

by Marcello Di Filippo





ABSTRACT

The European Union has employed a wide set of legal and policy tools in its well-established relations with Colombia, playing the role of a credible and substantive partner in accompanying this Southern American country through a complex process of national reconciliation and socioeconomic growth. The long-term implementation of the 2016 Peace Agreement with the FARC is the main challenge, although other needs have emerged, such as the impact of mass emigration from Venezuela, the culture of violence still widespread in various segments of society and institutions, and the persisting discrimination suffered by women. The EU seems to be aware of these complexities and is equipped with various means for sustaining the efforts of local communities, civil society, and State institutions, although there is obviously still room for improvement in policies and approaches. The experience gained by the EU on the ground might be helpful for other international actors.

European Union | Colombia | Conflict mediation | Economic aid | Migration | Venezuela



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EUDIPLO (The European Union in International Diplomatic Relations) is a Jean Monnet Network between the universities of Geneva (Christine Kaddous), Groningen (Ramses Wessel; coordinator), Leuven (Jan Wouters), and Pisa (Sara Poli). It is co-funded under Erasmus+ of the European Union (620295-EPP-1-2020-1-NL-EPPJMO-NETWORK). Associate partners are based in a number of EU neighbouring states, as well as in Africa, Asia, North America, Latin America and Oceania.

The Network focuses on this central question: What are the internal and external constraints and opportunities for the European Union to further its ambitions as an international diplomatic actor? In dealing with this question, the Network aims to generate a stronger awareness on, and contribute to deeper insights with regard to, the European Union's diplomatic activities throughout the world, in third States as well as at multilateral fora.

Both the European External Action Service and the Union delegations — and hence the European Union's diplomatic institutional machinery — remain largely unknown to the public. Yet, the European Union not only has a worldwide network of more than 140 'embassies', but at the same time it has assumed 'state-like' functions on the basis of the adoption of diplomatic rules that were originally created for states only. Many **challenges** do remain, but the deep and wide legal and policy powers — and the sheer size and universal network — of the European Union also offer **opportunities** that remain as of yet untapped.

Academic and policy analyses have pointed to a great number of **legal and political questions** related to the developing role of the EU in international diplomacy. EUDIPLO brings experts in this area together to focus on these questions in order to make public authorities at all levels (EU institutions, governmental institutions in Member States and in third countries, international organisations, international and national civil servants and diplomats), young professionals and students, as well as the public at large, aware of the challenges and opportunities in this area.











by Marcello Di Filippo*

Introduction

Events in the last few years in Latin America offer an interesting benchmark for testing the EU's ability to promote respect of international law and rule of law and to preserve peace¹ by combining legal and policy tools.

Traditionally, close attention has been paid by the EU to the wide and differentiated area of countries conventionally labelled as Latin American,² at least in the general approach traceable in policy documents, and may be linked to the attempt at developing trade agreements and even association schemes, while cooperation in culture and research has also been explored. The historical ties of some member states (Portugal and Spain, mainly, but not excluding others such as Italy, Germany and a former member state, the United Kingdom), together with the economic and environmental relevance of Latin American countries, justify such consideration. Political dialogue has taken place, oscillating between the purely bilateral level and the interregional dimension.³

Following the entry into force of the Lisbon Treaty in 2009, the consolidation of the EU's Common Foreign and Security Policy (CFSP) and its anchoring on the promotion of some (universal and) European values – such as democracy, rule of law, respect for human rights – allow for a brief inquiry into the stance and the role of the EU with regard to the long and complex transition process in Colombia.

¹ See Article 21 TEU, sub para. 1 and para. 2, especially letters (b) and (c).

² The literature highlighting the only apparent homogeneity of this geographical area is abundant: see, for example, Marcel Niedergang, *The 20 Latin Americas*, Harmondsworth, Penguin, 1971.

³ See for instance Gian Luca Gardini, "Europe and Germany on the Relaunch of EU-LAC Relations", in Antonella Mori (ed.), *Latin America and the New Global Order. Dangers and Opportunities in a Multipolar World*, Milano, Ledizioni, 2020, p. 31-50, https://www.ispionline.it/en/node/25461.

