

Approximation of Macedonian legislation to EU economic legal norms: a cornerstone of the European integration process as a contemporary conflict¹ resolution framework.

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Introduction

With the re-drawing of the European Union's (hereafter the EU) political and economic map about to become effective on May 01, 2004, the question of the EU relations with the Western Balkans and the wider European periphery will no doubt take on new momentum. The EU has placed stabilization of its periphery and in particular of the Western Balkans as a prime objective². While in 2003³ it declared its determination to support Western Balkans countries' aspiration to full European membership, the question of the effectiveness of the accession process⁴ and the future of the Stabilisation and Association Agreement (hereafter SAA) as a tool to promote stability will continue to be the subject of scrutiny and debate. The need to strengthen the process in order to address more effectively the specific problems facing Balkan countries has been recognized by the EU⁵ and a new strategy backed up with funding measures should be formulated⁶.

Concurrent to this debate on the means (financial or policies), stands the more theoretical debate of the European integration process or "Europeanisation" as an instrument of conflict resolution in the post-Cold War era. In this regard, the case of the FY Republic Of Macedonia is particularly interesting because it is the first Balkan state to have started on the path to EU accession and where "EU-isation" is being applied as a contemporary conflict prevention framework. It is also the first country where the Common Foreign and Security Policy (hereafter

¹ In order to clarify the terminology, a conflict is defined as the pursuit of incompatible goals by different groups. A conflict can be non-violent or violent ("armed" conflict when force is being used). "Contemporary conflict" in academic literature refers to the prevailing pattern of political and violent conflict in the post-Cold War world.

² European Council in Feira in June 2000 during which the objective of the fullest possible integration of the countries of the western Balkans into the political and economic mainstream of Europe was confirmed and the status of those countries as possible candidates recognized.

³ Brussels European Council in March 2004.

⁴ N.B.: in 1997, the FY Republic Of Macedonia signed a Cooperation Agreement (took effect in 1998) and was the first Balkan state to sign the SAA in April 2001. It applied for membership in March 2004.

⁵ COM (2003) 285 final

⁶ For more on this issue refer to the European Stability Initiative paper, "*The Road to Thessaloniki: Cohesion and the Western Balkans*", Berlin, March 12, 2003.

CFSP) is being fully engaged (diplomacy, armed forces, financial measures). Yet it has received little attention as a case study in specialized literature. It is hoped that this article will fill the gap.

The normative assumption underlying this analysis is that the European economic integration process can act as a catalyst for peace. This “integration-conflict resolution” process will be illustrated by taking the EU funded project of Technical Assistance to draft trade laws (hereafter DTL project) to the Ministry of Economy as an important concrete measure towards socio-economic transformation. It is argued that the implementation by the EU of such projects constitutes an important step towards conflict resolution and ultimately peace. The two notions central to this article, namely ‘conflict resolution’ and ‘EU-isation’ as a constituent mechanism of the wider ‘Europeanisation’⁷ concept will first need to be addressed. Finally, we will look at legal approximation of Macedonian economic legislation to the EU *acquis* as an illustration of an indirect transformative process.

a. Contemporary Conflicts: their nature, elements of theory and practice of their dynamics and resolution.

“Conflict resolution” refers to a process, an outcome⁸ and an academic field of studies. As a distinct field, it is a relatively recent phenomenon of social science. Like European integration, it has its foundation in the post-World War II period and the aftermath of two world wars⁹. Conflict resolution theory and practice grew as a reaction to classic conflict resolution (diplomacy, UN mechanisms) and developed concurrently to the establishment of the new world order based on the 1945 UN Charter. The Cold War and the age of nuclear deterrence boosted the development of peace studies from which conflict resolution split as a separate subject. The theoretical field was reshaped after the fall of the Soviet Union and the end of the bi-polar international relations system. The dissolution of the Communist block ended a period during which “*a single international conflict dominated the international system*” and opened the way for a new world order characterized by “*internal conflicts, ethnic conflicts, conflicts over*

⁷ N.B.:EU-isation which implies a formal track towards accession is seen as a mechanism of the wider process of Europeanisation. The later integrates other institutional frameworks (Council of Europe, OSCE, NATO).

