

# **Conflict Resolution: Theories and Practice**

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# The EU in Conflict Resolution

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## 1. Introduction

The European Union (EU) has emerged as an actor in conflict resolution beyond its borders at the turn of the twentieth century, concomitantly with the development of its fledgling foreign policy. Despite being a newcomer to the field, the EU's history and tradition in conflict resolution is far older, being inextricably tied to its very emergence and *raison d'être*. The EU in fact represents the (unfinished) product of one of the greatest and most successful conflict resolution endeavours worldwide. It is the outcome of an idea: securing peace in post-World War II Western Europe through integration and the ensuing creation of dependable expectations that inter-state disputes would be settled in peaceful ways (Deutsch, 1957; Haas, 1968; Mitrany, 1966). This same idea also created the legitimizing narrative for the eastern enlargement and the perceived imperative of reuniting Europe in the aftermath of the Cold War. More recently, the founding idea of the European Community as a peace project has led the EU to engage in conflict resolution beyond its borders as and when it entered the foreign policy realm in the 1990s.

The aim of this chapter is to explain the EU's role in conflict resolution beyond its borders by addressing the EU's objectives, the evolution of its policies, its strengths, weaknesses and its future prospects in this field. In doing so, it argues that all of the above-mentioned aspects of the EU in conflict resolution are fundamentally shaped by the Union's self-perception and nature as a "peace through integration project" within its frontiers. As regards conflict resolution, what the EU aspires to achieve, how it has articulated its policies, and what its strengths, weaknesses and future prospects are, are all inextricably tied to what the Union is and what it represents.

## 2. The emergence of the EU as an actor in conflict resolution: aims and evolution

In view of its nature and self-perception as a peace project, from the outset the EU's foreign policy objectives have prioritized conflict resolution. In the 1993 Maastricht Treaty, when the EU specified for the first time its foreign policy aims, conflict resolution stood out amongst them, alongside promoting international security, regional cooperation, democracy, the rule of law and human rights (Article J.1). Since then, the EU has remained firm on its objectives. The EU Security Strategy, first outlined in 2003, explicitly called upon the Union to engage in a full range of conflict resolution activities, spanning from conflict prevention, to crisis management and post-violence rehabilitation (Council of the EU 2003: 12). Likewise, the 2009 Lisbon Treaty states that the Union's external action would aim at 'preserving peace, preventing conflicts and strengthening international security' (Art III-193(2c)). More specifically, the Treaty identifies a clear link between the EU's internal nature and its external projection. In fulfilling its foreign policy aims in fact, the Treaty argues that the EU would be 'guided by, and designed to advance in the wider world, the principles which have inspired its own creation, development and enlargement' (Article III-193(1)). In other words, having secured peace internally, the Union's foreign policy vocation would be to promote peace externally, drawing on and promoting the principles upon which it is founded. These principles include democracy, human rights, fundamental freedoms and the rule of law (Article I-2 and I-3), alongside inter-state cooperation and integration. Inherent in the EU's approach to conflict resolution is thus the link drawn between principles such as human rights, democracy, the rule of law and regional cooperation on the one hand, and the prevention and resolution of conflicts on the

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other. The former, while being viewed as ends in themselves, are also considered as instrumental to achieving the latter, as demonstrated by Europe's own history (Commission 2001a, and Kronenberger and Wouters 2005).

Turning to what kind of solutions the EU advocates in conflict situations, in view of its own nature as a sovereignty-sharing entity committed to the respect of international law, the Union has typically prioritized the territorial integrity of states alongside the respect for group and individual rights within them. In most cases, the Union has called for federal and/or power-sharing solutions to intra-state conflicts. Autonomy, federal and consociational models are viewed as the best recipes to reconcile the metropolitan state's territorial integrity and its accompanying claims to property restitution and refugee return, with the minority community's calls for collective rights and self-determination. Hence, the Union's support for the Annan Plan in Cyprus, its mediation of the State Union of Serbia-Montenegro, its role in brokering the Ohrid agreement in Macedonia, its active engagement in the functioning of the complex three-entity Bosnian federation, and its support for the federal proposals of the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE) and the Minsk Group in the Abkhaz, South Ossetian and Nagorno Karabakh conflicts respectively. In other cases, the Union has promoted instead the extension and respect of individual, cultural and minority rights within multi-cultural unitary states. In the case of Turkey's Kurds for example, the EU has supported and pressed for the entrenchment of individual human rights, effective political participation and the extension of cultural and minority rights to Kurdish citizens, possibly also including elements of decentralized governance.