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In an attempt to offer a comprehensive picture, it is submitted that even scarcely "mediatised" courses of action may come together to produce an appreciable result. It is hoped that the overview conducted here will help answer some key questions: To what extent has the EU played a role, or instead simply followed the path traced by other international actors, or, even worse, limited itself to vague political assertations? Which policy tools and legal instruments have proven to be useful in accompanying the political statements? Has the EU exploited all its potential in critically approaching Colombia's way to peace and reconciliation? Although not always visible, can the EU's action be assessed as consistent and incisive?

1. An outlook of the EU's relations with Colombia

Relations between the EU and Colombia developed thanks to a mix of political arrangements and legal agreements, both in a multilateral environment (dialogue between the EU and the Community of Latin American and Caribbean States, and previously with the Rio Group; the 1993 Framework Cooperation Agreement between the European Economic Community and the Cartagena Agreement and its member countries),⁴ and at the bilateral level. In particular, the framework for political dialogue between the EU and Colombia developed through the 1996 Joint Declaration on Political Dialogue and the 2009 Memorandum of Understanding establishing an informal bilateral consultation mechanism at the level of senior officials.

This political relationship was later complemented by a bilateral dialogue on human rights, initiated in 2009, and by the multi-party Trade Agreement between the EU and its member states, on the one side, and Colombia and Peru, on the other, signed in Brussels on 26 July 2012 and provisionally applied since 1 March

⁴ See Council of the European Union, Council Decision of 7 April 1998 concerning the conclusion of a framework agreement on cooperation between the European Economic Community and the Cartagena Agreement and its member countries, namely the Republic of Bolivia, the Republic of Colombia, the Republic of Ecuador, the Republic of Peru and the Republic of Venezuela (98/278/ EC), https://eur-lex.europa.eu/eli/dec/1998/278/oj. In 2003, a Political Dialogue and Cooperation Agreement between the EU, the Andean Community and their respective member states was finalised, intended to replace the 1993 Framework Cooperation Agreement. However, the status of this Agreement is far from satisfactory, being in force for 14 EU member states, for the Andean Community and its current member states, but not for the EU and for the other 13 EU member states. For details, see Council of the European Union website: Political dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part. Ratification Details, https://www.consilium.europa.eu/en/documents-publications/ treaties-agreements/agreement/?id=2003127. A proposal for a Council Decision on the conclusion of the Agreement, tabled in 2016, is still pending. See European Commission, Joint Proposal for a Council Decision on the Conclusion of a Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part (JOIN/2016/04), 3 February 2016, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016JC0004.

2013. The need for credible commitment in the context of dialogue on human rights has been strongly underlined by the European Parliament when expressing its consent to the conclusion of the mentioned multi-party agreement.⁵

On 5 August 2014, the EU and Colombia concluded a framework agreement allowing Colombia to participate in EU-led international crisis management operations, organised in the framework of the Common Security and Defence Policy (CSDP). The agreement entered into force on 1 March 2020, although from as early as 2015 Colombia had participated in the EU-led antipiracy operation Atalanta off the Horn of Africa.

Finally, on 21 September 2021, a "Memorandum of Understanding on an Agenda of enhanced political and sectoral dialogue and cooperation for the next decade" was signed, identifying five priorities for the years to come: 1) the successful implementation of the 2016 peace agreement between the Government of Colombia and the Revolutionary Armed Forces of Colombia (FARC) as a contribution to global peace and stability; 2) an ambitious agenda on the environment, climate change, resilience and biodiversity; 3) the promotion of sustainable and inclusive growth and economic, social and territorial cohesion in the EU and Colombia; 4) the agenda of solidarity, around the Venezuelan refugee and migratory crisis and its impact on Colombia and the region, as well as all facets of migration; 5) the multilateral agenda and cooperation on global and regional foreign policy issues to strengthen multilateralism and a rules-based global order.