⁸ N.B.: Conflict resolution as a general term implies that the causes of the conflict are addressed, and resolved. It refers both to the process put in place to bring about the changes and to the completion of the process.

⁹ The post-WWII period saw the establishment of research centres and journals on peace studies from which the field of research of Conflict Resolution *per se* emerged. For more on the evolution see Contemporary Conflict Resolution by Hugh Miall, Oliver Ramsbotham, Tom Woodhouse, Chapter 2.

*secession and power struggles within countries became the norm*¹⁰. The fall of Yugoslavia in the 1990s and the fragmentation of the Federation into smaller independent states¹¹ saw the eruption of new conflicts with “contemporary” or “modern” features, namely conflicts fuelled by the issue of identity and sovereignty. Since the Treaty of Westphalia¹², international wars were typified by “Clausewitzian” features, namely wars fought between two power-centres (States or ideological blocks) using organized force(s) against enemy force(s) otherwise defined as “symmetric conflicts”. Post-1945 and most particularly Post-Cold war conflicts are “modern” conflicts, i.e. internal struggles reflecting the fragmentation, weakening and breakdown of state structures, economies and societies. These conflicts are characterized as “asymmetric” because they imply situations of unbalanced power (oppression, injustice, latent conflict) when a conflict arises between two ethnic groups (minority v majority situation).

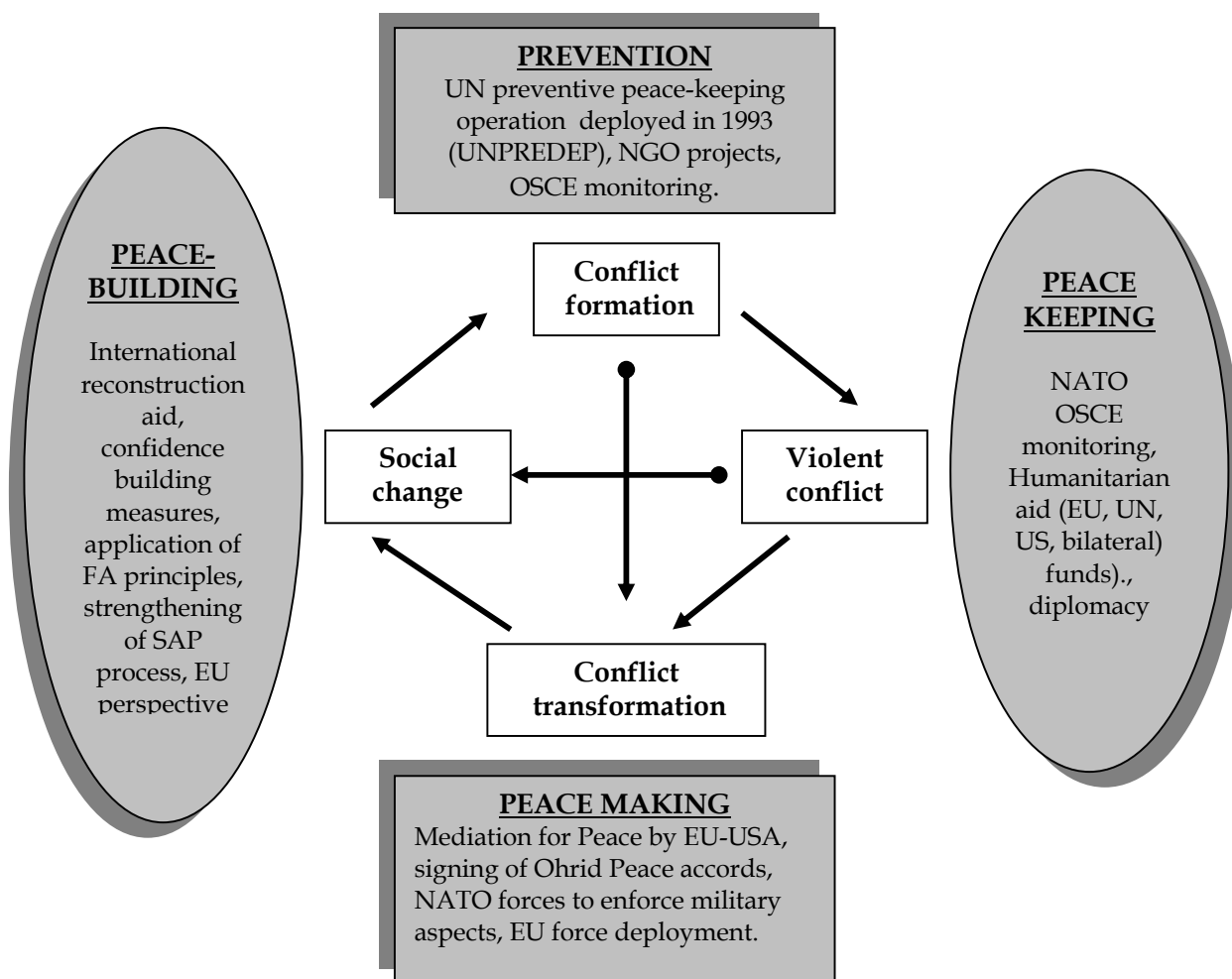
Contemporary conflict resolution drew on a cross-fertilisation of academic fields (history, sociology, psychology, international relations, political sciences, law and economics) to analyse the nature, causes and solutions to resolve these conflicts. In the Balkans, conflict resolution mechanisms have usually taken the form of third party intervention (coercive with armed intervention, peace keeping forces or non-coercive with mediation, conciliation or good offices). The figure below presents the conflict dynamics applied to the Macedonian conflict that erupted at the beginning of 2001 and was contained through coercive diplomacy by the US and the EU. Conflicting parties were eventually brought to the negotiating table thus bringing to an end the armed conflict by the signing of the Ohrid peace agreement on August 13, 2001 (Framework Agreement – hereafter FA). The FA set out a conflict resolution framework by addressing the disputed issues which included notably: use of minority language, return of internally displaced persons, policing, representation of minorities in state apparatus, devolution of powers to local self-government).