Despite its innate resistance to the philosophy of separation, the EU has supported secession in a few rare cases. Two such examples are the Western Balkans and the Middle East. In the case of the former, the Union was unable to prevent the break-up of Yugoslavia in the early 1990s, which, in the EU's view, culminated with Kosovo's independence in 2008. In some instances, the EU did strive to prevent secession in the region, as evidenced by its support for the ill-fated State Union of Serbia and Montenegro between 2001 and 2006. But also in this case the EU ultimately accepted the ineluctability of secession in the end. The second case is that of the Middle East, where the Union, since the late 1990s, has persistently called for a two-state solution along the 1967 borders in Israel-Palestine. In this case, the EU's unshakable commitment to Israeli self-determination in view of Europe's pre-war history, and its ensuing appreciation of the individual and collective rights of the Palestinians has led to a firm rhetorical support for a two-state solution. Yet even in these two cases in which the EU has atypically supported secession, the Union's philosophy of conflict resolution has transpired through the attempted promotion of schemas for inter-state regional cooperation. Hence, the EU's commitment to regional integration in the Western Balkans through the Stability Pact for South Eastern Europe and the South East European Cooperation Process, and in the southern Mediterranean through the 1995 Euro-Mediterranean Partnership and the 2008 Union for the Mediterranean. Regardless of the questionable success of these regional cooperation initiatives, their very existence testifies to the EU's instinctive support for regional cooperation models which draw from and attempt to replicate the Union's own history.

While the EU's aims and ethos in conflict resolution are fairly consistent and clearly traceable to its very nature, its practice in the field has been far more erratic. The Union's baptism in conflict resolution was marked by dismal failure followed by its greatest foreign policy success. In both cases, the prime explanatory factor is the EU's own nature, which, as we shall see below, accounts for both the EU's structural flaws as well as its principal strengths in conflict resolution. The EU's entry into the foreign policy realm with the 1993 Maastricht Treaty<sup>2</sup> took place amidst the eruption

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<sup>2</sup> Prior to the 1993 Maastricht Treaty, the member states of the European Community cooperated in the foreign policy realm through the European Political Cooperation. However it is only with the Maastricht Treaty and its ensuing

and aggravation of war in Yugoslavia. In this context, the Union displayed all the weaknesses inherent in its nature as an association of states reluctant and unable to share sovereignty and act in unison in international affairs. Intra-European divisions and the ensuing immobilism of the Union underpinned Europe's utter failure to prevent and put an end to war on its borders. The EU's acknowledged failure to deal with the unfolding tragedy in the Balkans both pushed it to equip itself in the foreign policy realm, particularly in the security and defence fields, and generated the imperative to contribute to the stabilization of the Western Balkans. In the words of former Enlargement Commissioner Olli Rehn (2006): 'Too often in the 1990s, Brussels fiddled while the Balkans burned. We must not risk this happening again'. To many observers, success in the Western Balkans is viewed as the quintessential litmus test for the effectiveness of EU foreign policy (International Commission on the Balkans 2005). Were the Union to fail again, the credibility of its foreign policy and conflict resolution ambitions could be irredeemably shattered.

Whereas the Balkans flagged the Union at its worst, generating the imperative to act in conflict resolution, Eastern Europe provided the opportunity for the EU to develop its conflict resolution techniques, redeeming its credibility. Concomitantly with and in the aftermath of the Yugoslav wars, the EU embarked on what is commonly considered as its greatest foreign policy success: the eastern enlargement (Smith 1999). While being a unique case of EU foreign policy, the enlargement policy was significant in so far as it determined many of the conflict resolution templates and mechanisms which the Union subsequently elaborated and applied within and beyond the context of enlargement. Above all the eastern enlargement taught the Union how to draw on its assets as a *sui generis* entity in order to provide frameworks of governance and generate incentives for conflict resolution.

At the 1993 Copenhagen European Council, the Union set out the political (as well as economic, legal and technical) conditions for a candidate country to be admitted to the EU. These included the stability of institutions guaranteeing democracy, the rule of law, human rights and the protection of minorities, as well as ensuring good neighbourly relations. The accession policy also developed instruments to induce compliance with the above mentioned conditions. In the annual Progress Reports, the European Commission reviewed the performance of the applicant countries, taking as a reference point the rights and obligations enshrined in the EU *acquis communautaire* as well as in other bodies of law such as the European Convention on Human Rights. On the basis of these reports, the EU published Accession Partnership documents spelling out the short (1-2 years) and medium-term (3-4 years) priorities that candidates had to fulfil in order to move the accession process forward. The successive steps in this process – such as being recognized as a candidate, opening accession negotiations, opening and closing the over thirty chapters of the *acquis*, signing and ratifying the accession treaty, and entering the EU – were all conditioned to the aspirant members' fulfilment of EU conditions. In order to aid compliance, the EU also provided financial and technical assistance, which, while primarily tailored to supporting a candidate's capability to adopt and implement the *acquis*, also reserved funds for human rights, democracy and reconciliation projects.