2. The attempt to turn the page of internal conflict and of generalised violence and instability

The protracted internal conflict in Colombia is undoubtedly an issue that may test the EU's capacity to play a role as mediator or facilitator of negotiations and of implementation of the agreed road map. After the failure of the (mainly) repressive approach agreed in 1999–2000 by the then Colombian President Andrés Pastrana and the United States (in the framework of the so-called "Plan Colombia"), and sceptically looked upon by the EU, a comprehensive peace process between the Colombian government and the main armed group (Revolutionary Armed Forces of Colombia – People's Army, Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo) officially started in Oslo in October 2012, after a previous phase

⁵ See European Parliament, Resolution of 13 June 2012 on the EU Trade Agreement with Colombia and Peru (P7_TA/2012/0249), paras 3, 9, 10, 15, https://www.europarl.europa.eu/doceo/document/TA-7-2012-0249_EN.html. See also Lorand Bartels, The European Parliament's Role in Relation to Human Rights in Trade and Investment Agreements, Brussels, European Parliament, February 2014, p. 23, https://www.europarl.europa.eu/thinktank/en/document/EXPO-JOIN_ET(2014)433751; Sara Poli (ed.), "Protecting Human Rights in the European Union's External Relations", in CLEER Papers, No. 2016/5, https://www.asser.nl/cleer/publications/cleer-papers/cleer-paper-20165-poli-ed.

⁶ For the text, see the European External Action Service (EEAS) website: *Memorandum of Understanding EU-Colombia*, 21 September 2021, https://www.eeas.europa.eu/node/104446.

of secret talks in Cuba. Following a lengthy process of talks (held mainly in Havana), on 24 November 2016 a "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace between the National Government of Colombia and the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP)" was signed in Bogotá.⁷

It is hard to determine the precise role played in the conduct of the negotiations by several international actors, but it seems reasonable to state that the EU was not particularly active either as mediator or guarantor *stricto sensu* (a role certainly played by Cuba and Norway, later joined by Venezuela and Chile). However, the EU (like the UN)⁸ constantly acted as a facilitator for the successful outcome of the talks, expressing support for the peace process and promising significant economic support for the implementation phase and constantly providing financial aid to local communities and victims of violence, with the aim to favour an auspicious climate for the transition.⁹ For instance, in 2002–2017, the EU disbursed around 160 million euro for the projects "Peace Laboratories" and "New Peace Territories", contributing to boosting economic development, human rights and democracy in several areas of Colombia.¹⁰ The appointment in November 2015 by the EU High Representative Federica Mogherini of Mr Eamon Gilmore as Special Envoy for the Peace Process in Colombia attests to the EU's commitment.¹¹

⁷ Colombia's Government and FARC-EP, Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, Bogotá, 24 November 2016, https://www.refworld.org/docid/5b68465c4.html. A previous version of the Agreement, agreed upon between June and September 2016, was rejected by a popular referendum in October 2016. For a detailed monitoring of the implementation of the peace process, see Peace Accords Matrix/Kroc Institute for International Peace Studies, Five Years of Peace Agreement Implementation in Colombia: Achievements, Challenges, and Opportunities to Increase Implementation Levels, December 2016 - October 2021, Notre Dame/Bogotá, Peace Accords Matrix/Kroc Institute for International Peace Studies/Keough School of Global Affairs, 2021, https://doi.org/10.7274/0c483j36025.

⁸ See for instance Fabrizio Hochschild and Juan Pablo Caicedo, "No Persistence-No Peace: A Reflection on the United Nations Contribution to Peace in Colombia", in *UN Chronicle*, 23 October 2020, https://www.un.org/en/node/107522.

⁹ See for instance the statement by EU High Representative Mogherini in November 2014: EEAS, Meeting between President Santos and HR/VP Federica Mogherini: EU Confirms Commitment to Support Colombia Peace Process, 4 November 2014, https://www.eeas.europa.eu/node/6844_en. See also the factsheet: European Commission, EU & Colombia, Key Partners for Peace, June 2018, p. 3-6, https://ec.europa.eu/international-partnerships/system/files/eu-colombia-key-partners-forpeace_en.pdf.

¹⁰ On the Peace Laboratories project (2002–2012), see: Miguel Barreto Henriques, "'Peacebuilding from Below' in Colombia: The Peace Laboratories' Case-study", in Raffaele Marchetti and Nathalie Tocci (eds), Conflict Society and Peacebuilding. Comparative Perspectives, New Delhi/Abingdon, Routledge, 2011, p. 149-177; Dorly Castañeda, The European Approach to Peacebuilding. Civilian Tools for Peace in Colombia and Beyond, London, Palgrave Macmillan, 2014, p. 149 ff.