Figure A.

¹⁰ Ibid, p 2.

¹¹ The Republic of Macedonia gained independence in 1991. Recognition was extended by 11 members of the EU in December 1993 under the temporary name of the Former Yugoslav Republic of Macedonia (FY Republic Of Macedonia) further to Greek pressure.

¹² Following the Thirty Years’ War, there arose stronger a society of states whose legal structure was defined by a new constitution. The Peace of Westphalia (1648, set of treaties) was to the states of Europe what Philadelphia became for the states of the American colonies in 1789: the birthplace of a new constitution for a small society of states.



The above figure broadly highlights the conflict dynamics and the main phases of conflict resolution. What distinguishes the Macedonian conflict from other Balkan conflicts and other world conflicts is that it actually superimposes two conflict resolution frameworks: on the one hand, the classical international conflict resolution framework and on the other hand, the EU integration framework. Both are aimed at bringing about the changes necessary to address the root causes of the conflict.

The generic table below highlights factors generating conflicts against concurrent conflict preventors¹³ (N.B.: not all are applicable to the Macedonian circumstances and some factors

¹³ N.B.: not all factors and preventors are applicable to the Macedonian case and some factors would have to be nuanced to match the reality. This generic table is taken from Contemporary Conflict Resolution, p 108.

would have to be modulated). While each conflict turning violent will have its own specificities, contemporary conflict resolution thinking argues that societies across the world are facing similar stresses (structural changes of the world economy, population growth, migration to cities, environmental degradation and rapid social changes). Their ability to cope with conflicts will depend on the strength of their institutions, rules or norms to manage those conflicts and well-established tradition of governance¹⁴. Features, one can assert, Balkan societies in the post-communist era clearly lacked.

