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Conflict Resolution in the European Neighbourhood:  
The Role of the EU as a Framework and as an Actor

Nathalie Tocci



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**NATHALIE TOCCI**

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**BADIA FIESOLANA, SAN DOMENICO DI FIESOLE (FI)**

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## **Abstract**

The European Union's neighbourhood is rife with secessionist conflicts. The Union's proximity and its magnetic power of attraction has created the potential for a constructive European involvement in these regions. An EU role can be two-fold. First, the EU framework of governance, law and policy can offer a conducive context for the settlement of ethno-political conflicts. Second, the Union can act in its neighbouring regions to generate incentives for the settlement and ultimate resolution of conflict. But to what extent can the Union export its forms of governance in a manner that can contribute to the amelioration and resolution of conflict? What instead are the mechanisms and their limits through which EU actions or inactions could alter the incentive structure underpinning conflict? This article attempts to shed light on the above questions.

**Keywords:** ethnic conflict, conflict resolution, negotiation theory, EU foreign policy, Europeanisation, conditionality, Wider Europe

## Introduction

The Eastern Mediterranean, the Middle East and the former USSR and Yugoslavia are rife with old and new ethno-political conflicts. In some instances, such as Bosnia and Kosovo, these conflicts have been managed through forceful external intervention and the ensuing establishment of externally controlled or supervised institutions. In most other cases, conflicts are either active or frozen. They have not been settled, let alone resolved. In most cases, conflicts have been frozen into a no-peace-no-war situation following the victory of secessionist forces supported by outside powers. These include the conflicts in Cyprus and the conflicts in the former Soviet Union such as Abkhazia, Nagorno Karabakh, South Ossetia and Transnistria. In other cases such as the conflict between the Turkish state and the Kurdish PKK, wars were 'won' by the metropolitan states. But the challenge of peaceful reconciliation remains to be met. In other cases still, like the Israel-Palestine conflict, violence persists and its precise form will determine the future peaceful or non-peaceful outcomes in the region.

Irrespective of whether conflicts have been frozen or whether violence persists, the absence of mutually agreed settlements creates the potential for instability in and around these regions. Where active violence persists the potential for instability is evident. The conflict between Israel and Palestine not only represents one of the key factors (by no means the only one) underlying the radicalism and stagnant development of the Middle East, but also fuels tensions within Europe, in particular in view of the presence of its large Muslim communities. Where conflicts are frozen, the absence of active violence creates the perception of stability. In turn international attention tends to be weak and sporadic. Yet frozen conflicts in terms of failed diplomatic peace efforts do not entail frozen dynamics on the ground. The inevitable evolution of the status quo through unilateral moves generates a latent potential for instability, ready to explode at any point in time. It was only in 1998 that EU member state Greece and candidate Cyprus were on the brink of war with soon-to-be-candidate Turkey due to the former's announced decision to deploy missiles in Cyprus and Turkey's threat of *casus belli* in response.

Ethno-political conflicts in the European neighbourhood, whether violent or frozen, thus threaten the stability and security of the EU due to their proximity and potential spill-over effects. In the light of these realities some actors within EU member states and institutions have taken a serious interest in many of these conflicts, attempting to contribute to their settlement and gradual resolution. The Union's proximity and its magnetic power of attraction has created the potential for a constructive European involvement in these regions. Indeed the process of European integration has proved pivotal in the creation of the West European 'security community' and the ensuing creation of dependable expectations that inter-state disputes and conflicts would be settled in peaceful ways. The eastern enlargement has also been motivated and legitimised as a project to promote pan-European peace and reconciliation. But can the Union play a role in promoting intra-state conflict settlement and resolution? If so, can it promote peace-making beyond its borders?

An EU role can be two-fold (Hill 2001). First, the EU framework of governance, law and policy can offer a conducive context for the settlement of ethno-political conflicts. Second, the Union can act in its neighbouring regions to generate incentives for the settlement and ultimate resolution of conflict. The role of the EU as a framework and as an actor are not unrelated, particularly in the EU neighbouring regions. Most EU actions in its neighbourhood, such as the accession process, the Stabilisation and Association Process or the Euro-Mediterranean Partnership make use of and are embedded in the EU institutional, legal and policy frameworks.

But how and to what extent can the Union export its forms of governance in a manner that can contribute to the amelioration and resolution of conflict beyond its borders? What are the limits inherent in the EU framework? What are the mechanisms through which EU actions or inactions could alter the incentive structure underpinning conflict? What are the unintended perverse effects of EU actions in its conflict ridden neighbourhood? This article attempts to shed light on the above questions.

## 1. The Role of Incentives in Conflict Settlement and Resolution

Before analysing the potential impact of the EU in its south-eastern periphery let us turn to conflict settlement and resolution theory. How can a third party such as the EU influence peace-making efforts?

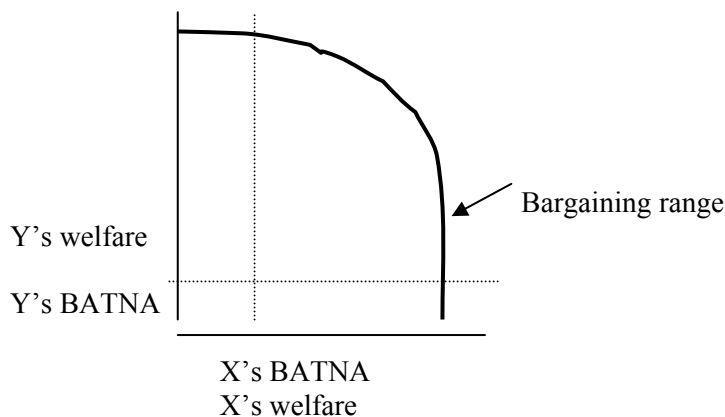
### A. Negotiation between Principal Parties

Negotiation occurs when two or more principal parties to a conflict acknowledge a conflict between them and realise that their aims cannot be realised through unilateral action. Negotiation is thus a mechanism for conflict settlement that can take place when the parties feel that they have common interests as well as conflictual zero-sum interests once the Pareto frontier is reached. Scope for compromise in negotiation can exist either because principal parties have different goals with respect to a common problem, or because they attach different values to commonly desired objectives (Zartman and Berman 1982).

Negotiation occurs along the bargaining range, or the range in which the win-sets of the principal parties overlap. This includes all points of agreement which both parties prefer to their 'Best Alternative to a Negotiated Agreement' (BATNA) (Fisher and Ury 1991). The BATNA represents each party's limit after which non-agreement becomes preferable to a negotiated settlement. In diagram 1, the bargaining range includes all points along and within the Pareto frontier bounded by the dotted lines showing the respective parties' BATNAs. All agreements within these boundaries are mutually beneficial to all parties. BATNAs need not be fixed over time. They are likely to alter with changing evaluations of agreement and non-agreement, changing expectations and possibly changing goals as well. Within the bargaining range there are numerous potential agreements. A process of strategic interaction in the light of imperfect information determines the exact point of agreement along the Pareto frontier. The concept of relative bargaining strength is fundamental in determining at which point agreement is reached (Lall 1966).

An important strategy to deliberately alter the relative bargaining strength is the use of threats and promises (Schelling 1966). The success of threats or promises depends both on their credibility and on their relative value to the recipient compared to the incremental value of his or her preferred course of action. Credibility in turn depends on the recipient's perception of the donor's capacity and willingness to carry out the declared commitment.

**Diagram 1: The Bargaining Range**



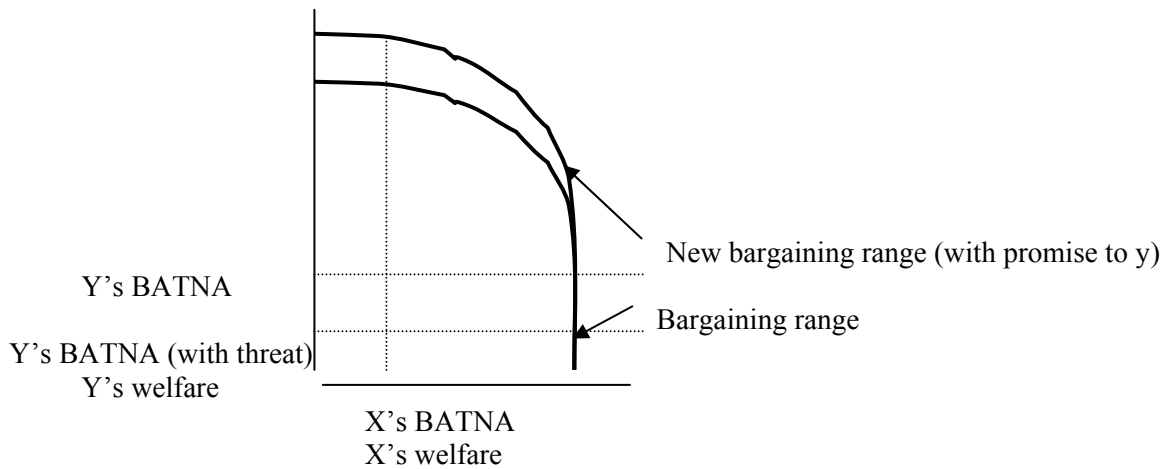
## ***B. Principal Mediation and the Use of Threats and Promises***

Within the context of actual or potential negotiations between principal parties, third party actors can play different mediating roles. Mediation has been broadly defined as a 'a process of conflict management related to but distinct from the parties' own efforts, where the disputing parties or their representatives seek assistance, or accept an offer of help, from an individual, group, state or organisation to change, affect or influence their behaviour, without resorting to physical force or invoking the authority of law' (Bercovitch 1992,7). This general definition can encompass different mediation roles, provided these are non-coercive and non-binding (hence, the distinction between mediation as a political non-binding exercise and arbitration as a legally binding activity).