¹¹ It is notable that the Special Envoy coordinated his position with the UN Secretary-General's Special Representative for Colombia. See UN Verification Mission in Colombia, Declaración conjunta del Representante Especial del Secretario General de la ONU para Colombia, Jean Arnault y del Enviado Especial de la Unión Europea para la Paz en Colombia, Eamon Gilmore, sobre el Segundo Aniversario de la Firma del Acuerdo de Paz, 24 November 2018, https://colombia.unmissions.org/node/100040256. It is worth noting, likewise, that Mr Gilmore was appointed in 2019 as EU Special Representative for Human Rights: see Council of the European Union, Council Decision (CFSP) 2019/346 of 28 February 2019 Appointing the European Union Special Representative for Human

3. The toolbox employed by the EU: A dedicated financial effort to accompany the implementation of the peace process

The EU supported the peace process through an integrated approach, using all its tools: diplomacy, international cooperation and development, humanitarian aid, civilian protection and investment and trade. Overall, the EU financial contribution is estimated to have been over 645 million euro. This includes as its key instruments the European Trust Fund for Colombia (EUTF, Fondo Europeo para la Paz), pledged loans by the European Investment Bank, short-term actions and ongoing programmes. 13

As for the Fund, it was established in December 2016 to support the implementation of the peace agreement in a coordinated and efficient way.¹⁴ It channels the funds made available by the same EU and separately by twenty member states, the United Kingdom and Chile. The Fund has a total of 127 million euro in contributions. 15 In particular, the EUTF supports item 1 of the Agreement on Integral Rural Reform and item 3 on the Reincorporation processes. Thus, the activities carried out focus on the early recovery and post-conflict stabilisation of the municipalities which have been affected the most by the armed conflict. It concentrates on rural development, supporting public administration reform programmes, decentralisation and social participation. It does so by increasing civil society participation and strengthening resilience among vulnerable population groups, such as victims, former combatants, indigenous peoples and Afro-descendants. It is crucial to foster these parts of the Peace Agreement, as many observers underline since the problem of access to land has still not been resolved, while many people still feel that their physical and legal security is not guaranteed. This emphasises the need for steps to promote employment, reintegration and rural development, particularly in the areas that were hardest hit by the conflict.16

Rights, http://data.europa.eu/eli/dec/2019/346/oj.

According to Sergio Jaramillo (former Colombian High Commissioner for the Peace in 2012–2016 and one of the main protagonists of the peace process), for the first time the EU developed a comprehensive model of peace support, attaining notable results as in no other country: see Olivier Dabène et al., "Colombie: 5 ans après les accords de paix", in *Le Grand Continent*, 5 January 2022, https://legrandcontinent.eu/fr/?p=127572.

¹³ See the factsheet: EEAS, *EU-Colombia Relations*, February 2022, https://www.eeas.europa.eu/node/16968.

¹⁴ See EUTF official website: http://www.fondoeuropeoparalapaz.eu.

¹⁵ The EU's contribution in 2020 approximately amounts to 75 per cent of the Fund's budget. See European Trust Fund for Colombia, *Fourth EUTF Annual Report for Colombia 2020*, May 2021, p. 16, https://www.fondoeuropeoparalapaz.eu/wp-content/uploads/bsk-pdf-manager/2021/05/1.-Annual-report-2020.pdf.

¹⁶ Regarding this view, see the position of the Norwegian Government: Norwegian Ministry of Foreign Affairs, *The Peace Process in Colombia*, last updated 29 November 2019, https://www.regjeringen.no/en/topics/foreign-affairs/peace-and-reconciliation-efforts/norways_engagement/peace_colombia/id2522231. See also César Castilla, "Building Enduring Peace in Colombia: How the EU Can Help", in *IAI Papers*, No. 18|17 (October 2018), p. 9-10, https://www.iai.it/en/node/9622.

Through the Instrument for Stability and Peace, the EU also decided to support item 5 of the Agreement, providing funds for the working of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition. The System is comprised of the Truth, Coexistence and Non-Repetition Commission; the Special Jurisdiction for Peace; the Unit for the Search for Persons Presumed Disappeared in the context and by reason of the armed conflict; comprehensive reparation measures for peacebuilding and guarantees of non-repetition. For instance, in July 2020 a sum of 3.2 million euro was destined to the Special Jurisdiction, while already in 2019 the EU secured an analogous contribution to the Search Unit and 4.5 million euro to the Truth Commission. In March 2022, additional funding of 2 million euro for the Truth Commission was announced.