Table B

Factors generating conflict		Possible preventors
Global level	Inappropriate systemic structures	Changes in international order
Regional level	Regional diasporas	Regional security arrangements
State level	Ethnic stratification <i>Weak economies</i> Authoritarian rule Human rights abuse	Consociational politics/ federalism/decentralization/autonomy <i>Development</i> Legitimacy, democratization Rule of law, human rights monitoring/protection.
Societal level	Weak societies Weak communications Polarised attitude	Strengthening civic society, institutions Round tables, workshop, community relations Cross-cultural work
Elite/individual level	Exclusionist policies	Stronger moderates

As **highlighted** in the above table, a weak economy constitutes a contributory factor towards conflict formation. In the Republic Of Macedonia as in other former socialist societies in Europe, the economy was its Achilles heel with its legacy of debts and regional economic underdevelopment. While Titoism with its own brand of socialist experiment can arguably be seen as successful in terms of peoples' relations, it turned into an economic disaster for the region. Global experience in the post-1945 era shows that "*Wealthy states do not break up in civil wars and prosperous regimes are not toppled by revolution*"¹⁵. Yugoslavia and the independent states that emerged from the fall of the communist block were neither. From 1991 onwards, the Republic of Macedonia was facing the formidable stresses of a society and an economy in transition with the added strain of having to integrate the regional, EU and global economies to survive. When violent conflict broke out in 2001, the weakness of its economy

¹⁴ Refer to introduction in Contemporary Conflict Resolution.

¹⁵ Chapter 5, p 67 in Yugoslavia's Bloody Collapse: Causes, Course and Consequences by Christopher Bennett.

combined with years of economic embargo and ethnic strife in the region added a new obstacle to the much-needed economic development. In 2004 as the country prepares to elect a new President in a stabilized security situation (see Peace building phase in [Figure A](#)), the ailing economy continues to be at the heart of the peace process. Without sustained and viable economic development, the peace building process will remain a fragile endeavour. Going back to post-World War II period, economic development was also central to European construction and continues to be essential to the establishment of a durable peace.

b. EU-isation as a catalyst for peace: a historical and theoretical perspective of the role of economic integration.

Europeanisation is defined as the “*cultural, legal institutional and economic impact of European integration on domestic structures*”¹⁶. In other words, an EU-centered Europeanisation or “EU-isation” is a transformative process which as postulated in the introduction, can act as a catalyst for peace in countries experiencing conflicts. Just as European construction acted as a framework for peace in the post-1945 period. Given the focus of the article, this section will primarily look at economic integration. Secondly the two corollary aspects to European integration formula will be addressed, namely multilevel governance and the reshaping of sovereignty as these aspects of EU-isation are applicable both to the economic and political spheres.

While EU citizens now take peace for granted, one should not forget that Europe’s history is more characterized by divisions, tensions and conflicts than unity and peace. Yet former bitter enemies now embrace a sense of common purpose, share in economic prosperity and have lived in peace for the last 59 years “*with armed confrontation between any two states not even appearing as a remote possibility*”¹⁷. Thanks to the vision of enlightened leaders, Europe experienced a remarkable transformation in the post-1945 decades. One of the early advocates and architects of European integration, Altiero Spinelli, who had fought Nazism and laid the theoretical foundation of federalism¹⁸ stated in 1986 (one year before his death): “*a major*

¹⁶ Definition taken from “*European Institutional Models as Instruments of Conflict Resolution in the Divided States of the European Periphery*”, Centre for European Policy and Security, Working Document no. 195, July 2003

¹⁷ Part 1, Historical evolution, p 9 in [The Government and Politics of the European Community](#), second edition, Neill Nugent (ed) and Publisher (1991).

¹⁸ Altiero Spinelli (1907-1986) is one of the early theorists and activists of European integration. He was the inspiration behind the drafting with other fellow prisoners on the island of Ventotene, of what became known as the “Ventotene Manifesto”. It advocated the creation of a “European federation” equipped to provide security and social justice for Europeans. In August 1943, he founded the European Federalist Movement.

transformation has occurred in the political consciousness of Europeans, something which is completely new in its history... For centuries, neighbouring countries were seen as potential enemies against whom it was necessary to be on one's guard and ready to fight. Now after the end of the most terrible of wars in Europe, neighbouring countries are now perceived as friendly nations sharing a common destiny".