Of particular interest in this article is the role of the mediator as manipulator, i.e., principal mediation. In this case the mediator adopts a structural role in negotiations. The manipulator negotiates directly with the conflicting parties, thus changing negotiations from a dyad into a triad. At times, the principal mediator may actually become the main negotiating partner of the conflicting parties. A three-way bargaining situation may arise whereby party A negotiates directly with the mediator who in turn negotiates directly with party B. Hence, in the case of principal mediation the difference between principal and third party roles may blur if not cease to exist. The principal mediator often retains links with the conflicting parties even following a settlement, for example as a provider of benefits such as security guarantees.

The mediator attempts to enhance the incentives for an agreement by altering the payoff structure of the bargain. Leverage is exerted to increase the gains from an agreement and the costs of no agreement. This can be done by adding, denying, promising or threatening side payments to negotiations thereby increasing the prospects for a win-win agreement. In extreme situations deals are struck more because of the prospect of receiving side payments than because of the substantive issues of the deal itself. Side payments can be conditional or non-conditional. Conditionality is a strategy whereby a reward is granted or withheld depending on the fulfilment or non-fulfilment of an attached condition. Conditionality is not a necessary condition for the effectiveness of a side-payment and can be used in different ways. A positive incentive may be provided unconditionally and demands for policy changes can be made later, when trust between the mediator and the principal party has increased. Alternatively, conditionality can be applied at different stages, and not exclusively at the time of delivery of the side payments.

Side payments in the form of threats and promises can take a variety of forms, including aid, trade, investment (Baldwin 1985), as well as security guarantees and membership of an international organisation. The aim is that of increasing incentives for settlement by altering the negotiating range. The bargaining range changes because of altered expectations of the mediator's future actions (see diagram 2). Through threats the mediator raises the costs of non-agreement and thus reduces the value of the BATNA. Through promises the mediator increases the expected gains from a deal (or reduces the costs of the concessions) and therefore raises the bargaining range by pushing outwards the Pareto frontier. Post-settlement guarantees may also serve as useful promises in so far as mutual distrust may be a major hindrance to both to an agreement and to its subsequent successful implementation (Walters 1999).

**Diagram 2: Shifts in the Bargaining Range**

However, while the apparent impact of threats and promises on the bargaining range may be identical, there are important differences between the two, both in terms of their nature and in terms of their effect (Cortright 1997 and Dorussen 2001). Positive incentives may provide advantages to the donor as well as to the recipient. This can increase the credibility of the promise. However it can also reduce its credibility when the delivery is supposed to be conditional on the principal party's compliance with the mediator's demands. In the case of economic sanctions, the effectiveness of a threat decreases or disappears if the recipient finds alternative suppliers. While positive incentives can be effective through unilateral action, sanctions often hinge on multilateral efforts, unless the affected party is highly dependent on a single supplier. However, promises as opposed to threats can create dependence, requiring the persisting involvement of the mediator to sustain peace. Another important issue concerns the extent to which the principal mediator can mobilise sufficient resources to offer valuable and credible side payments to all parties. If the aim is to reach a compromise through mutual concessions, the mediator must be sufficiently resourceful and skilful to exert influence on all parties. This is particularly important because a promise to one side may be viewed as a threat to the other. Finally, the relative value of a mediator's threat or promise is also critical. Equally important is the objective value of the cost or benefit and the subjective perception of it by the recipient. If the recipient feels it can live without the incentive or sanction, the incentive strategy would fail and simply result in an additional cost to the mediator.

When analysing the conditions for effective mediation a useful notion is that of ripeness. A conflict is ripe for resolution when the circumstances of a conflict change thereby increasing the likelihood of a negotiated settlement. Zartman identified the conditions necessary to create ripeness. Ripeness can occur in the event of a 'mutually hurting stalemate', i.e., a sufficiently painful situation which cannot be unilaterally altered by the principal parties (Zartman 1989,125). This tends to require a change in the power balance in favour of the weaker party. Alternatively, ripeness is created when parties are confronted with a precipice, i.e., when parties realise that matters have deteriorated or are about to do so.

Ripe conditions may emerge due to a contextual change. There may be a change in the domestic environment within a principal party, such as a change in leadership or a deterioration in the economy inducing leaders to raise their popularity through a foreign policy success (Stedman 1991). Ripeness can also emerge from changes in the international environment. An international change could make conflicting parties natural allies and thus foster a more cooperative atmosphere in negotiations. An external crisis can also affect ripeness. It can harm negotiations by increasing cognitive rigidity and intolerance, disrupting communication, or inducing a shift of attention to other issues. Alternatively, a foreseen crisis can create ripeness by increasing the expected costs of non-agreement and creating

deadlines. However, while an imminent crisis may generate ripeness, the resulting deals may be sub-optimal. This phenomenon has been referred to as the ‘musical chairs’ effect (Zartman and Berman 1982). While the music is playing the parties place themselves in the best possible position, ready to stand still when the music suddenly stops. But the way in which they ultimately stop and reach an agreement may be inherently unstable as well as unfair.

Ripeness is not necessarily the product of coincidental changes in the domestic and international environment, but can also be cultivated by third parties. This idea is particularly relevant in cases when conflicts are protracted because principal parties develop vested interests in the status quo. Principal mediators create ripeness through the use of threats or the creation of an impending deadline or ‘precipice’. However, while applied leverage can make a stalemate hurting, in order for short-term decisions to stick, it is necessary for the agreements to be sufficiently attractive. Threats must be complemented by positive incentives, which go beyond the mere lifting of the sticks.

### ***C. Critiques of the Conflict Settlement Approach***

The discussion above falls within a conflict settlement approach. The underlying assumption of conflict settlement scholars is that while conflict cannot be resolved easily it can be managed with the (re)creation of stable balances. Conflict is generated over objective, power-related issues deriving from a scarcity of resources or incompatible goals. Thus attempting to eradicate conflict is often a futile exercise.<sup>1</sup> What is desirable is to minimise the costs of conflict in terms of violence and disorder. This is achieved through a rational process of negotiation between principal parties, that aims reach a new (or a return to an old) balance through a compromise agreement. Mediators, preferably representing strong powers with the necessary skills and resources to exert leverage, aim to yield speedier agreements. They do so by shifting the balance of bargaining strengths and thus generating incentives to settle.

This approach has been criticised by advocates of conflict resolution for its inadequacy and superficiality in dealing with the causes of conflict. It may lead to cease-fire or settlement, but fails to encourage conflict transformation and resolution, an aim which is both desirable and possible. It attempts to manage conflict by eliminating excessive violence and instability. The conflict itself remains intact. As put by Marieke Kleiboer ‘[s]ettlement refers to a conflict management process in which one seeks to take away the negative consequences of violent conflictual behaviour. Conflict resolution requires that the underlying causes of conflict are effectively addressed’ (Kleiboer 1996, 382).

According to John Burton, conflict is not endemic in human nature, but arises under specific socio-economic structures in which basic human needs (BHN) are frustrated (Burton, 1990). These include both ontological needs (such as physical security or political participation) and subjective psychological needs (such as the recognition of identity). BHN are universal, permanent and essential to the fulfilment of the ‘humanness’ in man. Hence, unlike interests, BHN are non-negotiable. When BHN are frustrated the premises for conflict emerge. Actual conflict may then either emerge or remain latent.