The robust support given to the articulated and partly original Colombian way to transitional justice²⁰ is highly significant, given the importance of attaining the underlying goals for national pacification and social stabilisation. Human resources, assets, continuity in the long term, availability of funds for reparation, all these elements are vital for the effective functioning of this crucial component of the peace process: the EU clearly ensured the viability of the System even in periods where the local government showed a worrying inclination to reduce its commitment.²¹ Other experiences of transitional justice show how appropriate funding is vital for the attainment of truth, justice and social peace.

It is worth highlighting that the EU support proved decisive also in another perspective. The Prosecutor of the International Criminal Court (ICC) concluded in October 2021 a cooperation agreement with Colombia, marking the closure of a long phase of preliminary examination of the Colombian situation (started in 2004), potentially leading to the exercise of jurisdiction by the same ICC according to the principle of complementarity enshrined in Articles 1 and 17 of the Rome Statute.²²

¹⁷ See European Union Delegation to Colombia, *Apoyo de la Unión Europea por 3,5 millones de euros a la Jurisdicción Especial para la Paz*, 27 July 2020, https://www.eeas.europa.eu/node/83447.

¹⁸ See Jurisdicción Especial para la Paz, "La Unión Europea ratifica su apoyo a la JEP y al sistema integral de verdad, justicia, reparación y no repetición", in *Comunicado de prensa*, No. 130 (12 September 2019), https://www.jep.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Comunicado-130-de-2019---La-Unión-Europea-ratifica-su-apoyo-a-la-JEP-y-al-SIVJRNR.

¹⁹ See European Union Delegation to Colombia, *Palabras del Embajador Gilles Bertrand en la rendición de cuentas de la Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición*, 24 March 2022, https://www.eeas.europa.eu/node/112994.

²⁰ See among others Kai Ambos, Francisco Cortés Rodas and John Zuluaga (eds), *Justicia transicional y derecho penal internacional*, Bogotá, Siglo del Hombre Editores, 2018, https://www.jep.gov.co/Sala-de-Prensa/Documents/Justicia%20transicional%20y%20derecho%20penal%20internacional.pdf.

²¹ See for instance Helen Murphy and Carlos Vargas, "Colombian Duque's Bid to Change Peace Deal Rattles Sabers, But War Unlikely", in *Reuters*, 17 March 2019, https://reut.rs/2FjC3zD; "La JEP expresa 'preocupación' por recorte en su presupuesto para 2021", in *La Semana*, 20 October 2020, https://www.semana.com/nacion/articulo/la-jep-expresa-su-preocupacion-por-recorte-en-su-presupuesto-del-2021/202031.

²² For an account of the preliminary examination on Colombia, see International Criminal Court (ICC), *Report on Preliminary Examination Activities 2020*, 14 December 2020, p. 27-39, https://www.icc-cpi.int/node/2550.

The Prosecutor was clear in emphasising that the closure of the preliminary examination is conditional on the seriousness and continuity in the operation of the domestic justice system (the transitional justice component included). In order to allow the Colombian institutions "to perform their constitutional responsibilities" (to quote the Prosecutor), the contribution coming from the EU has been and remains vital.²³

4. Other financial support to Colombian society and the economy

The picture of the EU's commitment to Colombia is wide. Bilateral development cooperation between the EU and Colombia amounted to 127 million euro for 2014–2020. An additional 75 million euro has been reserved for Colombia for 2021–2024.

As highlighted by the European Parliament in June 2021,²⁴ it is crucial to "deepen the synergy between the trade agreement and the new cooperation instruments aimed at guaranteeing access to the European market, exchange and investment in order to ensure the sustainability of the productive projects, the income of the beneficiary population and to reduce their vulnerability to crime and illicit economies". The EU has powerful tools for stimulating the Colombian legal economy, whose prosperity helps reinforce social and political stability and counter the expansion of the drug industry, exploited by criminal organisations and able to affect European society as well, thanks to the international scale of the related trafficking.²⁵

As indicated by some experts,²⁶ the EU has also started devoting attention to the economic empowerment of women in conflict areas such as the rural Cauca, improving their incomes, economic participation and their access to land, and to create opportunities particularly for young people, as part of an effort to prevent

²³ ICC, ICC Prosecutor, Mr Karim A. A. Khan QC, Concludes the Preliminary Examination of the Situation in Colombia with a Cooperation Agreement with the Government Charting the Next Stage in Support of Domestic Efforts to Advance Transitional Justice, 28 October 2021, https://www.icc-cpi.int/node/2687. For a critical evaluation of the Prosecutor's choice, see Juan Pappier and Liz Evenson, "ICC Starts Next Chapter in Colombia, But Will It Lead to Justice?", in EJIL: Talk!, 15 December 2021, https://www.ejiltalk.org/?p=20498.