Within the context of enlargement, the EU also carried out specific conflict resolution initiatives in Eastern Europe. The 1995 Stability Pact promoted by French Prime Minister Balladur was intended to diffuse minority and border tensions in Central and Eastern Europe. Unless the candidates settled their most salient disputes, they would be prevented from opening accession negotiations. Although the Pact was a political and non-legally binding document, its inbuilt incentives promoted agreements between Slovakia and Hungary (1995) and later between Romania and Hungary (1996), and entrusted the OSCE with a role in monitoring border and minority arrangements.

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revisions (i.e. the 1997 Amsterdam, the 2000 Nice and the 2009 Lisbon Treaties) that the EU explicitly acquired a foreign policy dimension through the Common Foreign and Security Policy.

### 3. Current role, strengths and weaknesses

Since the late 1990s, EU conflict resolution activities have spanned beyond Eastern Europe, including neighbouring regions such as the Balkans, the Caucasus and the Middle East, as well as areas further afield in Africa and Central Asia. These activities have encompassed both short and medium-term actions aimed at civilian and military crisis management, conflict settlement and rehabilitation, as well as longer-term endeavours tailored to state-building, democratization and societal reconciliation.

Within the realm of the Common Foreign and Security Policy (CFSP) and the European Security and Defence Policy (ESDP), the EU generally engages in short to medium-term actions in conflict zones. These include diplomatic mediation efforts carried out by the CFSP High Representative and the EU's Special Representatives in conflict regions around the globe – specifically in Afghanistan, the African Great Lakes Region, Bosnia, Central Asia, Kosovo, Macedonia, the Middle East, Moldova, the South Caucasus and Sudan. Furthermore, within the context of the ESDP, the EU, at the time of writing in 2010, was engaged in military and civilian operations aimed at peacekeeping, security sector reform, judicial reform and border monitoring in regions such as the Balkans (EUFOR-Althea, EUPM, EULEX Kosovo), the South Caucasus (EUMM Georgia, EUJUST Lex), the Middle East (EUPOL COPPS, EUBAM Rafah), Central Asia (EUPOL Afghanistan) and Africa (EU NAVFOR Somalia, EU SSR Guinea-Bissau, EUFOR TCHAD/RCA, EUPOL RD CONGO, EUSEC RD Congo). These ESDP missions have an average duration of one to two years.

Turning to longer-term conflict resolution actions, we find EU aid and technical assistance programmes alongside EU contractual arrangements with third parties. Assistance and contractual arrangements are intended to foster sustainable structural change both within and between third countries, which in turn induces conflict prevention, resolution and transformation. Development is the first policy area in which EU assistance and contractual arrangements have aimed at inducing the structural transformation of third countries (Marantis 1995). The European Development Fund (EDF) has increasingly focused on democracy, good governance, human rights and reconciliation beyond the more traditional socio-economic development projects in the African-Caribbean-Pacific countries (ACP). In the Fourth Lomé Convention, as amended in 1995, the Union set out the procedures to hold a human rights dialogue in the context of political dialogue with the ACP countries. The ensuing 2000 Cotonou Agreement spelled out that human rights would be “essential elements” of the Agreement (Article 8) and that negative measures would be considered by the EU in the event of persisting third country non-compliance in the sphere of human rights (Article 96). On this basis, the Union ventured in using different forms of negative incentives to ACP states, taking action against Haiti (2001), Cote d'Ivoire (2001), Fiji (2001) and Zimbabwe (2002) (Portela 2005).

Closer to home, EU conflict resolution policies have been deployed in the Balkans, the former Soviet space and the southern Mediterranean, applying *mutatis mutandis* the lessons from the Eastern enlargement. In view of its impotence during the Balkan wars and particularly after the 1999 Kosovo war, the EU intensified its relationships with the Western Balkan countries in the 21<sup>st</sup> century. At a multilateral level, applying the lessons from the Stability Pact for Eastern Europe, the EU launched the South East European Cooperation Process and actively supported the Stability Pact for South Eastern Europe, both aimed at inducing reconciliation and regional cooperation. Also drawing from the lessons of enlargement, the EU intensified its bilateral contractual relations with the Western Balkan countries, particularly when (at the 2000 Feira European Council, reconfirmed at the 2003 Thessaloniki European Council) the EU declared its intent to eventually integrate the Balkans into its fold. The EU launched the Stabilization and Association Process (SAP) with these