Burton believes that BHN are not in short supply. In fact their fulfilment is mutually reinforcing. The more secure is A, the more security will B enjoy. What may be mutually incompatible are particular ‘satisfiers’, expressed through bargaining positions. It is the strategy (or type of satisfier sought) which leads to conflict. For example, within most ethno-political conflicts, the drive for secession is not an end in itself. The underlying basic needs are those of communal security, recognised identity and self-determination. The means through which the smaller community often seeks to satisfy these needs are positions (satisfiers) on independence or confederalism. Yet these chosen satisfiers give rise to or entrench the conflict with the metropolitan state. The latter, normally corresponding to the larger

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<sup>1</sup> This is not to say that conflict settlement approaches, associated with realist and neo-realist theories exclude cooperation. An important distinction is made by Robert Jervis, who points out the difference between ‘offensive’ and ‘defensive’ realists. While the former see much less room for expanding cooperation, to the latter much depends on the precise situation, i.e., the severity of the security dilemma (Jervis 1999)

community, seeks to retain its territorial integrity in order to satisfy its own security and identity needs. It refuses to go beyond provisions for local autonomy or federalism. Hence, the persisting conflict.

Conflict is thus intended as the incompatibility of subject positions (Diez, Stetter and Albert 2004). These subject positions include the articulation of objective goals through the lenses of subjective interests and identities. While basic needs are objective, chosen satisfiers are not. Bargaining positions are a result of subjective attitudes, perceptions, recollections and experiences, which can distort the rational pursuit of objective needs.

Conflict resolution approaches focus on the search for alternative satisfiers. The objectives (or BHN) remain unaltered, but the means through which they are pursued (satisfiers) can be changed to give way to creative and mutually beneficial solutions (Gurr 1994,365) Altering the chosen satisfiers requires a re-conceptualisation of relations between principal parties. Re-conceptualised relations in turn aids the transformation of a securitised identity-based conflict into a more instrumental issue-based conflict (Pearson 2001). Third parties should intervene to assist the peace process, playing a reactive and supportive role. The mediator should be impartial and should not impose solutions. It should help the parties find acceptable outcomes, by eliminating misperceptions and other obstacles to communication. Mediators should 'empower' the mechanisms for indigenous peace-building, rather than prescribe ready-made solutions (Lederach 1997).

Critical theorists have mounted a further critique of the 'traditional' literature. They view both conflict settlement and conflict resolution approaches wanting (Fetherston 2000). In different ways, both engage in conflict management, without tackling the underlying systems generating conflict. The conflict settlement school does so explicitly. It accepts the given power configuration and attempts to conserve it by managing conflict. But also the conflict resolution schools fails to deliver resolution through its exclusive focus on subjective processes. The focus on perceptions and impartial hands-off mediation suggests that underlying structures generating conflict are left untouched. Conflict resolution efforts can solve, resolve and re-resolve the same conflicts through a re-conceptualisation of relations. But the objective roots of conflict are not tackled. This is not to say that the transformation of perceptions is not important. Simply, that alone it is insufficient.

Yet many of the concerns of critical thinkers were already integrated in the work of structuralists such as Johan Galtung in his analysis of structural violence (Martinelli Quille 2000). In a seminal article, Galtung elaborated the concept of violence, distinguishing between intentional, manifest, physical and personal violence as opposed to unintended, latent, psychological and structural violence (Galtung 1969). Structural violence implies violence which is inbuilt in the system, characterised by inequality, underdevelopment and un-integrated socio-political systems. Structural violence does not follow the common 'subject-verb-object' pattern. There is no subject involved, whose intentions and actions are to be blamed and punished. The elimination of structural violence is of fundamental importance to the quest for peace. Negative peace can be achieved with the elimination of personal violence, through a well-functioning legal deterrent system. But the attainment of positive peace, through the eradication of structural violence is much more arduous. Positive peace can only be achieved through structural change. In this respect, these arguments give almost as much importance to underlying structures as realist approaches do (Groom 1997, Hoffman 1987).

Critical theories may indeed be too 'critical' of the conflict resolution analysis. Proponents of the conflict resolution literature do focus on structural conditions that generate violence. Yet, while their analysis pays due attention to both objective and subjective elements of conflict, their prescriptive component focussing exclusively on subjective elements may be over-idealistic. The concept of compatible BHN leads Burton and others to concentrate predominantly on the need to alter subjective attitudes through problem-solving workshops and third party consultation. The argument is that with the alteration of subjective factors, objective conditions would also change. But this automatic link may not always exist. As such, the prescriptions of the conflict resolution school often fail to address objective structures, even if structures are acknowledged as being critical to the quest for positive peace.

#### **D. Complementarity between Conflict Settlement and Conflict Resolution Approaches**

Yet conflict settlement and conflict resolution approaches need not be mutually exclusive (Bloomfield 1995). On the contrary they can be complementary for three reasons.

First is the changing mix of objective and subjective elements across the different stages of conflict. The essential idea here is that conflicts evolve over time, and that at each stage a conflict is constituted by a different mix of objective and subjective elements (Fisher and Keashley 1996). In so far as different methods of third party intervention are better suited to deal with objective or subjective components of conflicts, the choice of third party roles should vary over time according to the objective-subjective mix. In the initial discussion and polarisation stages, third party conciliation may help to prevent the emergence of substantive conflict. In the stages of escalation and de-escalation, pure mediation can deal with the substantive issues at stake by formulating proposals. In the segregation phase, principal mediation may be appropriate. Objective and subjective elements may not only vary over time, but at any given moment different aspects of the conflict may include different objective-subjective mixes. Hence, different mediation techniques may be required simultaneously as well as sequentially to tackle different aspects of conflict.

Second, conflict settlement and resolution efforts can be mutually reinforcing. All-encompassing conflict transformation and resolution can only gain momentum once a settlement is reached. Particularly in the case of intra-state secessionist conflicts with blockaded frontiers and segregated communities, grass-root activities can only become widespread once elites negotiate an agreement. Conflict settlement thus should not be viewed as an alternative. It is rather an indispensable complement to conflict resolution efforts. Likewise conflict resolution activities aimed at inter-societal reconciliation should both cultivate the ripe conditions for an agreement and help to consolidate peace once an agreement is reached.

Finally, principal mediation together with third party consultation and conciliation may aid the search for alternative solutions. The BHN literature stresses the importance of basic needs attained through a reformulation of subjective attitudes. Nonetheless, the belief that win-win satisfiers will emerge automatically provided subjective elements are altered may be wishful thinking. Some conflicts are indeed characterised by seemingly zero-sum alternatives and scarce resources. Changes in subjective conditions cannot resolve conflicts alone. Innovative solutions require the alteration of objective realities as well. Furthermore, particularly at the level of elites, conflict often persists not only because of misperceptions and a securitised discourse. In many conflicts, while the populations may suffer from the status quo, their leaderships have vested interests in them. Leaders may be relatively content with a stalemate, and as such they will lack the political will to reach an agreement. In such cases, it is imperative for third parties to cultivate ripeness by altering realities and in turn inducing the top-level to settle.

## **2. The Potential of the EU Framework to Support Conflict Settlement and Resolution**

In many of the frozen conflicts of the Wider Europe, the principal parties are locked into a stage of segregation. Segregation entrenches, as vested interests form and consolidate around the status quo. Yet as noted above, segregation does not entail frozen dynamics on the ground. On the contrary, while diplomatic peace efforts fail to shift the status quo, the realities on the ground evolve through the interaction between the domestic actors and interested third parties. In these cases, principal mediation directed at transforming the underlying interest configuration can be essential. Yet drawing from the critique of the conflict settlement approach, a change in structure is important to the extent that it transforms the underlying conditions that gave rise to conflict. Could the EU framework contribute to the search for win-win satisfiers?

### **A. The EU Framework and Governance**

In most ethno-political conflicts with an secessionist or irredentist character, peace efforts hinge on finding mutually agreed solutions to the delicate questions surrounding state sovereignty, including

constitutional provisions and governing arrangements. Negotiations are often marred by the difficulty of finding common ground between the principal parties' absolute and incompatible positions over statehood and sovereignty. The metropolitan state insists on the notion of territorial integrity and indivisible state sovereignty, and as such accepts at most limited forms of autonomy and federalism. The smaller (secessionist) entity, seeking some form of national self-determination, calls for divided sovereignty, and favours confederal solutions if not outright independence.

When ethno-political conflicts are marked by incompatible positions over state sovereignty *and* they are either in the process of accession or have a realistic prospect of entering it, the Union's multi-level framework of governance could raise the potential for win-win agreements. Conflicts that would fall under this category include the decades-old Cyprus conflict, as well as the conflicts in the western Balkans. In these cases, the EU's multi-level framework of governance could aid conflict settlement and resolution efforts by allowing for a fundamentally transformed application of statehood, sovereignty and subsequently of secession. A transformed application of sovereignty within the Union facilitates the search for alternative satisfiers that lie beyond the dichotomous options of single or divided sovereignty.

Although the Union is predominantly shaped and constituted by its member states, through its policies and its institutions it mitigates the black-and-white legalistic differences between monolithic and divided sovereignty. Sovereignty in practice is shared and no longer absolute and undivided. Decision-making and implementation in a given policy domain is determined by a particular allocation of competences between levels of government. While different levels of government remain legally distinct, they become practically inter-related through different channels of communication and policy procedures. The supra-national level penetrates the national and sub-national levels as several competences are dealt with either exclusively or in part by it. As a result, the role of the second (state) level within the EU is fundamentally transformed.