²⁴ See European Parliament, Resolution of 29 April 2021 on the Fifth Anniversary of the Peace Agreement in Colombia (P9_TA/2021/0160), https://www.europarl.europa.eu/doceo/document/TA-9-2021-0160_EN.html.

²⁵ The need to help Colombia fight the drug plague (especially trade in cocaine) has been rightly underlined by César Castilla, "Building Enduring Peace in Colombia: How the EU Can Help", cit., p. 2.

²⁶ Ibid., p. 11-12; Dhayana Carolina Fernández-Matos and María Nohemí González-Martínez, "La paz sin las mujeres ¡No va! El proceso de paz colombiano desde la perspectiva de género", in *Revista CIDOB d'Afers Internacionals*, No. 121 (April 2019), p. 113-133, https://doi.org/10.24241/rcai.2019.121.1.113; Iniciativa Barómetro et al., *Hacia la paz sostenible por el camino de la igualdad de género. II informe de seguimiento al enfoque de género en la implementación del Acuerdo de Paz en Colombia, Notre Dame/Bogotá, Matriz de Acuerdos de Paz/Instituto Kroc de Estudios Internacionales de Paz/Escuela Keough de Asuntos Globales, December 2019, https://doi.org/10.7274/r0-2rt5-6b51.*

them from being attracted by drug cartels and criminal gangs.²⁷ International reports of persisting gaps in the action of Colombian institutions with regard to the gender perspective²⁸ and to the offer of legal opportunities to young generations²⁹ highlight the need for the EU to devote even more attention and resources to these priorities.

5. Complementary incentives: Visa waiver and lifting of sanctions

As a complementary effort to boost the peace process, two other steps made by the EU deserve brief mention: visa facilitation and sanctions relief. It is highly probable that both were evoked as a sort of package of incentives for the contracting parties. Firstly, in May 2014 an amendment to Council Regulation (EC) No. 539/2001 (listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement) was adopted, preparing the ground for the abolition of short-term visas for Colombian nationals.³⁰ In December 2015, a short-stay visa waiver agreement was signed between Colombia and the EU. Provisionally applied as of 3 December 2015, it entered into force on 1 January 2017.³¹ Secondly, shortly after the signature of the first draft of the Peace Agreement, the EU lifted the targeted sanctions on the FARC (listed as a terrorist entity according to Common Position No 2001/931/CFSP), which had been in force since 2002.³²

6. A prompt and credible reaction to an unforeseen and destabilising situation: Massive emigration from Venezuela

In the same vein, the initiative by the EU and a part of the international community to assist regional efforts to cope with the migration crisis originating from

²⁷ Since 2017, around 20 million euro was destined for such purpose. See EEAS, *EU-Colombia Relations*, cit.

²⁸ See for instance Iniciativa Barómetro et al., *Hacia la paz sostenible por el camino de la igualdad de género*, cit., p. 78.

²⁹ See for instance the last developments recalled below, in the Conclusion.

³⁰ European Parliament and Council of the European Union, Regulation (EU) No 509/2014 of 15 May 2014 amending Council Regulation (EC) No 539/2001 Listing the Third Countries Whose Nationals Must Be in Possession of Visas when Crossing the External Borders..., http://data.europa.eu/eli/reg/2014/509/oj. Note that the said amendment was due to be applicable after the entry into force of a visa waiver agreement.

³¹ Council of the European Union, Council Decision (EU) 2015/2399 of 26 October 2015 on the Signing, on Behalf of the European Union, and Provisional Application of the Agreement between the European Union and the Republic of Colombia on the Short-Stay Visa Waiver, http://data.europa.eu/eli/dec/2015/2399/oj.

