

# Multilateralism as Envisaged? Assessing European Union's Engagement in Conflict Resolution in the Neighbourhood

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**Multilateralism as Envisaged?**  
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**Abstract**

This paper focuses on the European Union's practice in resolving conflicts in its neighbourhood. It analyses the extent to which the EU lives up to its declarations and proceeds multilaterally, in cooperation with other international actors. Two case studies are presented – on Georgia and Bosnia and Herzegovina – in which concrete EU behaviour on the ground is studied. The paper argues that various types of engagement are used by the EU in the conflicts: inaction, uni-, bi-, and multilateralism. Whereas bilateralism seems to be circumstantial, unilateralism and multilateralism belong to EU's preferential modes of activity. At the same time, the EU is much more effective in supporting multilateral activities than in leading them.

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# Multilateralism as Envisaged? Assessing European Union's Engagement in Conflict Resolution in the Neighbourhood

## *Introduction*

This paper examines the European Union's (EU) practice in conflict resolution. More specifically, it analyses to what extent and how effectively the EU lives up to the principles of multilateralism declared in its key documents while intervening in regional conflicts. It focuses on the EU's performance in its neighbourhood. These local conflicts are especially important for the Union and the temptation to resort to other forms of engagement, such as uni- or bilateral action, may be greater as a result. The paper draws from previous MERCURY research, in particular on conceptualising multilateralism (Bouchard and Peterson 2010) and on major diplomatic practices (Klein et al. 2010).

'The Union's aim is to promote peace' – that is the first among European Union's objectives as defined by the Article 3 of the Treaty on European Union (TEU). Having settled the disputes among its members through integration, the EU has turned to conflicts abroad and adopted conflict resolution as one of the core objectives of its external action. In its relations with the world the EU 'shall contribute to peace, security, [...] mutual respect among peoples, [...] and the protection of human rights' (Art. 3.5 TEU). The reasons are not only moral (conflicts bring suffering and human rights are violated), but also pragmatic. Regional conflicts are considered one of five key threats that the EU has to face. According to the European Security Strategy, adopted by the European Council in December 2003:

Violent or frozen conflicts, which also persist on our borders, threaten regional stability. They destroy human lives and social and physical infrastructures; they threaten minorities, fundamental freedoms and human rights. Conflict can lead to extremism, terrorism and state failure; it provides opportunities for organised crime. Regional insecurity can fuel the demand for [Weapons of Mass Destruction]. The most practical way to tackle the often elusive new threats will sometimes be to deal with the older problems of regional conflict (European Council 2003: 4).

Local conflicts are regarded as one of the root causes of other major threats, namely terrorism or proliferation of weapons of mass destruction and, consequently, the EU should deal with these conflicts and contribute to their resolution. In particular, the EU has focused on conflicts in its immediate neighbourhood, reflecting the point made in the European Security Strategy that, '[even]

in an era of globalisation, geography is still important' (European Council 2003: 7). The Union therefore aspires to build security in the neighbourhood and to promote 'a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we [i.e. the Union] can enjoy close and cooperative relations' (Ibid.: 8).

The stabilisation of the European Union's space has been achieved through the creation of an internal system of law binding all member states. The EU draws heavily on its own experience and has looked to an analogous system at the international level with the United Nations (UN) at its core. It aims at contributing 'to the strict observance and the development of international law, including respect for the principles of the United Nations Charter' (Art. 3.5 TEU) and helping to create 'an international order based on effective multilateralism' (European Council 2003: 9). Such an order is to be based on the UN Charter, but is also to rely on other 'international organisations, regimes and treaties' (Ibid.: 9), such as the World Trade Organisation, NATO, Organization for Security and Co-operation in Europe (OSCE), Council of Europe, or the African Union to confront threats to international peace and security.

This paper reviews the concepts of conflict resolution and multilateralism, thus providing the platform for a concrete research design. Second, the EU's tools and policies for conflict resolution are reviewed. Third, two case studies scrutinize EU's recent performance in conflict resolution. The developments in Georgia and Bosnia and Herzegovina have represented prime examples of long lasting conflicts within the EU's neighbourhood where it has been trying to contribute to a resolution (or at least trying to give such impression). Although similar in many ways, not least their possible importance for the EU, the two conflicts are very different – especially in the involvement of other external powers (as in Russian involvement in Georgia). Comparing them may lead to a deeper understanding of EU's engagement in the neighbourhood. The paper concludes that the EU has been an effective multilateral player while supporting other actors, but much less so as a leading partner of multilateral efforts.