The EU framework also increases the scope for third (sub-national) level roles in EU policy-making. This does not entail that EU membership necessarily upgrades the roles of the third tier of governance. It rather allows enhanced opportunities for the development of the third level. Whether these opportunities are taken depends on the internal structure of the member states, i.e., on the extent to which regions already have pronounced roles within their state. If and when regional levels of government play important roles within their member state, their position can be enhanced further within the EU. According to some scholars the role accorded to EU regions is still too circumscribed (Laible 2001). However, it is considerably more extensive when compared to the international system at large.<sup>2</sup>

Below are two ways in which the EU framework may transform the meaning of sovereignty, and as such aid conflict settlement and resolution efforts. Both examples rest on two ideas. The first is that within the Union, levels of government (the European, the national and the regional) become increasingly inter-dependent. The overall independence of each level is reduced. The search for indivisible sovereignty (whether this would rest in the centre or in the regions) thus becomes obsolete. The second idea is that within the EU, federal systems that normally allow for a sharing of internal sovereignty, can also allow for the expression of limited external sovereignty by federated entities. To the extent that this is the case and it is appreciated by the smaller entity in ethno-political conflicts, the perceived acceptability of federal (as opposed to confederal) solutions may rise. This in turn can help bridge the gap between the proposed satisfiers advocated by the principal parties to the conflict.

Perhaps the most significant way in which sub-state actors can express an element of external sovereignty within the Union is through their ability to participate in EU decision-making within the

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2 An interesting example to illustrate this point is Belgium's membership of the World Organization for Tourism (WOT). As a result of the 1993 constitutional review in Belgium which federalised foreign policy, in 1997 the Belgian federation left the WOT given that the federal level had no internal or external competence on tourism matters. In 1997 Flanders acceded to the WOT. However, in view of its non-state status, the WOT could only accept Flanders as an associated member, without the right to vote. In other words, because of the persisting state-centric nature of the international system, federalised member states find themselves unable to fully function within the mechanisms of global governance.

Council of Ministers. Prior to 1991 only ministers of national governments could represent member states in EU Councils. In 1991, at the insistence of federal Belgium and Germany, one of the revisions of the EU Treaty allowed member states to be represented by ministers from sub-national governments when a particular Council legislated in areas of sub-state competence. In particular the way in which federal Belgium has made use of the opportunities under EU law demonstrates how sub-state actors can play a direct role even in the most intergovernmental institution of the Union, the Council of Ministers (Emerson and Tocci 2002). It shows how the notion of indivisible internal and external sovereignty can be blurred. The roles of second and third-level players in the case of Belgium's participation in EU decision-making have become far less distinct. In a number of policy areas the sub-state level effectively enjoys second-level player status (Kerremans and Beyers 2001).

The EU framework can also encourage a transformed interpretation of sovereignty in virtue of the direct links that exist between the sub-state and the EU level of government. The supra-national level has developed policy competences in several areas that affect or are domestically dealt with by the regions, even in states which are not internally federalised. These include environmental protection, research and technology, regional policy, social policy, education and culture. They also include financial instruments, and most notably structural funds. In so far as specific EU policies affected directly EU regions, the Commission established direct contacts with the third level. The two main channels for supra-sub-state relations are the Committee of the Regions and direct regional representation in Brussels. These links are greater and more extensive when a particular region already has significant autonomy within its member state. Direct links between supra and sub-state levels can enhance the role of the sub-state entities, in so far as their role is no longer confined to their member state. To the extent that sub-state opportunities are enhanced, the importance of enjoying separate sovereignty and statehood is reduced. Again, this could induce principal parties and in particular secessionist entities to view more favourably federal solutions.

### **B. The EU Framework and Citizenship**

Ethno-political conflicts are typically not merely issue-related conflicts, but security *and* identity-related conflicts. In view of the close connection with identity, positions on citizenship also tend to be characterized by dichotomous and mutually incompatible bargaining positions. Principal parties implicitly or explicitly view identity and citizenship through strictly ethnic and highly politicized lenses. This in turn leaves little space for negotiation and compromise. The larger community identifies with the metropolitan state and advocates single citizenship (identified with the larger community). Implicitly or explicitly it would prefer to see the reintegration of the minority community into the majority culture. The smaller community, fearing this very reintegration (considered as domination) calls for divided citizenship. The 'country' is considered to be constituted not by one, but by two (or more) peoples. An 'ethnic' and thus exclusive view of citizenship in turn often also reduces the scope for agreement on related questions such as refugee return, immigration, and minority rights other key elements on the conflict settlement agenda.

EU citizenship would not eliminate these tensions. However, the acquisition of EU citizenship could allow a gradual transformation of the concept of citizenship. Within the EU, citizenship is acquiring a different meaning and is being increasingly associated with human, economic and social rights, rather than with exclusively national or community affiliations. In other words, by fostering the view of a more 'civic' rather than 'ethnic' meaning of identity and citizenship, the Union could contribute to the search for alternative solutions to ethno-political conflicts within its borders.

The EU framework also fosters the development of multiple rather than exclusive identities (Diez 2002). EU citizenship becomes an additional layer of identification, which does not compete with national identifications. This additional layer of EU citizenship could also ease the debate on whether an ethnically divided country should have single or divided citizenship. Citizenship could be viewed as having three rather than only one dimension.

### ***C. The EU Framework and Borders***

The transformed the meaning of borders within the EU could also raise the potential for the resolution and transformation of ethno-political conflicts. The liberalization of the movement of goods, services, capital and persons within the Union dilutes the meaning of territorial boundaries between member states. As such, in cases of ethno-political conflicts where the drawing or re-drawing of territorial boundaries is an issue on the conflict settlement agenda, the EU framework could raise the potential for an agreement. It would do so by increasing the feasibility of a non-linear border. In other words, a map of straight lines would not be as necessary or rational within the EU framework given the merely administrative nature of both intra and inter-state borders in the EU. This could in turn facilitate an agreement on territorial adjustments.

In addition, specific Commission funds have been created to undermine inter-state borders and promote new European regions (euroregions) straddling EU member states. Commission INTERREG funds support interregional associations and networks. These regional structures are highly institutionalized and have their own binding decision-making procedures. They have turned several border regions into ‘spaces of governance in their own right’ (Christiansen and Jorgensen 2000, 66). Within the accession process, the Commission has also intervened to foster trans-border cooperation in conflict areas. The Union’s financing of the Nicosia master plan for the development of the divided city is a case in point.

Structural funds could also be an important asset where the redefinition of territorial borders is contingent on economic considerations. In conflict ridden countries, structural funds could be spent on investment in renewal of economic infrastructures specifically linked to issues of territorial readjustment and the opening of previously blockaded frontiers.

In other cases, regional policy and structural funds could induce decentralisation. In some conflict ridden countries, decentralisation may be part of the solution. However, the very existence of an ethnic conflict renders the mere discussion of decentralisation highly securitised if not a taboo subject in several contexts. In these cases, the existence of EU regional policy and the availability of structural funds for the most backward areas, may contribute to an increasing acceptance of internal administrative boundaries with a member state. This outcome, while not being directly driven by conflict resolution needs, may contribute indirectly to that very end.

### ***D. The EU Framework and Individual, Communal and State Security***

Finally, the EU framework can increase real and perceived individual, communal and state security. An increased sense of security, whether at individual, group or state level can in turn facilitate conflict settlement and resolution efforts, particularly when the difficulty in reaching mutually agreed solutions is exacerbated by the mistrust between the principal parties. In this respect the Union, in view of membership, may provide important forms of non-military security guarantees.

EU membership can be viewed as a powerful guarantee of state security. It is far less likely that a state would be attacked (both from the outside and less still from the inside) as an EU member state. As such, the need for hard external security guarantees, frequently a contested item on the conflict settlement agenda, would diminish or transform.

EU membership can also act as an important guarantee of individual security through its legal system, emphasising human rights, non-discrimination, equal opportunities and fundamental freedoms. Individuals in EU member and candidate states, required to be members of the pan-European Council of Europe, have the right to individually bring cases to the European Court of Human Rights and be awarded compensation under it. The 1993 Copenhagen criteria setting out the conditions of membership explicitly mention democracy, human rights and the rule of law. Under the 1997 Treaty of Amsterdam, articles 6 and 7 allow for the suspension of the voting rights of a member state in the event of serious breaches of these legally entrenched rights. In the TEU, articles 12 and 13 also explicitly guarantee non-discrimination based on sex, racial or ethnic origin, religion, belief,

disability, age or sexual orientation. They are complemented by a number of directives assuring equal opportunities in the *acquis communautaire*. Since 2000 the Charter of Fundamental Rights also entrenches individual human rights in the Union's system of law.