countries, intending to give rise to Stabilization and Association Agreements (SAAs), which would pave the way into the accession process. The SAAs include an “essential elements” article (Article 2) mentioning democracy, international law and human rights, alongside a “non-execution” article allowing the EU to adopt proportional negative measures in the event of a material breach of these agreements. Furthermore, the EU also inserted Balkan-specific conditions related to refugee return, cooperation with the International Criminal Tribunal for the Former Yugoslavia and regional cooperation.<sup>3</sup> Until 2007, the financial instrument targeted to the Western Balkans was the Community Assistance for Reconstruction, Development and Stabilization (CARDS), which was partly devoted to democratic reform (Article 105). In 2007 and in view of the Western Balkans’ gradual inclusion in the accession process, CARDS was replaced by the Instrument for Pre-Accession.

In the former Soviet space, the EU articulated its bilateral relations through the Partnership and Cooperation Agreements (PCAs). In the context of these agreements, the EU provided cooperation in the spheres of trade, culture and technology, while institutionalizing political dialogue and inserting a human rights “essential elements” (Article 2) and “non-execution” article (Article 93). Furthermore, under the Technical Assistance for the Commonwealth of Independent States (TACIS) programme, the EU supported both socio-economic development and projects aimed at strengthening the rule of law, good governance, human rights and democracy.

Turning south, the EU also formalized its relations with the southern Mediterranean countries. At a multilateral level, the 1995 Barcelona Declaration affirmed the EU and southern Mediterranean countries’ commitment to the promotion of peace, security and shared prosperity through multilateral dialogue at foreign ministers, senior officials, parliamentary and civil society levels. Moreover, like the SAAs and the PCAs, the bilateral Association Agreements (AAs) signed and ratified by the EU and the southern Mediterranean countries all include “essential elements” (Article 2) and “non-execution” (Article 79) clauses (Bartels 2004). Lastly, in the context of the Euro-Mediterranean Partnership (since 2008 also the Union for the Mediterranean), the EU has supported economic development, redressing socio-economic imbalances, good governance and human rights reforms through its financial assistance instrument (MEDA).

Finally, since 2003, the EU has developed a European Neighbourhood Policy (ENP), which rhetorically placed a visibly higher emphasis on political questions compared with its predecessor policies (Tocci 2007). Indeed, the ENP declaredly aims to promote the EU’s values as a means to spread peace, stability, security and prosperity in the southern and eastern neighbourhoods. It also aspires to strengthen the EU’s contribution to the solution of regional conflicts (Commission 2004: 6). The ENP’s founding documents, alongside the operational Country Strategy Papers and the ensuing Action Plans (AP), agreed bilaterally with five eastern and seven southern neighbours by 2007, emulate the logic of the accession policy, specifying country-specific political, governance as well as conflict-related actions that should be undertaken in order to progress with deeper ties with the EU. In practice, this has been truer for some neighbours than for others. In countries such as Georgia, Moldova and the Palestinian Authority, the Action Plans have specified detailed reform priorities in the areas of institutions and governance, elections and electoral laws, human rights and fundamental freedoms, and the development of civil society. In cases such as Azerbaijan or Israel, reform priorities have been set out in brief, vague and open-ended ways (Emerson, Noutcheva and Popescu 2007). In 2007, the financial instrument of the ENP – the European Neighbourhood and Partnership Instrument (ENPI) – became operational, replacing MEDA for the southern Mediterranean countries and TACIS for the eastern neighbours.

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<sup>3</sup> For example, the EU has insisted that Serbia’s cooperation with the ICTY, including the arrest and transfer of Radovan Karadzic and Ratko Mladic, is a precondition for the entry into force of the SAA between the EU and Serbia.

### **3.1 EU strengths as a sui generis actor in conflict resolution**

As pointed out by Hill (2001), the EU's role and corresponding strengths in conflict resolution can be twofold. First, the EU framework of governance, law and policy can offer a conducive context for conflict resolution. Second, the Union can generate incentives for peace, which are often not available to other states, international organizations and non-governmental organizations engaged in conflict resolution. The strengths of the EU as a framework and as an actor are inextricably tied to each other and to the Union's nature. Indeed most of the incentives which the EU can offer in the context of its conflict resolution policies are embedded in its internal institutional, legal and policy frameworks (Tocci 2004).

#### *EU assets as a framework of governance*

When conflict countries are in the process of accession or have a realistic prospect of entering it, the Union's multi-level framework of governance could raise the prospects for reconciliation by transforming the meaning of sovereignty, identity, borders and security, all highly contested issues in conflict situations.