The first brick of the transformation process was laid on April 18, 1951 of the European Coal and Steel Community¹⁹. The subsequent signing in 1957 of the EEC Treaty and Euratom treaties in Rome generalized integration to other fields. The preambles to each of the three original treaties reflect the founders' vision for building an *"ever closer union amongst the peoples of Europe"* through economic integration. These treaties also mark a shift from peace to economic prosperity as the driving motive for unity. In the aftermath of war and post-war hardship, European and American leaders²⁰ were acutely aware that weak divided economies could sow the seeds of further political divisions and instability. In this light they turned their attention to the material welfare of their citizens. According to post-war economic integration theory, the creation of a "common market" to develop later into an "economic union" would address the "disintegration" of both the European and world economies of the inter-war period. By analyzing the effects of "economic disintegration v economic integration", political economists like Bela Balassa²¹ contributed to theorize the vision that deeper integration would contribute to the growth of European economies. His argument highlights that *"economic integration in Europe serves to avoid discrimination caused by trade-and-payments restrictions and increased state intervention, and it is designed to mitigate cyclical fluctuations and to increase the growth of national income"*. By the 1980s, the EEC (forerunner of the EU) had indeed become the European "working peace system" advocated by the Romanian theorist David Mitrany²² in his functionalist approach to international relations.

¹⁹ Unification of Europe's coal and steel industries announced on May 9, 1950 in a speech made by Robert Schuman (now referred as the Schuman Declaration marking the celebration of the Europe Day).

²⁰ The Truman Doctrine and the Marshall Plan were instrumental in assisting in the reconstruction of Europe.

²¹ Bela Balassa (1928-1991) made a major contribution to our understanding of the effects of economic integration in his reference book The theory of Economic Integration (1961)

²² David Mitrany (1988-1975) published in London in 1943 a pamphlet entitled "A Working Peace System" in which he argued for a transformation in the relations between nations or as he put "competing political units" at the root of conflicts. He laid the theoretical foundation for the functionalist approach to regional systems like the EU where "functional agencies" rather than states would be addressing issues in a federative framework.