Individual human rights are embedded also in the Union's contractual relations with non-candidate third states. Under the EU's association agreements with non-EU Mediterranean partners, article 2 stresses that human rights are an essential part of the relationship. The 1995 Barcelona declaration defines these responsibilities as: 'respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms, including freedom of expression, freedoms of association for peaceful purposes and freedom of thought, conscience and religion, both individually and with other members of the same group, without any discrimination on the grounds of race, nationality, language, religion or sex'. In the event of a fundamental breach of these responsibilities, the Union is entitled to take 'appropriate measures', which could include a suspension of the agreement.

Yet the full respect of individual rights does not make the Union necessarily insensitive to communal or group rights. Article 151 of Treaty of Amsterdam recognises regional diversity as a common European value worth preserving. Within the accession process one of the 1993 Copenhagen political criteria is the respect for minority rights. The EU also draws from the norms of other pan-European organizations such as the Council of Europe and the OSCE and their emphasis on group rights (i.e., the Council of Europe's 1995 Framework Convention for the Protection of National Minorities or the work of the OSCE's High Commissioner for National Minorities).

Going further still, in order to safeguard communal security in special cases, the Union has accepted some exemptions to the full implementation of the *acquis communautaire* in its Treaties of Accession. In Finland, the Aaland Islands represent an autonomous entity of Swedish speaking Finnish citizens, approximately 25,000 in number. The right to 'official domicile' on the islands is controlled by the Aaland authorities and is restricted to Swedish speaking people. Without official domicile, individuals cannot participate in elections, stand for local office, own property or exercise a profession without a license of the Aaland authorities. These special arrangements were retained upon Finland's EU membership through a Protocol annexed to the Treaty of Accession.

### 3. The EU as an Actor in Conflict Resolution

The EU framework could add new and innovative options to the search for peace in its neighbourhood. But adding alternative options also necessitates the existence of domestic political actors who are willing to seize them. Without a domestic base an external anchor can only have limited and superficial effects. The domestic base in turn alters the precise applications of the new EU inspired options (Olsen 2001). Which are the mechanisms through which the EU, as an actor, could convey its potential as a framework to the principal parties in conflict regions? How do these mechanisms work their way into domestic political dynamics of conflict parties?

The literature on Europeanisation could offer important insights into these dynamics. Europeanisation can be generally taken to mean the process of political and economic development in line with west European, or indeed western standards. In Europe, it is externally supported not only by the involvement of the EU, but also of other external actors and multilateral organisations. These include the OSCE and the Council of Europe in the political domain, NATO in the security field and the IBRD, EBRD and the IMF in the economic and financial spheres. In fact, it is the role of these organisations, rather than of the EU, that represents the predominant external mechanisms in the 'Europeanisation' of several peripheral regions of the Union, where the latter's interest and involvement is minimal (i.e., the south Caucasus or Central Asia). 'EUisation' instead can be understood as a particular brand of Europeanisation, that entails the far more detailed and binding baggage of the EU *acquis*, and specifically relates to the integration into EU structures.

Despite this important distinction, to which we return to below, the concept of Europeanisation in the academic literature has been applied principally to the effects of the EU framework on EU member state domestic structures, policies, norms and procedures (Borzel 2001). In other words, Europeanisation has been typically analysed in its EUisation form. While, still concentrating on the EU dimension, some authors have focussed on the effects of Europeanisation beyond the EU's borders, thus exploring the foreign policy dimension of this phenomenon (Grabbe 2003; Schimmelfennig, Engart and Knobel 2001).

So far the analysis of Europeanisation has not been applied to the more specific foreign policy objective of conflict resolution. The following sections explore the relevance of this phenomenon in the field of conflict settlement and resolution. In this context, the EU framework and actor dimensions are inter-connected. The EU as a foreign policy actor could use the potential in its framework to create or enhance incentives for peace-making. EU actors could in principle induce or support peace efforts through the integration of conflicting parties into EU structures.

### ***A. Domestic Change through Conditionality***

Particularly over the last decade and in the process of the eastern enlargement, the EU developed its policies of conditionality as means to transform the governing structures, the economy and the civil society of the candidate countries. The offer of full membership has been the most powerful form of conditional reward on offer by the Union.

The Union developed two main steps in the process: gate-keeping, and bench-marking and monitoring (Grabbe 2001). Gate-keeping refers to the process whereby depending on the depth and speed of the process of transformation, EU institutions determine when and whether to give the green light either to the different stages along the accession process or to the delivery of additional benefits. The stages which applied to the CEECs were: privileged access to trade and aid, signing and implementing enhanced association agreements, opening accession negotiations, opening and closing thirty-one chapters of the *acquis*, signing the Accession Treaty, ratifying the Accession Treaty and finally entering the EU.

The Union has extended also other benefits to its neighbours that are either complementary or alternative to full accession. Complementary benefits include the Stabilisation and Association Process for the Western Balkan countries, expected to result into a full accession process, or the inclusion of Turkey in the EU customs union. Other benefits are viewed as alternatives to membership. These include the disbursement of financial assistance (in the case of all non-EU Mediterranean partners) or enhanced association agreements (in the case of Israel). EU institutions are also currently in the process of developing a Wider Europe initiative, directed at the EU's new neighbours, which are not foreseen (for the time being) to become full members. The conditional benefits on offer are expected to include participation in the EU single market without institutional representation and decision-making power. Also in the delivery of these alternative benefits, the Union is developing stages of negotiation, agreement and ratification in which EU actors could exercise influence.

During the last decade, the Union benchmarked and monitored the progress of the candidate states. The two main instruments were the Accession Partnerships and the Commission Progress Reports. The Accession Partnerships set out a list of short and medium-term recommendations that candidate states were expected to fulfil in order to satisfy the 1993 Copenhagen criteria. The Accession Partnerships were based on and revised annually according to the Commission Progress Reports. The Reports overviewed the developments in the candidates related to the compliance with EU criteria.

But how could EU conditionality affect conflict settlement and resolution efforts? The impact on peace efforts could be direct and indirect. Progress along the stages of accession or additional benefits could be made directly conditional on peace-making. The 1993 Stability Pact promoted by French prime minister Balladur was intended to diffuse minority and border tensions in the CEECs. Unless the candidates settled their most salient disputes, they would be prevented from opening accession

negotiations with the Union. The Pact indeed promoted agreements between Slovakia and Hungary (1995) and later between Romania and Hungary (1996). In other cases, such as Cyprus, direct conditionality on the metropolitan state (the Greek Cypriot side) was lifted, but retained for the break-away entity (the Turkish Cypriot side), given the continued policy of non-recognition. It was also exerted increasingly on Turkey, particularly since 1999.

Alternatively or in addition, conditionality could have an indirect effect on conflict resolution efforts by affecting policy fields linked to the conflict resolution agenda. As discussed above, ethno-political conflicts can encompass several institutional and policy dimensions such as government structures, constitutional systems, trade, refugee and asylum policies, borders and border regimes and security arrangements. Changes in positions or realities on any of these domains is likely to affect peace efforts by affecting the bargaining positions of the state or entity in question. For example, Commission requirements on trade policy vis-à-vis the State Union of Serbia and Montenegro affected the positions of Serb and Montenegrin authorities towards each other and towards the State Union itself. EU demands on Turkey to extend language rights to its non-Turkish population affects Turkey's Kurdish question. The conditional disbursement of budgetary assistance on the reform of the fiscal sector in the Palestinian Authority affects positions determining the future of a Palestinian state.

But how do these policies of conditionality work their way into domestic political dynamics affecting domestic practice (Borzel and Risse 2000)? Rational institutionalism argues that actors are rational, goal-oriented and purposeful. They engage in strategic interactions using their resources to maximise their utilities on the basis of ordered preferences. They weigh the costs and benefits of different strategies anticipating the other's behaviour. EU conditionality generates 'simple learning': strategies and tactics change, while underlying interests and preferences do not— 'institutions are a structure that actors run into, go 'ouch', and the recalculate how, in the presence of the structure, to achieve their interests' (Checkel 1990:90).

EU conditionality can either have a direct effect by prescribing a particular solution or ruling out another, or an indirect effect by altering the domestic opportunity structure (Knill and Lehmkuhl 1999). In the former case, EU conditionality can affect the range of feasible solutions in peace negotiations. If the EU categorically rules out the option of secession within a candidate state, the latter may have to concentrate on other solutions such as a federation. For example, all European institutions explicitly ruled out the separate accession of two states in Cyprus, as well as the accession of northern Cyprus together with Turkey.