Although the EU is predominantly shaped and constituted by its member states, through its policies and 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 (Marks et. al., 1998; Hooghe and Marks, 2001). 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 state within the EU is fundamentally transformed, as levels of government become increasingly interdependent and the search for indivisible sovereignty becomes obsolete. The EU framework also increases the scope for sub-national roles in EU policy-making. There where member states accord pronounced roles to federated entities, these roles could be enhanced further within the EU, thus possibly reducing the appetite for secession within minority communities. In particular, when a member state allows for a limited exercise of external sovereignty by federated entities, the importance of this could be magnified by allowing federated entities to participate in EU decision-making within the Council of Ministers. Since the apposite Treaty revisions in 1991, several federal member states such as Germany and above all Belgium have made use of this possibility, allowing ministers from sub-national governments to represent their member state when a particular Council legislates in areas of sub-state competence (Kerremans and Beyers 2001).

Similarly, the EU framework induces a transformed understanding of identity and citizenship. The EU adds weight to a concept of citizenship which priorities human, economic and social rights, over national or community affiliations. By fostering the view of a more "civic" rather than "ethnic" understanding of citizenship and identity, the Union could contribute to conflict resolution. Through its very existence, the EU framework can also foster the development of multiple rather than exclusive identities (Diez 2002). EU citizenship becomes an additional layer of identification, which does not compete with national (and sub-national) identities. The additional layer of EU citizenship allows the understanding of identity to have two or more, rather than a single dimension.

The transformed meaning of borders within the EU could also raise the potential for conflict resolution. The liberalization of the movement of goods, services, capital and persons within the Union dilutes the meaning of territorial boundaries between member states. In addition,

Commission funds have been created to undermine inter-state borders, by supporting institutionalized interregional associations and networks, which have turned several border regions straddling member states into 'spaces of governance in their own right' (Christiansen and Jorgensen 2000: 66). As such, in intra or inter-state conflicts where the drawing or re-drawing of territorial boundaries is contested, the EU framework could raise the potential for agreement. Within states instead, EU regional policy and structural funds could induce decentralization. In some conflicts, decentralization may be part of the solution, yet the existence of conflict may render the mere discussion of decentralization taboo subject. In these cases, EU regional policy may raise the acceptance of internal administrative boundaries with member states, thus facilitating reconciliation.

Finally, the EU framework can increase individual, communal and state security, facilitating conflict resolution, particularly when reconciliation is hindered by mistrust between conflict parties. 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. EU membership can also act as an important guarantee of individual security through its legal system enshrining human rights, non-discrimination, equal opportunities and fundamental freedoms through Treaties, the *acquis communautaire* and the Charter of Fundamental Rights. Furthermore, individuals in member and candidate states, required to be members of the Council of Europe, have the right to individually bring cases to the European Court of Human Rights and be awarded compensation under it. In addition, 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 democracy, human rights and the rule of law. The full respect of individual rights does not make the Union insensitive to group rights however. Article 151 of the Treaty of Amsterdam recognizes regional diversity as a 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 pan-European organizations such as the Council of Europe and the OSCE and their emphasis on group rights. Going further, in order to safeguard communal security the Union has accepted exemptions to the full implementation of the *acquis* in its Treaties of Accession in special cases. One such case is the exemptions accorded to the Swedish-speaking Aaland Islands in Finland. The Union had also signaled its willingness to accept derogations to the full implementation of the *acquis* had the Greek Cypriots and Turkish Cypriots accepted the 2004 Annan Plan.

### *EU strengths as an actor in conflict resolution*

The EU framework could thus add new and innovative options for conflict resolution for those countries in, or in the process and with the prospect of entering the European Union. But not only adding alternative options requires the EU, as an actor, to be able to convey them. Moreover, for the EU to play a role in conflict resolution beyond its borders, it must be able to generate incentives for conflict resolution beyond the confines of enlargement as well. What are the strengths of the EU as an actor in conflict resolution, compared to other states, international organizations and NGOs engaged in peace efforts?