### ***Multilateralism in Conflict Resolution***

An external intervention can occur during any phase of a conflict – pre-violent, armed conflict phase, cease-fire, or post-agreement phase.<sup>2</sup> The specific form varies hugely from seeking to prevent conflict and discouraging parties from resorting to force, employing conflict management

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<sup>2</sup> These are four phases usually identified in academic literature. During the pre-violence phase, there is a conflict of interest that needs to be resolved. In the armed conflict phase, the parties use force to compel the adversary. The violent phase ends with a cease-fire, or a negative peace, when the parties stop using force, but maintain their conflict of interest. Recurrence of violence is always an imminent threat. In the last phase, labelled as post-agreement or positive peace, the conflict is eliminated altogether (cf. Gilboa 2009; Diehl 2008: 18).

measures if force is being used, to intervening militarily. 'Negative peace' may be stabilised with the use of peacekeepers and positive peace may be stimulated by reconstruction and development assistance. For the purpose of this paper, conflict resolution incorporates intervention in any of the four phases of a conflict. It is more ambitious than conflict management, which seeks simply to reduce the dangers of a crisis. It is more durable than keeping the conflicting parties apart from each other. Critically, an external actor's contribution may be to create 'a social situation where the armed conflicting parties in a (voluntary) agreement resolve to peacefully live with – and/or dissolve – their basic incompatibilities and henceforth cease to use arms against one another' (Wallensteen 2002: 50).

External actors may therefore choose from various forms when contributing to conflict resolution. They may seek to mediate between the conflicting parties; they may take sides and impose sanctions on one of them; they may also use armed force to stop the fighting and impose negative peace. In all cases, they may proceed unilaterally, bilaterally, or multilaterally.

In conceptualizing multilateralism, this paper draws on previous MERCURY research, defining multilateralism as 'three or more actors engaging in voluntary and (more or less) institutionalised international cooperation governed by norms and principles, with rules that apply (more or less) equally to all' (Bouchard and Peterson 2010: 21). This definition does not rely (much) on a specified number of participants, but requires a certain level of institutionalised cooperation. It is particularly suited for studying the European Union, because it is not restricted to state actors (for further debate on the concept see Bouchard and Peterson 2010; Klein et al. 2010). On the one hand, such a definition may turn any EU intervention multilateral, because there are always at least three actors present – the EU and conflict parties. What then becomes key is the extent of institutionalisation and the applicability or acceptability of "rules that apply (more or less) equally to all".

On the other hand, this paper chooses a different approach and focuses on the ways an external actor seeks to contribute to the lasting resolution of conflicts. In this way, all forms of engagement are possible, which raises interesting questions. The external actor's contribution might be labelled as unilateral, for example, if its action reflects just its own objectives without any consultation with the parties to the conflict, e.g. intervention on humanitarian grounds. An activity with the consent of or in concert with the conflicting parties would then correspond with bilateralism, because the external actor would bilaterally cooperate with the local actors.<sup>3</sup> It could, for example, mediate a

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<sup>3</sup> Even though there always are at least two conflicting parties, this type of intervention may still be considered bilateral for the purpose of this research, which is not interested in how the conflicts are resolved, but in how the external actor

cease-fire between two warring states. Moreover, a peace enforcement operation against the will of warring states in cooperation with another external actor would also be labelled as bilateral, as there would be two actors cooperating on an activity with the local actors being restricted to objects. With the same logic, a multilateral conflict resolution would comprise cooperation with the parties of the conflict and one or more other external actors (or two or more external actors without the participation of the conflicting parties) in a way conforming to the other parts of the definition. By analogy, the more or less equal rules for all must be understood as more equal for all intervening parties and rather less equal for the conflict parties receiving external assistance.

## **European Union's Approach to Conflict Resolution**

For its part, the European Union recognizes the four phases of conflict resolution outlined above, namely conflict prevention, crisis management, peace-building and reconstruction (Council of the EU 2005: Art. 2). It has noted that conflict prevention 'cannot start too early' (European Council 2003: 7) and that this may involve various instruments of trade, development, humanitarian assistance, or civilian and crisis management capabilities (High Representative and Commission 2000: 5). It has declared itself ready to 'facilitate peaceful solution to disputes' and emphasizes the need to address the root-causes of conflicts (European Council 2001: para. 3). When violence breaks out, the EU has military and civilian crisis management tools at its disposal within the Common Security and Defence Policy (CSDP), which could help to stop the fighting and de-escalate the conflict. The CSDP missions can contribute both during crisis management and peace-building phases of the conflict, being tasked with, *inter alia*, disarmament operations, peace-making or post-conflict stabilisation (Art. 43.1 TEU; see also European Council 2004a; European Council 2004b). For the most part, the Union contributes to post-conflict reconstruction either in the framework of enlargement policy<sup>4</sup>, European Neighbourhood Policy or development policy.