³² See Council of the European Union, Council Decision (CFSP) 2016/1711 of 27 September 2016 Amending Common Position 2001/931/CFSP on the Application of Specific Measures to Combat Terrorism, http://data.europa.eu/eli/dec/2016/1711/oj. According to Recital No. 2 of the Decision, "In view of the Colombia peace agreement the measures against one entity should be suspended".

Venezuela³³ and primarily affecting Colombia should be appreciated. In a bilateral meeting with the EU held in July 2019, Colombia highlighted its status as the country most affected by migratory flows caused by the multidimensional crisis in Venezuela and the threats the situation posed to national and regional security, in addition to the challenges for stabilisation and consolidation of the policy "Peace with Legality".³⁴ Colombia stressed the importance of deepening not only humanitarian assistance to migrant populations, but development cooperation, as well as technical assistance on specific issues such as strategies for the socioeconomic integration of migrants.

In response, the EU organised and co-chaired with the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) a donors' conference in May 2020 (the original date was 28–29 October 2019, but it was postponed due to the outbreak of the Covid-19 pandemic). At that time, according to official figures, some 4.5 million Venezuelans had left their country. The 2020 conference resulted in 2.79 billion US dollars in pledges, including 653 million worth of grants, a tangible demonstration of the solidarity of the international community to address Colombia's urgent needs. The EU mobilised 158.040 million US dollars, the second highest contribution after the United States (199.717 million). Additionally, the conference expressed support for the creation of the Group of Friends of the Quito process, chaired by the EU. 36

Despite these efforts and contributions, the financial requirements to respond to the unprecedented magnitude of needs, both inside Venezuela and across the region, proved to be overwhelming. For this reason, a second conference was held

According to information provided by the International Organization for Migration (IOM), more than 6 million Venezuelans have left the country since 2015 as a result of the political turmoil, socioeconomic instability and the ongoing humanitarian crisis. See IOM website: *Venezuelan Refugee and Migrant Crisis*, https://www.iom.int/venezuelan-refugee-and-migrant-crisis. The political, economic and social hardships have mainly been provoked by the decrease in oil revenues and by the political divisions arising from the Chavez and Maduro presidencies.

³⁴ Such a policy was adopted shortly after the election of President Duque in August 2018 and was presented as a roadmap for the fulfilment of the 2016 Peace Agreement.

³⁵ See Alinea, International Donors' Conference in Solidarity with Venezuelan Refugees and Migrants. Post-2020 Conference Financial Tracking, August 2021, https://www.alineainternational.com/?p=9481.

The Quito Process was launched in 3–4 September 2018 among Latin American countries affected by in-flows of Venezuelan nationals (see for more details the official website: https://www.procesodequito.org/en). The Group of Friends of the Quito Process was established during Round V of the Quito Process (September 2020), and was formally constituted in Round VI (October 2020). In February 2021, the Group of Friends appreciation was expressed towards the decision of the Government of Colombia to offer temporary protection status to Venezuelan migrants and refugees in its country for the next ten years. See *Joint Statement of the Group of Friends of the Quito Process*, 22 February 2021, https://www.diplomatie.gouv.fr/en/country-files/venezuela/events/article/joint-statement-of-the-group-of-friends-of-the-quito-process-22-feb-21. For the implementation of the temporary protection status as of December 2021, see: Colombia's Presidency, *Migración Colombia ha entregado 19.863 Permisos por Protección Temporal a ciudadanos venezolanos y tiene otros 224.000 aprobados*, 10 December 2021, https://idm.presidencia.gov.co/prensa/Paginas/Migracion-Colombia-ha-entregado-19863-Permisos-por-Proteccion-Temporal-a-ci-211210.aspx.

in Canada in June 2021.³⁷ International donors pledged a total of 2.35 billion US dollars in funding, with again the United States and the EU pledging the largest funds (for the EU 147 million euro).³⁸

Conclusion

The huge efforts carried out by the EU helped make it a stable and trustworthy partner for Colombian institutions and society. It comes as no surprise, therefore, that recently the EU was invited to deploy an Election Observation Mission (EOM) to observe the legislative elections, which took place on 13 March 2022 and which functioned *inter alia* to fill 16 seats in Congress reserved for representatives of the victims of the conflict, according to the Peace Agreement.³⁹ In addition, the Mission will observe the presidential election scheduled for 29 May 2022.