First, the EU can deploy policies of conditionality in conflict resolution: i.e., the promise/threat or granting/infliction of a benefit/punishment in return for the fulfilment/violation of a predetermined condition. Positive and negative conditionality is a strategy in conflict resolution which is not unique to the EU and is typically employed by principal mediators (Cortright 1997 and Dorussen 2001, Touval and Zartman 1989). However the EU, in view of its nature, can offer a far more varied set of benefits and punishments compared to other principal mediators. In the case of states, international organizations and NGOs, conditional benefits and punishments normally include aid, trade preferences, investments or sanctions (Baldwin 1985), as well as security guarantees, recognition and membership of international organizations (Walters 1999). In the case of the EU,

benefits and punishments include a greater range of options, which are embedded in the integration nature of the EU and in the ensuing contractual relationships it develops with third countries. EU benefits (and punishments) include the granting (and withdrawing) of trade preferences, membership in the customs union and in aspects of the single market, financial and technical assistance, cooperation in the fields of economics, science, technology, environment, energy, infrastructure, education and culture, institutionalized forms of political dialogue, and inclusion in EU programmes, institutions and agencies.

Given this broader range of options, the value/cost of EU incentives is often higher than what other actors engaged in conflict resolution can offer, potentially raising the prospects for conflict resolution. Value/cost is determined by the objective nature of the benefit/punishment on offer. Naturally, when full membership is an option, the EU's potential leverage on a conflict is higher than in cases where relations are based on association, partnership or financial assistance. This begs the question of whether the EU can significantly influence third states in conflict that it cannot or does not wish to fully integrate. Indeed this is the core dilemma underlying the European Neighbourhood Policy, which was born precisely to find an alternative to full membership for aspirant EU members. Amongst these EU aspirants are several conflict countries such as Georgia and Moldova. Yet equally important is also the subjective value of EU benefits: the perceived value by the recipients within a conflict. Hence, for example, the more a conflict party identifies with "Europe" or the more dependent it is upon it, the greater the perceived value of EU offers. Following this logic, even in countries such as Moldova, Georgia or Armenia which the EU does not wish to integrate, EU actors could in principle add important incentives for conflict resolution.

In view of the wide set of possible benefits and punishments, the EU has also developed rather sophisticated channels to offer, promise, threaten and inflict them in the context of its contractual relations. Hence, for example, EU conditionality can be not only positive or negative, but also *ex ante* or *ex post*: i.e., either conditions are fulfilled before the contract is signed, or conditions specified in an agreement must be respected otherwise the contract may be suspended. In between these two extremes, conditionality can be exerted over time, and not exclusively at the time or after the delivery of specified benefits. The case of the 1993 Copenhagen criteria for EU membership is an example of *ex ante* conditionality, while the "human rights clause" in EU Association Agreements, Stabilization and Association Agreements and Partnership and Cooperation Agreements is an example of *ex post* conditionality. Financial and technical assistance instead lends itself to a constant exercise of conditionality over time, given the divisible nature of the benefit on offer. While these types of conditionality are all available to the EU in principle, in practice the Union has declared and demonstrated its preference for *ex ante* and positive conditionality and its reluctance to engage in negative and *ex post* conditionality (Commission 2003: 11 and 2001b: 8-9).

The Union has also developed sophisticated methods to deliver its benefits through the use of gate-keeping, benchmarking and monitoring. These techniques were first developed in the context of the eastern enlargement, in which the Union benchmarked and monitored the progress of the candidate states and allowed them to proceed along the successive steps of the accession process (Grabbe 2001). However these very same techniques have been replicated in the context of other forms of contractual relationships, and above all in the context of the ENP (Kelley 2006). Furthermore, the delivery of EU benefits has been made either directly conditional on peace efforts, such as the case of the 1995 Stability Pact in Eastern Europe, or indirectly related to conflict resolution by affecting policy fields linked to the conflict resolution agenda, such as the EU's conditions regarding the abolition of the death penalty in Turkey, which had an indirect impact on the Kurdish question.

Second, the EU's nature and its extensive contractual relationships with third states generate an EU propensity to induce conflict resolution through socialization. Socialization takes place through the

institutional, political, economic and wider societal contact and dialogue between the EU and third states (Checkel 1999). Socialization does not simply aim at altering a conflict party's cost-benefit calculus, but rather at inducing a voluntary transformation of its perceived interests and values. Through participation in or close contact with the EU's institutional framework, EU actors engage in dialogue, awareness raising, persuasion, argumentation, as well as shaming and denunciation vis-à-vis conflict parties. Conflict parties, in turn, may alter their beliefs, priorities and strategies in a manner conducive to conflict resolution.