Yet given the EU's limited ability to categorically prescribe laws and policies beyond its borders, conditionality generates domestic change principally by altering the domestic opportunity structure. EU conditionality alters domestic political opportunities by offering resources and legitimisation to some actors while constraining the ability of others to pursue their goals. The empowerment of some groups over others may occur indirectly by providing support and legitimacy to the positions advocated by particular groups, or directly by supporting politically or financially the domestic groups themselves. For example, EU funding has been made available to bi-communal groups in Cyprus, the Middle East, the Balkans, Northern Ireland and the Caucasus. Technical, political and financial support has been provided also to the efforts of moderate political forces in conflict situations. In the autumn of 2003 member states expressed their support for the Israeli-Palestinian 'Geneva initiative' led by former Israeli Minister of Interior Yossi Beilin and PA Information Minister Yasser Abed Rabbo.

The extent to which adaptational pressures generate domestic change depends on the 'goodness of fit' between EU and domestic practices (Cowles, Caporaso and Risse 2001). To what extent is there a connection or overlap between domestic practices and EU standards and conditions? When the overlap is complete or entirely absent, conditionality is least likely to have effect. When instead some groups within the domestic political system are working towards change in a similar direction to that advocated by the Union, conditionality could strengthen these groups and/or modify the direction of

policy change. When EU conditionality legitimises the discourse of particular domestic actors, EU conditions are absorbed or accommodated and become part of domestic political dynamics.

But the extent to which these conditions actually alter domestic practices may be limited. Domestic positions are reframed though a different discourse, which is strengthened by an EU dimension. Real policy practices or bargaining positions do not necessarily change. Greek Cypriot positions historically advocated the full liberalisation of the three freedoms of movement, settlement and property throughout the island. The need for compliance with the *acquis communautaire* allowed the Greek Cypriot leadership to reframe its unchanged positions through an EU discourse. The ‘three freedoms’ in Cyprus had to be liberalised because they overlapped with the ‘four freedoms’ of the EU *acquis*.

However, EU conditionality may also transform domestic policies or positions. This may occur when EU conditionality contributes to a change in the domestic political configuration, for example influencing electoral results. The ousting of former Slovak prime minister Vladimir Meciar when in 1997 the Union refused to open accession negotiations with Slovakia due to the country’s human rights record, contributed to a victory Dzurinda in the autumn of 1998. The unprecedented rise in the popularity of the Turkish Cypriot pro-EU and pro-solution centre-left parties in the 2003 parliamentary elections was also explained by the forthcoming unilateral accession of the Greek side of the island together with the unprecedented criticism of Rauf Denktaş by EU actors as well as by the US administration and the UN Secretary General.

### ***B. Domestic Change through Social Learning***

Domestic change can also occur through a transformation of perceived identity and interests as domestic actors come to internalise the norms and logic underpinning the EU system. Parties may voluntarily seek alternative satisfiers to their basic human needs. Through participation in or close contact with the EU institutional framework, parties may come to alter their substantive beliefs, visions and purposes (e.g. changing views on human rights, federalism or democracy). They may also alter their preferred ‘ways of doing things’ and codes of action (i.e., preferring negotiation and compromise over unilateral actions and brinkmanship). Subsequently they will alter their chosen strategies and tactics. This is what Checkel has defined as a process of complex learning (as opposed to simple learning). It occurs when ‘agents, in the absence of obvious material incentives, acquire new values and interests; their behaviour in turn, comes to be governed by new logics of appropriateness’ (Checkel 1999:90).

The social constructivist literature argues that through participation in common institutional structures, actors change their identity and therefore also their perceived interests and ensuing action. This can occur in a top down fashion, where ‘change agents’ or ‘norm entrepreneurs’ in close contact with the international framework, persuade other domestic elites and the population to change their interests. Bottom-up change is also possible. In this case, non-state actors unite in their support for international norms and mobilise to induce decision-makers to change state policies. Finally, transformation may take place through structural change, i.e., through institutional interaction over time.

Again the goodness of fit is an important determinant of transformation. The more legitimate and compatible are international norms with domestic norms, and the more likely is a socialisation effect. If international norms do not resonate with the historical, institutional, political, and socio-economic experience of the third party, social learning is less likely. Another important determinant of the degree of transformation through social learning is the density of institutional contact. The more contact there is and the more likely is process of transformation through social learning and persuasion.

But are mechanisms of change through conditionality and through social learning mutually exclusive or complementary? Important differences certainly exist between the two distinct analytical concepts. Change through conditionality may occur in the short to medium term as actors, with unchanged identities and interests simply alter their actions to account for a change in context. The more deep-rooted change that occurs through the transformation of identity and interests can only

occur over the longer term. However, one mechanism can give way to the other (Borzal and Risse 2003:74-75). While in the initial phases a rational institutional account may better capture the mechanisms of change, over the longer term change no longer occurs through coercion and incentives, but through an endogenous processes of social change. Over time and through institutional contact actors may alter their perceived identity and interests. They first adopt a change in discourse, which is then internalised and results in a genuine process of identity and interest change.

This discussion relates back to the conflict settlement and resolution approaches and the potential complementarity between the two. Through conditionality, a principal mediator may alter the incentive structure underpinning conflict and induce an agreement. However, the subjective and psychological aspects of conflict do not necessarily change. A far deeper process of social change, relating to the principal parties' perceived identities and interests, is necessary to foster a longer term process of conflict transformation and resolution.

Above we discussed how particularly at the level of elites, conflict often persists not only because of mutual misperceptions but also because of vested interests in the status quo, that could be transformed through the actions of a skilful and resourceful mediator. These actions could take the form of EU policies of conditionality. However, the very fact of being subject to EU conditionality, over the longer term can give rise to a deeper process of societal change. EU conditionality entails the participation of elites in EU structures (i.e., in the context of accession or looser forms of association). The institutional contacts that these relations entail can give rise to a deeper process of social change, particularly at the level of elites. Furthermore, EU conditionality can induce an elite-driven settlement. This in turn allows for a deeper process of societal reconciliation (i.e., conflict transformation and resolution) that is possible on a large scale only after an initial agreement is reached.

This is not to say that conditionality automatically gives rise to endogenous processes of social change. If policies of conditionality are viewed as insufficiently legitimate, if existing domestic practice is uncontested, if EU norms are insufficiently related to domestic norms or if institutional ties are too weak, conditionality may either have no effect or perverse effects within third parties. More specifically, if for example conditionality is perceived by domestic actors as favouring one side of the conflict, the likelihood of a positive socialisation effect on the other side is reduced. Furthermore, conditionality can also give rise to settlements that do not necessarily open the way to conflict resolution. They would do so only to the extent that the induced settlements account for the parties' basic needs, creating a conducive environment for societal reconciliation. Otherwise, rather than absorption, accommodation or transformation, conditionality may lead to retrenchment into ethno-nationalism. This indeed may still be the case in the western Balkans where settlements were either imposed by western powers (i.e., the Dayton agreement in Bosnia) or strongly induced (such as the Belgrade agreement in Serbia-Montenegro).

#### **4. The Potential Limits of the EU in Conflict Resolution**

This section examines the possible limits of the EU's role in conflict resolution. When does the Union have no impact or perverse effects in conflict zones? When does the role of the Union lead to retrenchment rather than positive transformation? When does it generate secessionist tendencies instead of exporting notions of shared sovereignty, porous borders and the respect for human and minority rights?

##### ***A. Limits in the EU Framework as an Alternative Context for Conflict Resolution***

The principal problem of the EU framework as an alternative context for conflict resolution is that it is most effective when all of the conflict parties are included in it. In other words, all principal parties must be member states, or part of a member state. This is naturally not to say that if all parties are included in the Union, the latter acts as a panacea for conflict settlement and resolution. The persisting

problems of Northern Ireland, the Basque country are but two reminders of the limits of the Union to induce intra-state conflict resolution (Meehan 2000).

Nevertheless, the point here is that *if* the Union is to act as a framework that allows for a different interpretation of sovereignty, borders, citizenship and of security, it is most likely to do so when all of the parties are in the EU. Only the protection of human rights and the rule of law is not necessarily confined to full EU members. Disseminating these alternative notions either through the accession process or through the export of the EU model (by encouraging sub-regional integration) is possible. But it is less likely to be effective.

But attempting to diffuse the EU framework and the options for conflict resolution which arise within it, may not only fail to yield positive results. It may lead also to retrenchment when some of the conflict parties are in the EU (or close to accession) while other direct or indirect parties to the conflict remain outside it. A classic example of this problem is the effect on borders. The sections above argued that when conflicting parties are included in the EU, they may endorse an alternative conception of territorial borders. Stripping much of the significance of territorial borders may in turn facilitate conflict resolution. Yet when one party is on the inside and another is on the outside the opposite is often true.