The EU aims at cooperating with external partners in conflict resolution. The joint declaration on cooperation in crisis management provided for a cooperation framework with the United Nations (Council of the EU 2003); the Berlin Plus arrangement regulated the cooperation with NATO. But the EU recognizes the role of many other organizations, such as the World Bank and International Monetary Fund, OSCE or the Organisation for Economic Co-operation and Development (European Commission 2001). In addition, the Union considers civil society to be an important actor in conflict resolution too (Tocci 2008).

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intervenes in the process. At the same time, the intervening actor may have a different approach to each of the parties, thus combining unilateral and bilateral approach, which might be labelled as 'selective bilateralism'.

<sup>4</sup> Between 2000 and 2008, a special European Agency for Reconstruction assisted Western Balkan countries.

The EU is in principle thus able to cover the whole spectrum of conflict resolution and ready to cooperate with other international actors. It suffers, however, from incoherencies that follow from its specific institutional structure and allocation of competencies. The Commission is primarily responsible for reconstruction as well as trade and development tools of prevention. The Council, on the other hand, determines crisis management policy, insofar as member states' capabilities are used. Internal coordination has not always been very efficient (see for example Stewart 2008). Nor has external cooperation always been smooth. EU-NATO coordination has suffered from conflicts between member states and the efficiency of other organizations, such as the UN or OSCE, is curbed by veto powers. Yet, resolving conflicts in all four phases in cooperation with other actors clearly belongs to the EU's vision of effective multilateralism.

### ***EU and Georgia's Territorial Conflicts: Effective Non-Multilateralism***

The South Caucasus is currently the most conflict-plagued region in the post-Soviet space, where ancient hatreds and geopolitical rivalries are interwoven. Georgia's conflicts with the breakaway entities of Abkhazia and South Ossetia are an exemplification of both. In the early 1990s, the explosion of the Soviet Union's "*matrioshka*" policy coupled with Georgian nationalism caused brutal wars between the metropolitan state and the two autonomous republics, which ended with the separation of Abkhazia and South Ossetia from the central government in Tbilisi. The ceasefire agreements of 1992/93 established a joint peacekeeping force<sup>5</sup> and a monitoring role of the OSCE in South Ossetia, and a Commonwealth of Independent States' peacekeeping force and a UN observer mission in Abkhazia. The wars caused some 9,000 deaths and more than 250,000 internally displaced persons (ICG, 2006). Over the years, the conflicts were labelled as "frozen". Actually, what was frozen was the conflict resolution process that left a precarious security situation in the South Caucasus, which, ultimately led to the military escalation between Georgia and Russia in August 2008 and the Russian recognition of the *de facto* republics. Thus, these unsolved conflicts have turned to be the largest threat to the stability of the region, posing challenges also for the security of the EU's eastern neighbourhood.

### **The Actors Involved**

Given the strategic location of the South Caucasus, major external powers have remained at loggerheads with each other, explaining both the frozen and unfrozen natures of reconciliation and conflict dynamics respectively. The initial peace process was accompanied by the direct or indirect presence of single external states (Russia, the US and Turkey) and multilateral organizations (the EU, OSCE and UN). Of these actors, the EU was considered by those involved in the conflict as

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<sup>5</sup> Consisting of Georgian, Russian and Ossetian soldiers.



the most neutral broker, even if throughout the post-violence period (1993-2008), it demonstrated little interest in being an active mediator. Since the EU's failure to prevent and respond to war in Balkans, conflict prevention and settlement have become amongst the major objectives in EU foreign and security policy. Within the framework of its European Neighbourhood Policy, the EU-Georgia Action Plan of 2006 pledged 'strong EU commitment to support the settlement of Georgia's internal conflicts, drawing on the instruments at the EU's disposal, and in close consultation with the UN and OSCE'. Both also agreed that 'the issue of territorial integrity of Georgia' was also to be included in 'in EU-Russia political dialogue meetings' (EU-Georgia Action Plan 2006). Thus, by seeking to engage several actors in the region, the EU aimed at contributing to the peace process through multilateral diplomacy. This case study analyses whether the EU has been true to its rhetorical pledge to engage in conflict resolution through multilateral activities, as opposed to uni-, bi-lateral or in-action. The study addresses this question by examining four phases in the conflict cycle, including conflict prevention, open violence, post-war reconstruction and long-term conflict resolution.<sup>6</sup>