The principal forums through which the EU induces socialization is through its institutionalized dialogues with third state executives in the context of its contractual relations, including the Association Councils, the Partnership and Cooperation Councils, and the Stabilization and Association Councils. Specific human rights dialogues are also held with China and several ACP countries in the context of the Cotonou Agreement (known as 'Article 8 dialogues'). In the context of these dialogues, the EU has discussed issues such as the signing and ratification of international covenants, the death penalty, torture and ill-treatment, discrimination, children's and women's rights, the freedoms of expression and association, democratization and good governance. Socialization can also take place at parliamentary level, through inter-parliamentary delegations including Members of the European Parliament and parliamentarians from third states. Socialization can take place through other means as well. Through technical committees, training programmes, twinning and selective participation in EU programmes a third state may be socialized into accepting the EU's professed norms in the sphere of conflict resolution. In addition, under the ENP socialization can also take place at non-official levels, through educational and youth exchanges, enhanced mobility for researchers, facilitated contact between NGOs, regional and local authorities, and business in the EU and the ENP countries (Commission 2006).

Finally, the EU can induce conflict resolution through the passive enforcement of rules and norms. Rather than highlighting the logic of reward and punishment through conditionality, this mode of EU action hinges on a system of rule-bound cooperation. EU benefits are not delivered as a recompense for a third country's compliance with specified conditions, and punishments are not threatened and imposed in order to disincentivize a violation. Third-state obligations rather constitute the necessary rules making mutually beneficial cooperation with the EU possible. For passive enforcement to work, there must be a clear set of legally defined and definable rules embedded in EU contracts, rather than conditions which the EU simply considers politically desirable. Hence, it is far easier for the EU to use passive enforcement in the context of accession, whereby the candidate country is called upon to implement the legally-binding *acquis* and to respect the European Convention of Human Rights as well as the EU Charter on Fundamental Rights. Beyond enlargement, passive enforcement relies on the rules of customary public international law. Community law requires that all Community-based agreements with third states are interpreted and implemented in accordance with international law. As such, the EU has the legal obligation to respect the peremptory rules of international law including international human rights law and international humanitarian law, applicable and relevant in conflict contexts. This means that the EU can neither break the rules itself nor assist others in doing so. The EU cannot therefore, through the measures of cooperation embedded in its contractual agreements, acquiesce to a third state's breaking of the peremptory norms of international law by recognizing, aiding or assisting such violations within the confines of EU agreements. Cases in point regard the violation of international humanitarian law in the Occupied Palestinian Territory (OPT) or in the occupied Western Sahara by Israel and Morocco respectively, and the EU's obligation to avoid acquiescing to such violations by facilitating these violations within the context of EU-Israel and EU-Morocco association agreements (EMHRN 2006).

### **3.2 EU weaknesses as an actor in conflict resolution**

When discussing the EU's structural weaknesses in foreign policy in general and conflict resolution (or rather crisis management) in particular, topping the list of concerns are the EU's inability to act rapidly and cohesively and its limited capabilities in the security and defence realm. Underpinning these critiques are the structural limits of the EU, notably the frequent inability to forge consensus between member states and member states' unwillingness to devolve sovereignty in the foreign policy realm. All these critiques are certainly valid to greater or lesser extents in different conflict contexts. As discussed above, the wars in the Balkans and the EU's inability to react to them rapidly and decisively highlighted the EU's limits in preventing and putting an end to violence in its backyard. Yet rather than concentrating on these well-known limits, in what follows I shall focus on another frequent limit of the EU in conflict resolution: its lack of credibility. It is the absence of credibility which often explains why the EU does not deliver on its potential in conflict resolution; potential which, as discussed above, has more to do with the EU's nature as a *sui generis* actor able to contribute to long-term conflict transformation, rather than with its unmet aspirations to engage in crisis management as a state-like actor.

The EU's potential as a framework and as an actor in conflict resolution hinges on the EU's credibility. Credibility depends on a third state's perception of the EU's capacity and will to carry out its declared commitments in the sphere of conflict resolution. In the case of conditionality, credibility is related to the Union's track record in delivering/withdrawing promised benefits when and only when the specified conditions are fulfilled/violated. Credibility in passive enforcement entails cooperating when and only when the rules governing engagement are respected. Credibility also impinges on socialization, given that a particular norm is more likely to be assimilated when all parties, including the EU, are steadfast in their respect of it.