Challenges to Colombia's post-conflict transition remain, as attested to by the decision of the Colombian Government, in place since 2016, to block negotiations with the other main guerrilla movement (*Ejército de Liberación Nacional*, ELN),⁴⁰ the resumption of combat by some FARC dissidents,⁴¹ the violence (including killings) against human rights defenders, former FARC combatants and social and indigenous leaders,⁴² the widespread social turmoil and the tough repression of

³⁷ See Canada Government website: *International Donors' Conference in Solidarity with Venezuelan Refugees and Migrants*, https://www.international.gc.ca/campaign-campagne/international-donors-internationale-donateurs/index.aspx?lang=eng.

³⁸ See Canada Government website: International Donors' Conference in Solidarity with Venezuelan Refugees and Migrants – Pledges and Results, https://www.international.gc.ca/campaign-campagne/international-donors-internationale-donateurs/pledges-results-engagements-resultats. aspx?lang=eng.

³⁹ See EEAS, Colombia: Statement by the Spokesperson on the Legislative Elections, 16 March 2022, https://www.eeas.europa.eu/node/112884. For the preliminary findings on the legislative elections, see EU Election Observation Mission, Colombia Legislative Elections – 13 March 2022. Preliminary Statement, 15 March 2022, https://www.eeas.europa.eu/sites/default/files/eu_eom_col_2022_ps_1_en.pdf.

⁴⁰ For an account on this process, see Alba Moreira, Marcela Forero and Ana Maria Parada, "Proceso de paz con el ELN", in *Dossier proceso de paz en Colombia*, Barcelona Centre for International Affairs (CIDOB), last updated May 2019, https://www.cidob.org/publicaciones/documentacion/dossiers/dossier_proceso_de_paz_en_colombia/dossier_proceso_de_paz_en_colombia/proceso_de_paz_con_el_eln.

⁴¹ See EEAS, Statement by the EU Spokesperson on the Announcement by FARC Dissidents to Resume Armed Combat, 29 August 2019, https://www.eeas.europa.eu/node/66793.

Verdad Abierta, "Implementation of the Peace Agreement Turned Out Lethal for Social Leadership", in FES Perspectivas, November 2021, http://library.fes.de/pdf-files/bueros/kolumbien/18710.pdf; UN Office of the High Commissioner for Human Rights, Colombia: UN Expert Says Killings of Nasa Indigenous Human Rights Defenders, Including Children, Must Stop Immediately, 24 March 2022, https://www.ohchr.org/en/node/102219. The issue was mentioned in the Joint Communiqué of the XIII meeting of the EU-Colombia dialogue on human rights, held on 9 February 2022: see EEAS, Comunicado Conjunto de Colombia y la Unión Europea – XIII Diálogo de Derechos Humanos, 11 February 2022, https://www.eeas.europa.eu/node/110841. According to a large group of NGOs, the EU has been too cautious in the treatment of the issue and should have called for a more vigorous and credible commitment by Colombian institutions for the protection of human rights defenders:

protesters in 2021 following the announcement of fiscal reform (later withdrawn) and in the dire context of the Covid-19 pandemic and the presence of a large population of displaced Venezuelans.⁴³ The presidential electoral campaign has introduced a further element of uncertainty into the Colombian political framework.

All this notwithstanding, it seems fair to state that the EU has acted in a coordinated and credible manner. The long-term commitment, the degree of financial means made available, the use of a comprehensive set of policy tools (the appointment of a Special Envoy; the incentives on visas and on sanctions; the mobilisation of the international community in response to the crisis caused by the massive inflows of Venezuelans; the deployment of an electoral mission etc.) contribute to maximising the positive impact of the European Union as an international actor. Ultimately, what has been put in place could be deemed more than sufficient, given that a like-minded international partner is not necessarily obliged to do "all the job", or to necessarily act as mediator in peace negotiations (with the FARC in the past, possibly with the ELN within a hopefully reasonable time). Domestic actors remain the key players, as they should. Moreover, other international actors (such as the United States, for instance) may play an additional and relevant role: it is to be hoped that they coordinate their action with the UN, the ICC and the EU.

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see ABColombia et al., Open Letter of 23 February 2022, https://www.protectioninternational.org/en/node/2762.

⁴³ Emiliano Guanella, "Colombia: le ragioni della protesta", in *ISPI Articles*, 7 May 2021, https://www.ispionline.it/it/node/30346.

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