Convincing arguments exist as to how and why the Union cannot and should not impose new hard borders on its enlarged frontiers (Zielonka 2001 and 2002). However, to date the Union has required from the candidate countries the adoption of the Schengen *acquis*, that establishes hard borders between the inside and the outside and contrasts sharply with the soft (and almost non-existent borders) within the Union. From the outside this system is viewed as a form of inequality, discrimination and exclusion, in contradiction with the values the Union professes to uphold and export. In turn, if conflicting parties find themselves on opposite sides of the EU divide, the prospects for conflict resolution may well reduce.

It is likely that overtime the borders separating the new EU member states and the remaining eastern European states will not be as hard as those foreseen by the Schengen arrangements. However, it is also likely that the southern and south-eastern borders of the Union will remain relatively hard. In other words, while a new 'Maze Europe' is likely to develop around the eastern frontiers of the Wider Europe (Zielonka 2002,13), old 'Schengen Europe' is likely to persist along the southern peripheries of the Union. And the fault-lines of several ethno-political conflicts in the Wider Europe, lie in these very peripheries. To different degrees and at different points in time, complications related to this *problematique* may emerge in the Transnistrian conflict (with Romania in the accession process and Moldova outside it), the Cyprus conflict (with Greece and south Cyprus in the EU and Turkey outside it) or the Kurdish question (with Turkey in the accession process and Syria, Iraq and Iran outside it).

Turning instead to questions of sovereignty and governance, although the Belgian example shows how the application of sovereignty is transformed within the Union, the literature does not unambiguously point in this direction. Indeed there has been very little convergence across member states in the modes and structures of governance as a result of EU inclusion. A transformed application of sovereignty does not necessarily result in a more prominent role of sub-state actors. On the contrary, state executives may be enhanced and the EU level of governance may eat into the competences reserved to the sub-state level in national constitutions.

What can be observed across different member states is the increasing levels of interdependence rather than independence between levels of government. EU legislation intrudes into the competences allocated to the centre as well as to the federated states within federal member states. This calls for the establishment of domestic inter-level policy coordination to formulate member state positions represented in EU Councils. Hence, while EU membership offers the scope for sub-state entities to exert sovereign competences beyond the confines of their state, their overall level of independence is reduced. This may be considered problematic to break-away entities striving to assert their independent self-determination, as may be the case for the leaderships in northern Cyprus or Montenegro. In other words, unless principal parties do not internalise a genuine belief in notions of

shared sovereignty and interdependence, the different application of sovereignty within the Union may be of little interest to them, and may be viewed on the contrary, as a threat.

One final problematic aspect of the EU framework concerns the legitimacy of particular norms, laws and rules. When particular features in the EU framework are consensually shared, defined and applied across the member states they may indeed provide an important value added to conflict resolution efforts. Yet on several issues this is far from being the case. A key example is that of minority rights. In principle minority rights are part of the Copenhagen criteria for accession. Yet in reality the EU framework does not have the adequate instruments to assure the protection of these rights. On the contrary, the emphasis in EU law is on individual human rights, which in some instances may contrast with the protection of minorities. Article 6(1) of the Treaty of the EU, mentioning the principles on which the Union is founded (and thus presumably the conditions for entering it) only mentions the principles of liberty, democracy, human rights and fundamental freedoms and the rule of law'. It excludes the protection of minorities, included instead in the Copenhagen political criteria (de Witte 2002). Within EU law there is neither an attempt to define minority rights, nor a concrete mechanism to ensure their protection (Hughes and Sasse 2003). Legally, the problem is not exclusive to the EU. It is part of the general problem in international law of defining group rights as distinct from individual rights. The practice within EU member states varies widely and minority problems within the EU persist. For example the minority rights of the of Turks in Western Thrace have not been protected in view of Greece's EU membership. The violation of these rights is often flagged by Turkish officials and politicians as evidence of EU double standards.

### ***B. Problems in the EU as an Actor in Conflict Resolution***

However, the major problems of the Union do not relate to its structure, but rather to its capacity to act beyond its borders. When analysing EU conditionality several potential problems need to be borne in mind.

First is the value of the carrot relative to the costs of compliance with EU conditions. Domestic change induced by conditionality calls for a sufficiently valuable EU carrot. The perceived value depends both on the objective elements in the EU contract and on the subjective assessment of those benefits. When full membership is an option, the EU's potential leverage is higher than in cases where relations are based on association. This leads to the question of whether the EU can significantly influence third states that it cannot or does not wish to fully integrate.

Indeed in the aftermath of the eastern enlargement, the question of the final borders of the Union has become a key strategic issue on the EU agenda. It has become increasingly clear that despite the success of enlargement, the Union cannot indefinitely rely on the same instrument as a means to positively induce transformation beyond its borders. Future enlargements are likely to see the accession of Turkey and the western Balkan countries. However, the Union's relations with the post-Soviet states (Ukraine, Moldova, Belarus, Georgia, Armenia and Azerbaijan and Russia itself) as well as with the entire southern Mediterranean basin and the Middle East will probably require alternative EU instruments. Hence, the first tentative steps towards the development of a Wider Europe initiative, directed at the EU's new neighbours that are not foreseen to become future members. The thinking within EU institutions is to offer additional benefits in order to add credibility to EU economic and political conditionalities. It remains an open question whether the future packages on offer will be sufficiently valuable to induce (what are often domestically viewed as difficult) reforms within third states.

Which carrots are on offer is determined also by the degree of proximity of the third country to the Union. The closer is the EU to a conflict, and thus the greater its potential interest in a conflict, and the more likely is the Union to engage itself in attempts at resolution through the offer of different forms of inclusion. Hence, the relative EU engagement in the western Balkans since the 1999 Kosovo war compared to the relative EU neglect of the south Caucasus over the last decade.

Equally important is the value of EU instruments as perceived by the recipient. The more a third country identifies with 'Europe' or the more dependent it is upon the Union, and the greater is the EU's expected potential influence. Yet different domestic actors within a third country may value EU benefits differently. Domestic actors have different aims, strategies and tactics, driven by different historical, economic, and political interests and understandings (Dorussen 2001). As such their assessment of the Union differs. Although full membership is the most powerful foreign policy instrument at the EU's disposal, it may be of little value to a nationalist aiming first and foremost to assert absolute sovereignty within a predefined territory for example. To the extent that these forces enjoy the upper hand within a third state's political system, EU conditions are unlikely to induce positive domestic change. Depending on the relative balance of different domestic forces and their interaction, the overall effects of EU conditionality can be positive, negative or nil.

Problems may arise also when domestic actors value EU accession over and above conflict resolution. After years and often decades of failed attempts at stitching a state back together, the metropolitan state (or indeed the secessionist entity) may opt to abandon the search for a complex federal-confederal constitutional system and focus all attention on unilateral EU membership. Tendencies of this sort are present in Serbia and Montenegro, in the Greek Cypriot Republic of Cyprus and recently in Moldova as well. Some of these domestic actors may simply abandon the search for a constitutional solution and argue that by doing so they could progress faster to full EU membership (as in the case of some domestic actors in Serbia). Others may feel that entering the EU would strengthen their bargaining position allowing them to secure a more favourable deal in the future (as in the case of some actors in south Cyprus).

These tendencies may exist under different scenarios. In the case of Serbia-Montenegro, the High Representative for CFSP succeeded in brokering a loose common state agreement. Yet the substance of the agreement was contested by many actors in Belgrade and Podgorica. As such, secessionist trends in both the metropolitan state and the former secessionist entity emerged or revived. In the case of Cyprus instead, the Union strategy was that of offering full membership to the metropolitan state (the Republic of Cyprus), arguing that by doing so the incentives for a settlement would rise both on both sides of the green line. Yet up until late 2001 this strategy backfired, leading to a radicalisation of the positions of the secessionist TRNC without raising the incentives for compromise on the Greek Cypriot side.

Idiosyncrasies within the Union exacerbate these trends. While the Council of Ministers and the European Council make rhetorical statements in favour of conflict resolution and European integration, the Commission focussing on the latter may reinforce secessionist trends. Integrating a unitary state is often easier than integrating a complex federation. Yet the solutions to most ethno-political conflicts tend to require finely tuned federal and confederal features (Lijphart 1977). Particularly in the short to medium term, these solutions may not necessarily go hand-in-hand with the objectives of establishing efficient states, capable of assuming the obligations of membership. As such, the requirements dictated by the Commission often generate disincentives against conflict resolution. Secessionist voices can legitimate their positions by using the very discourse of European integration. Precisely because the objective is that of a fast EU accession, the search for *sui generis* federal settlements is set aside. The starkest example of this is in the case of Serbia-Montenegro, where while the High Representative mediated the loose common state agreement, the Commission focussing on the Stabilisation and Association Process pushes for greater centralisation. This in turn is feeding into secessionist trends both in Belgrade and Podgorica.