The EU often falls short in terms of credibility, thus losing its effectiveness, when the conduct of its external relations is driven by political imperatives, operating beyond the blueprint of declarations, laws and contractual relations. An effective EU conflict resolution policy would necessitate automatic entitlement to rights and benefits when obligations are fulfilled and automatic withdrawal of or non-entitlement to benefits when they are not. Yet there is never such automaticity in practice. Beyond the contract lie the political imperatives of EU actors, which go beyond the promotion of peace, human rights and international law. Both the granting and the withdrawal of a benefit require 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 ratification by national parliaments and the European Parliament. Such consensus depends on the fulfilment of conflict countries' promises and obligations vis-à-vis the EU. But it also depends on other factors that are motivated by underlying political or economic imperatives. Hence, for example, EU policy towards Georgia's conflicts is heavily conditioned by the EU's and particular member states' sensitivities towards Russia, based on geopolitical as well as energy security reasons. In the Middle East, several member states view the protection of Israel and close relations with it as being of the utmost priority, over and above the promotion of conflict resolution. Europe's history of anti-Semitism has generated a deep-felt EU preference – particularly within some member states – to maintain close relations with Israel irrespective of its conduct, a preference which is magnified further by economic interests underpinning EU-Israel relations. Another EU priority in the Middle East is to seek close, cooperative and complementary relations with the United States, which has generated strong EU incentives, felt particularly by Atlanticist member states such as the United Kingdom and Italy, to accommodate American interests, strategies and policies in the conflict.

#### **4. Future Prospects for the EU in Conflict Resolution**

By representing probably the most innovative and successful experiment in conflict resolution worldwide, the EU's entry into the foreign policy realm and its declared commitment to promote conflict resolution beyond its borders is a welcome development. As this chapter has argued, the EU's strengths both as a framework for and as an actor in conflict resolution are rooted in its nature as an entity promoting rights, law and inter-state cooperation and integration. By way of conclusion, I shall briefly turn to the Union's future prospects in this field, highlighting the challenges lying ahead.

Given the inextricable bind between the EU's internal nature and its strengths in external conflict resolution, the progress in the integration project through constitutional and institutional reform is of the essence. In this respect the ratification of the Lisbon Treaty in 2009, after five years of soul-searching and failed attempts comes as an important step forward, allowing the EU to lift its gaze and focus again on the world around it. More specifically, the reforms in EU foreign policy-making, including the appointment of an EU Foreign Minister, the rationalization of competences between the Commission and the Council and the creation of an External Action Service can all help in improving the rapidity and cohesiveness of EU policies, as well as develop further the EU's ethos, identity and aims as an actor in conflict resolution.

Beyond constitutional and institutional reform, three policy areas require particular attention if the EU is to fulfil its potential in conflict resolution and work on its structural weaknesses in the field. First, is the imperative to maintain its current commitments in the context of enlargement towards the Western Balkans and Turkey. The critical role played by the EU in stabilizing the war-torn Balkans and inducing intra- and inter-state integration in the region has hinged on the deepening of its bilateral relations with the Western Balkan countries through the SAP (Tocci 2007: 89). In addition, the EU-inspired reforms in the fields of rights and governance have promoted reconciliation both in the Balkans and between the Turkish state and its Kurdish citizens (Tocci 2007: 53-77). Moreover, particularly when it comes to Turkey, the credibility of the Union is at stake more broadly. The EU's accession process with Turkey, rightly or wrongly, is viewed by many as signalling the Union's stance towards Islam and the values upon which the EU stands. If the EU's rejection of Turkey were to be viewed as an affirmation of an exclusivist and essentialist European identity, the Union's credibility both as a framework for and as an actor in conflict resolution would be seriously undermined both in the Muslim world and beyond.

Second, it is essential for the Union to develop a credible alternative to its enlargement policy. As discussed throughout this chapter, the enlargement process played a critical role in shaping the EU's ethos, methods and strengths in conflict resolution beyond its borders. Yet at the same time, the EU finds itself entrapped in the logic of enlargement (Kelley 2006), attempting to replicate its templates and techniques but reluctant to proceed further with the enlargement process towards new aspirant members. This has generated frustration beyond the Union's borders while at the same time it has emptied the perceived content of alternative policy frameworks such as the ENP. In order for the EU to capitalize on its conflict resolution assets it is thus essential that it succeeds in developing a credible, valuable and thus effective policy in its wider neighbourhood.

Finally, the EU has elevated "effective multilateralism" as a dominant value and goal in its foreign policy (Council of the EU 2003; Peterson, Aspinwall, Boswell and Damro 2007). In the sphere of conflict resolution, the EU has indeed prioritized working alongside other states (e.g., the United States) and international organizations (e.g., the UN). In the period ahead and in response to the changing global order, EU actors will need to adapt their multilateral conflict resolution policies to the rise of new states and international forums, particularly if the Union is intent in contributing to conflict resolution beyond its immediate neighbourhood. However, as and when the EU engages with conflicts further afield and with a rising number of state and non-state actors, it is essential that

it remains firm in practice and not only in principle to its ethos and methods in conflict resolution. Only in this case will the EU be able to truly represent a constructive and novel force in conflict resolution, willing and able to export externally some of the lessons painfully learnt and applied on the continent.

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