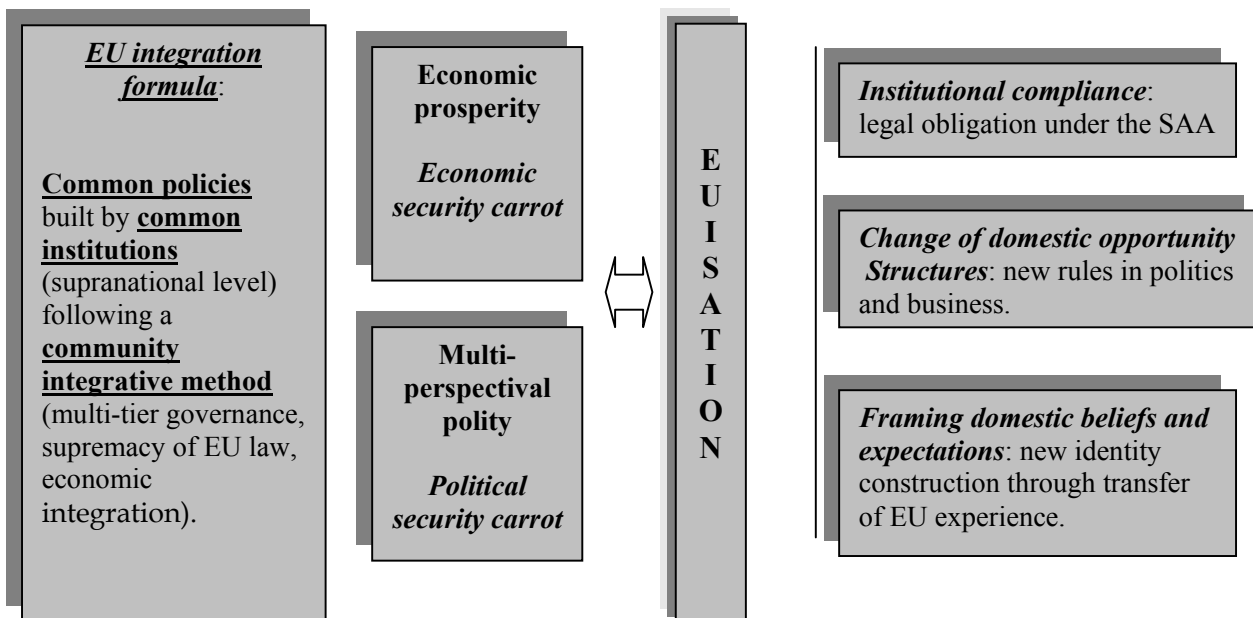
To achieve the objective of greater economic integration and a closer union of its peoples, the constituent treaties established supranational organs with competence to oversee the creation of a common market through four main measures²³: liberalization of the factors of production, the progressive approximation of key economic policies by harmonizing national legislation, the erection of Common Customs Tariffs and the formulation of a Common Commercial Policy. The EC Treaty was thus centered around recognition that economic integration is the catalyst to progressive political, social, cultural, financial and monetary cohesion among the Member States. The EU treaty (Treaty on European Union 1992 as amended by the Treaty of Amsterdam 1997) marks the transition from a economic Community to a new order, a Union, by introducing notably the concept of EU citizenship, the principle of *subsidiarity* and a redefinition of the institutional and organization structure of the decision-making processes. With regards to economic integration, new mechanisms were incorporated to increase economic, monetary and fiscal cooperation. The adoption of the Euro as a single currency by the majority of the Member States in 1999 is certainly the most telling symbol of this process.

Examining economic factors in this context cannot be disassociated from political or legal ones. It is proposed to briefly address them. European relations in the pre-1945 period had been characterized by an absolutist conception of sovereignty. The European integration model offered a radically new legal and political model away from the Westphalian model of the nation-state. A militant European Court of Justice (hereafter ECJ) affirmed this new legal order in its ruling in the *Van Gend en Loos case 26/62, 1963* thus given the new institutional order best characterized as supranational with intergovernmental features with a clear legal framework. From a conflict resolution analysis perspective, a key transformative element of the integration process has been the re-conceptualisation of sovereignty. In its ruling in the *Costa v ENEL case 6/64, 1964*, the ECJ stated that “*by creating a Community with unlimited duration, having its own institutions, its own personality and its own capacity in law....., the Member States albeit within limited spheres, have limited their sovereign rights and created a body of law applicable both to their nationals and to themselves*”. Thus the establishment of this unique framework rooted in the rule of law led to the creation of a multi-tier governance system (multi-perspectival polity), namely a complex network of interrelated governance layers at European level, national

²³ N.B.: the original activities falling under the exclusive competence of the EC were largely economic in nature. Policies were expanded by the SEA (1986), the Maastricht Treaty (1992) and the Amsterdam Treaty (1997).

level, sub-state level (regional and local levels). While the role of member states cannot be minimized, it can be asserted that the EU governance system can provide the institutional framework to find constitutional solutions in societies where ethno-politics has become a factor of division. In other words, “its practice of multi-level governance proposes an institutional model where state power and sovereignty are not exclusively located at the level of nation states”²⁴. The Figure presented below summarizes the key ingredients and mechanisms of EU-isation.

Figure C: EU-isation as a framework for peace: key ingredients and mechanisms



c. Conflict resolution through legal approximation in the economic field: how technical assistance can help.

We have seen that common policies in the field of economics have been essential to the creation of a single market by reshaping economic relations. A key ingredient of the successful formula (see above Figure C for summary) is the implementation of common policies, commonly

²⁴ Quoted from CEPS, working document, no 195, July 2003: “European Institutional Models as Instruments of Conflict Resolution in the Divided States of the Periphery”.

