizens, Macedonians, Albanians and others alike, note that the most important issue facing them is unemployment rather than ethnic issues. Nevertheless, ethnicity matters in the perception of citizens.[343] The commitment and identification with the Ohrid Agreement and the subsequent changes to the state is also asymmetric and many Macedonians consider the agreement as a "loss" which was "won" by Albanians. Arguably, a peace treaty such as the

---

[341] According to the June 2007 UNDP Early Warning Report, only 2.4% of Macedonians and 0.8% of Albanians considered other ethnic groups the largest threat to personal security. Similarly, Albanians fear imposition by the state less (5.1%) and Macedonians (10.5%). These numbers suggest that ethnically motivated violence is less feared than natural disaster. In: UNDP, Early Warning Report Macedonia, June 2007, pp. 98. Available at: http://www.ewr.org.mk/reports/EWR%20June%202007%20-%20ENG.pdf.

[342] See the chapter by Sali Ramadani and also regarding remaining problems of discrimination the chapter by Ixhet Memeti.

[343] UNDP, op. cit., pp. 48-49.

Ohrid Framework Agreement is bound to offer benefit to all parties. In the case of Macedonia, the agreement restored a surprising degree of stability and security and prevented a territorialization of the state, a benefit clearly for the majority. Nevertheless, the agreement is widely perceived as a zero-sum game, where the gain for one community inevitably must signify the loss for another. This is the first challenge which the contributors in this volume clearly identify.

As the agreement is merely a framework, the provisions had to be transposed into legislation and subsequently implemented; a process which has been difficult and complicated. Some of the authors in this book outline how this process has often been delayed and the implementation has lagged behind the ambitions of the Framework Agreement. In essence, the Ohrid Framework Agreement is widely perceived by many Macedonians of being a ceiling for the accommodation of Albanians in the state, whereas many Albanians consider the agreement as the floor for building future relations. Consequently, the implementation of the agreement and the discussion of any other forms of interethnic accommodation, have suffered from excessive political bargaining and extensive haggling.

The challenge of bargaining for rights has been a second challenge which emerged from the experience of the Ohrid Framework Agreement implementation. Interethnic accommodation is never a complete process and is likely to be subject to repeated and continuous negotiations. It would be naïve to assume that a 'final' agreement would be possible which resolves all disputes once and for all. The problem of contentious negotiations is that these are potentially very divisive and can marginalize all other policy issues. As such, the challenge is of finding a balance between allowing for further negotiations without having these dominate the policy agenda permanently.

A further problem which has emerged in the implementation of the Ohrid Framework Agreement has been the habit of political actors to resort to extra-institutional means and to undermine institutions to address interethnic relations. The Committee for Inter-Community Relations, which has a crucial role in determining the laws to undergo the double majority voting mechanism and is otherwise a

key body in mediating between communities, has not been given sufficient weight since 2002 and has been subject to controversial decisions, outlined in the introductory chapter. Furthermore, often governing parties have bypassed institutions and favoured closed-door negotiations to seek compromise rather than through public debate.

The Ohrid Framework Agreement has not established any new form of group autonomy or instruments for aggregating community interests beyond political parties. This dominance of political parties in the sphere of interethnic relations has become problematic. First, it inherently politicises any form of interethnic debate and prevents for the articulation of non-party based community interests. Second, it often transforms ethnic representation in institutions into party representation, resulting in intra-ethnic discrimination.

In addition to the challenges arising from the implementation of the agreement, the record of seven years also allow for an evaluation of the Ohrid Framework Agreement itself. As discussed by the various contributions in this book a number of critical issues arise that could be considered weaknesses of the original agreement itself.[344]

By linking the use of language to 20% of the population at the state and local level, the Ohrid Framework Agreement created a problematic link between demographics and language usage.[345] While such a link is not inherently problematic, it can result in an excessively narrow interpretation of language rights which can create new tensions, for example if language rights are withdrawn in a municipality if a community narrowly fails to reach the 20% threshold. Consequently, the agreement further politicised the population census, which had already been highly controversial during the 1990s.

One of the innovative approaches of the Ohrid Framework Agreement has been the introduction of the Badinter majority, which requires the double majority of all MPs (or councillors) and of the representatives of the minority communities. The implications of this rule for government formation have not been clear at the time and

---

[344] See chapter by Ermira Mehmeti.
[345] See the chapter by Xheladin Murati.

became only visible after the formation of the VMRO-DPMNE and DPA coalition in 2006. The Ohrid Framework Agreement remains silent on the participation of Albanian parties in government, although such an inclusion is certainly part of the implicit institutional arrangement on which the Ohrid Framework Agreement is based. However, whether power sharing in Macedonia ought to be based on the largest party of the Albanian community (and also of the Macedonian community?) or on a freely formed coalition of the Macedonian and Albanian parties remains unclear. Legally nothing prevents the formation of a 'minority minority community' government, but whether this government can act with the same degree of legitimacy as a grand coalition of the largest parties of the communities remains open. The crisis in 2006 over the government formation suggests a potential need to institutionalize the arrangement for government formation to prevent a recurrence of such crises.

Possibly the largest problem associated with the Ohrid Framework Agreement is that it is often viewed as the sole and all-encompassing solution to interethnic problems in Macedonia. Instead, the agreement only addresses the basic legal and institutional issues, but does not provide for mechanisms and tools to build inter-communal trust and support for the institutions the agreement created or transformed.[346] Such a country-wide consensus is still lacking with more than two separate political communities which communicate insufficiently and where the Ohrid Framework Agreement was unable to halt (or even reverse) segregationist tendencies in society and reduce space for the politics of fear. [347]

So what kind of state is Macedonia today? This question has plagued Macedonia since its establishment as an independent country in the early 1990s. The strategy of a nation state which co-opted the Albanian community in government, but maintained a precarious dominance of the largest community, failed the latest by 2001. The Ohrid Framework Agreement has moved the country away from a nation state. At the same time, the agreement did not transform it into a multinational or consociational state, even if it strengthened these

---

[346] See chapter by Etem Aziri.
[347] Discussed based on the educational system, see the chapter by Emil Atanasovski.

features. The agreement formally also reinforced the civic elements of statehood by reducing the symbolic prevalence of the largest nation. Demographics renders the definition of Macedonia difficult. It is clearly not a homogenous nation state, as barely two thirds of the citizens identify with the largest community. On the other hand, it is also not a multinational state as Bosnia and Herzegovina or Belgium, as both have smaller majorities and larger minority communities. This is not to suggest that Macedonia has to follow a particular model, but it does require for Macedonia to balance and negotiate equilibrium between group rights and power sharing on one hand and opening political and social space for citizens and ideas which want to move beyond ethnic identification.