Equally problematic are scenarios in which the costs of compliance with EU conditions are considered too high by the third party in question. If the perceived costs of compliance are higher than the reward, then the third country will reject the conditions. This is frequently the case in conflict situations when EU conditions may touch upon the most critical existential questions of a state or community. For example, a Turkish nationalist will reject EU conditions relating to Kurdish minority rights not only because of the insufficient value accorded to the goal of EU membership, but also because of the perceived costs of such a reform. Compliance will occur either if EU benefits increase or are perceived to be more

valuable, or if the domestic costs of compliance reduce. This in turn would necessitate either a change in perceptions, or the empowerment of domestic actors with different attitudes towards compliance.

A second problem of EU conditionality, identified by Grabbe is the bluntness of ‘gate-keeping’ as a means of influence. EU institutions determine when and whether to grant a particular benefit to a third party. Yet gate-keeping is often too blunt a measure to be used as an instrument for domestic transformation. It cannot induce precise changes at precise moments in time. It was used successfully in 1997, when the Union prevented Slovakia from beginning accession negotiations due to its human rights record. Currently it appears to be successful in inducing political reforms in Turkey and a settlement in Cyprus. Delaying the delivery of budgetary assistance to the PA in 2002 contributed to the latter’s passing of a Law on the Independence of the Judiciary. But the instrument cannot be used repeatedly. Furthermore, once a benefit is granted it is legally and politically more complicated to withdraw it. For example, article 2 has never been used to suspend any association agreement in the Barcelona group, despite the gross human rights violations throughout the south Mediterranean region.

An effective policy of conditionality would necessitate the automatic entitlement to rights when obligations are fulfilled and the automatic withdrawal of benefits when they are not. Yet such automaticity is never present in practice. Beyond the contract lie the political imperatives of EU actors. Both the granting and the withdrawal of a benefit would require a consensus within the Union. For an association agreement or an accession treaty to come into force, there must be unanimity of the member governments and the ratification of national parliaments and of the European Parliament. Such a consensus clearly depends on the fulfilment of the contractual obligations of the third state. But it depends also on other factors motivated by underlying political or economic imperatives. The eastern enlargement occurred despite the fact that some conditions were not fulfilled. The importance of the fifth enlargement went way beyond the minutia of compliance with the *acquis communautaire*. The same is true for the withdrawal of a benefit. Suspending Euro-Mediterranean Partnership association agreements would eliminate the contractual links between the EU and these countries, and thus reduce the EU’s potential source of influence on them.

Some degree of political discretion in determining when and whether conditions are met is inevitable. However, when blatant violations are not punished or when benefits are not granted despite the general fulfilment of contractual obligations, then the EU’s credibility is harmed. When other conditions unspecified in the contract govern the Union’s relations with third states, then EU conditionality loses its effectiveness.

In the case of Turkey, if accession negotiations are not launched when Turkey complies with the conditions in its Accession Partnership (in a manner that is comparable to the compliance of the CEECs), the credibility of EU conditionality would be seriously damaged. Nationalist forces would be vindicated in arguing that whatever reforms Turkey passed, the Union’s doors would remain firmly shut. In the case of Israel, EU actors are aware of yet fail to rectify Israel’s material breach of its association agreement by exporting goods to EU markets that are produced wholly or partly in the West Bank and Gaza Strip, under Israeli certificates of origin. Furthermore, the Union is considering amending the agreement to allow Israel’s participation in the system of pan-European cumulation of the rules of origin. Israel is also set to enhance its relations with the Union through its participation in the Wider Europe initiative (that would ultimately lead to a new agreement). If the misapplication of the EU’s association agreement with Israel is accepted both *de facto* and *de jure* by the Union (by amending and extending the existing contractual relations), the credibility of the Union to act in any future Middle East Peace Process would reduce further.

Political discretion is also explained by the vagueness of certain conditions. When are human rights respected? When is a country fully democratic? Human rights violations and features of undemocratic practice, racism and xenophobia exist within the EU as well as outside it. The meeting of criteria is rarely clear-cut and often a question of degree. In addition, the Union does not have ready-made benchmarks to monitor the implementation of reforms, and it has no specific models to offer giving a precise idea of an expected reform.

A third problem of EU conditionality is that of time inconsistency. Particularly within the accession process, expected reforms are demanded in the short and medium run but the actual delivery of the benefit (membership) occurs in the long run. This generates two sets of problems. Long-term benefits are valued less than short-term ones. The unpredictability of the long term reduces the value of the carrot and in turn the potential incentives for reform. Time inconsistency may also induce domestic policy-makers to delay reforms until the delivery of the benefit is closer. This may be particularly true in conflict situations. The settlement of an ethno-political conflict is often viewed by principal parties as taking a step in the unknown. EU membership can be viewed as a means to hedge against risk, due to the security guarantees embedded in EU accession. As such, principal parties may be reluctant to reach an agreement until the prospects of membership are closer and surer. This dilemma appears to characterise the Turkish position vis-à-vis both the Cyprus conflict and the Kurdish question.

A final set of problems relates to the endogenous process of social learning. It is debatable whether social learning is possible beyond the level of elites to encompass the general public. Assuming that some degree of socialisation occurs at the level of elites as a result of inclusion in or close contact with supra-national European institutions, this does not entail successful conflict transformation and resolution. The latter necessarily calls for a wide-scale transformation of the general public's subjective attitudes and positions, which is not necessarily triggered by the workings of elite-driven multilateral institutions.

Second, can socialisation take place beyond the EU's borders? Is the accession process and the different forms of contractual relations beyond accession sufficiently dense to generate a process of endogenous change? In particular, notions of multi-level governance, porous borders, multiple identities and soft security can only be internalised, beyond the level of rhetoric, through experience. Yet such experience is most likely only within the Union, given that other examples of regional and sub-regional cooperation and integration are not comparable to that of the Union.

A last question, hinted to above, relates to the argument of the 'goodness of fit'. Social learning is most likely when EU norms at least partly resonate with domestic ideas and practices. Yet often in ethno-political conflicts the discourse is based on very different premises than those that characterise the EU framework. Notions of absolute sovereignty, exclusive identities, and indivisible territory feature prominently in these contexts and contrast sharply with EU notions of shared sovereignty, permeable borders and multiple identities. Two examples can be used to illustrate this point.

As far as territory is concerned a key problem which arises in situations of ethno-political conflicts is that territory is viewed as an indivisible asset (Duffy Toft 2003). Although within the Union the meaning of borders and territory is transformed, this may have little resonance in contexts that are still marred by active or latent ethno-political conflicts. To the metropolitan state a division of territory is viewed as a threat to the majority group's physical survival as well as setting a dangerous precedent. To the minority seceding group the control over territory is viewed as indispensable for their survival as a distinct community. In other words, irrespective of a transformed meaning of borders, territory is not necessarily likely to be viewed as a divisible asset prone to give-and-take bargaining.

Turning back to the question of citizenship instead, the sections above discussed how EU citizenship could aid conflict resolution efforts by contributing to a 'rationalisation' of identity, encouraging its association with civic rights rather than preordained ethnic, religious or linguistic affiliations. However, the symbolic recognition of identity, so crucial to identity-based conflicts, is absent from the current understanding of EU citizenship. As such it may be of limited value in a conflict context.<sup>3</sup> In other words, there is a minimal 'goodness of fit' between the norms the Union attempts to export and those prevalent in the conflict zones. This in turn diminishes the likelihood of a successful process of social learning.

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3 I would like to thank Mara Kolesas for raising this point.

## 5. Conclusions

The EU framework offers alternative options for conflict settlement and resolution. In addition, the mechanisms of domestic change triggered by the Union could aid the diffusion of these options beyond its borders. But in order to be effective and generate positive transformation, potential problems need to be circumvented.

The constructivist literature points to the endogenous process of domestic change that occurs as a result of a change in interests and identities. This type of change is necessary to move from conflict settlement to more deep-rooted conflict transformation and resolution. However, key questions arise concerning whether this change can occur through contact with EU institutions both in the short-term and beyond the EU's borders.

The more observable mechanism of change occurs through conditionality. However, the arguments above point to the need for greater clarity in the nature of the EU contract and for greater EU awareness of the domestic dynamics within the third countries it attempts to influence. Otherwise conditionality may either fail to influence positively or yield perverse effects. Alternatively, when positive effects arise, these may be coincidental. Effective EU conditionality necessitates a transparent and rule-based engagement. This would need both more developed monitoring mechanisms and increasingly clear and automatic entitlement to rights when the obligations are fulfilled (and vice versa for blatant and repeated violations).

Effective conditionality also calls for a more diversified set of political measures tailored to the diverse actors within the third country in question. Yet this in turn would require greater internal consistency in EU policy-making. It would necessitate both a sense of urgency within the Union regarding the need for immediate action. Most critically, it would require a concurrent assessment within the EU about the nature of the conflict in question, a concurrence which often fails to materialise, as many experiences on the CFSP agenda remind us.

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