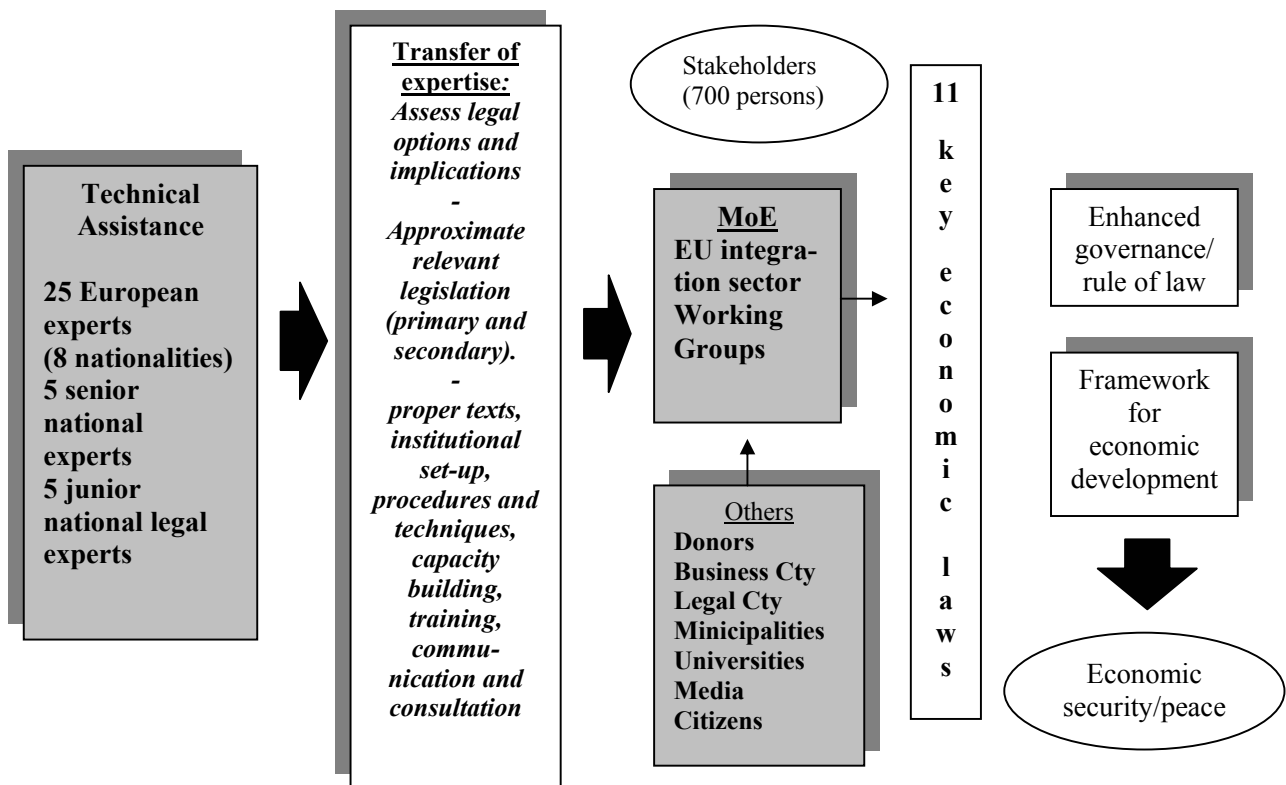
described as the “backbone” of European integration. The implementation of an ever-growing list of common policies is possible because it is based on common legislation within a unique legal system defined as “supranational, uniform and unitary”. In this regards, the judicial organ of the EC, ECJ set the tone in the 1960s by enforcing the key principles of EU law: supremacy over national law and direct effect²⁵. A clear common legal system with enforceable rights has been a fundamental part of this transformative process by providing both members states and EU citizens with a law-governed European framework able to manage conflicts peacefully. Without the rule of law and good governance, the enterprise of economic and political integration would have failed.

By assisting in the process of approximation of Macedonian economic legislation to EU law, the “Technical Assistance project to Ministry of Economy to draft trade laws”²⁶ is an actor in the EU-isation process. In its presentation to the Member States ambassadors in Skopje of the project achievements in February 2004, the mission statement of the Technical Assistance was highlighted: “*better law-drafting is better governance*”. The statement could have been extended to “*better law-drafting is better governance, better governance means peace*”. Indeed the establishment of better governance and the rule of law are essential conflict preventors (see [table B](#)). By contributing to the attainment of these objectives, the project is an active participant of EU-isation as a conflict resolution framework. As seen in [Figure C](#), EU-isation occurs i.a. through the transfer of experience. The DTL project does just that by assisting the Ministry of Economy and stakeholders to comply with the terms of the SAA. This gradual process occurs through the implementation of core activities: assessment of legal options and implications, approximation of relevant legislation (primary and secondary) and through the implementation of the chosen options through proper texts, institutional set-up, procedures and techniques, capacity building, training, communication and consultation. The dynamics of legal approximation to EU economic *acquis* as a conflict resolution process are summarised in the figure presented below.

Figure D: DTL project dynamics.

²⁵ *Van Gend en Loos case* 26/62, 1963

²⁶ A project funded by the EU and managed by the European Agency for Reconstruction with a budget of 1 Meuro over a 13-month-duration (April 2003 to May 2004).



Conclusion

In the context of Balkan instability in the 1990s, the EU-isation process is being implemented based on the normative that EU-isation will act as a catalyst for peace. Hence the EU policy towards the country can be seen as a conflict resolution framework backed by funding measures against a background of growing regional instability. Further to increased violence in Kosovo in 1999, NATO intervened militarily. Early 2001 violence broke out in the FY Republic of Macedonia when ethnic Albanian rebels attacked state forces. The armed conflict led to the displacement of an estimated 160,000 persons at the peak of the crisis (August 2001) and also generated considerable destruction. From 1998 to 2001, the Cooperation Agreement framework had no time to exert its mainly indirect effects on the country's institutions, economy and society. By April 2001 two EU conflict resolution mechanisms thus came to be superimposed towards the resolution of the Macedonian conflict: the direct EU diplomatic intervention with the

appointment of the EU Special Envoy²⁷ under the CFSP and a reinforced EU-isation process (Stabilisation and Association process). In 2004, almost three years after the signing of the Ohrid peace agreement, stability has been restored. Much remains to be done both in the implementation of the Framework Agreement and in the fulfillment of the obligations of the SAA²⁸ but cautious optimism has replaced gloom. With the spectre of more violence looming in neighbouring Kosovo, it is indeed no time for complacency²⁹.

Just as European integration as a working peace system was a step-by-step process, EU-isation as a conflict resolution framework will need time. It is a process fraught with difficulties because of the modern feature of the conflict: blurred demarcation between internal and external sources and actors, communal identity, issues of sovereignty. Last but not least, economic recovery must be tackled as a matter of priority or social tension will be fueled by continued economic insecurity. Hence it is argued that EU funded technical assistance projects as the DTL project to the Ministry of Economy are important transformative mechanisms and indeed an essential part of EU-isation as a conflict resolution framework. By working towards legal approximation of Macedonian economic laws to EU norms, such projects operate at the heart of the process of economic integration. Ultimately, they contribute to re-orientate and re-shape national politics to the degree that EU political and economic dynamics form a part of the organization logic of national politics and policy-making³⁰.

²⁷ Appointment of the first High Representative Special Envoy early 2001, backed in April 2003 by the first EU military force deployed under the CFSP.

²⁸ Consult the SAP Report March 2004 for more details.

²⁹ For further reading on the implementation of the Ohrid Framework Agreement, consult the International Crisis Group, Report No 149, 27 October 2003, entitled "*Macedonia: No time for Complacency*".

³⁰ Definition of the effect of Europeanisation as explained in literature. Ladraech 1984, quoted in Featherstone, K. and G. Kazamias (eds), *Europeanisation and the Southern Periphery*, London: Franck Cass, p 14.