### **The EU and the Peace Process: a Bilateral Actor at the Margins of Multilateralism**

The EU's impact on the peace processes was not impressive, especially in the first phase of conflict resolution. Its involvement in conflict prevention was marginal. This was, firstly, because, by the time the EU first appeared as an actor in the region, the wars of 1992-93 were over. Second, for years, the EU interpreted the conflicts as two-party games between the state of Georgia and the *de facto* republics, without acknowledging Russia's crucial role. Georgia's request to internationalise peacekeeping in the conflict zones in order to prevent escalation bore no fruit. Even in 2004, when Tbilisi called upon the EU to send an international monitoring mission after Russia had vetoed the extension of the OSCE border-monitoring mission in South Ossetia, Brussels turned down the invitation, avoiding thus direct confrontation with Russia.

If in the conflict prevention phase (1998-2008) the EU's tendency was towards inaction, in the post-war phase of reconstruction and long-term conflict resolution, the Union tended to act mostly at the bilateral level, engaging with the parties to the conflict, and first and foremost with Georgia. Throughout the post-war phase, the principal means through which the Union tried to induce peace in the region was through the provision of aid as well as policies such as democracy promotion, state-building and civil society development. The implicit aim was to raise the appeal of reintegration for the secessionist entities into Georgia. Additionally, during the entire post-war

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<sup>6</sup> In the case of Georgia, these phases have not been linear and can be divided in two ways. At the macro level, the conflict includes a first period of violence in 1992-93, immediate de-escalation (1993), post-war reconstruction (1993-1996), accompanied by long-term peacebuilding (1996-). At the micro level, we can divide the conflict in phases around the 2008 war: escalation leading to violence in 2008, de-escalation (2008), post-war reconstruction, and long-term peacebuilding (2008-).

period, the EU financed rehabilitation programmes for Georgia/Abkhazia. Most of these programmes were carried out in the framework of the EU-Georgia Action Plan, itself drawn up within the framework of the European Neighbourhood Policy. In the implementation phase of the European Neighbourhood Policy Action Plan, the United Nations Development Programme and the United Nations Observer Mission in Georgia were also involved. It can therefore be argued that in the post-war phase, the EU's activities, while primarily bilateral in nature, were also marginally multilateral, particularly in the implementation of specific rehabilitation programmes.

In 2004, the EU began to fund civil society groups in Georgia through the European Instrument for Democracy and Human Rights. Between 1997-2001, it had also funded the Conflict Prevention Network in order to receive recommendations from international civil society actors on how to enhance its conflict resolution policies in Georgia. Notwithstanding the enormous analytical support provided by the network, the initiative was considered ineffective and was ultimately shut down. The network had provided the possibility to create a multilateral forum for interaction between the EU, the Georgian government and civil society. However, the EU did not fully use the network's potential and limited itself to being a donor at the bilateral level with civil society organizations in Georgia and the secessionist entities, separately. The EU's assistance to civil society organizations has been important in strengthening the third sector, but it has not have a visible effect on the peace process. This was because the EU's engagement with civil society organizations was a substitute rather than a complement to the EU's (limited) engagement with the official level involved in conflict resolution (Popescu 2010).

A final dimension of the EU's involvement in conflict resolution in the first post-war phase was through its financial support for the multilateral Joint Control Commission (JCC). The JCC, under the aegis of the OSCE, monitored the ceasefire in South Ossetia. In 2001-8, the Union acquired an observer status in JCC meetings on demilitarisation and economic projects. At first sight, the EU was thus involved in a multilateral framework, engaged in conflict prevention and long-term conflict resolution. However, the Georgian side complained that the JCC was in fact a bilateral mechanism between the OSCE and the EU, insofar as these actors rarely consulted the conflict parties themselves (and the Georgian government in particular) about the type of projects to be financed or in the implementation phase of these projects.<sup>7</sup> In response to this critique, the EU representative in Tbilisi declared that the Georgian government claimed a right of veto over EU projects and did not seek genuine collaboration.<sup>8</sup> Irrespective of the rights and wrongs of both sides, the JCC had clear limits and could be considered multilateral more in name than practice.

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<sup>7</sup> Interview with Georgian official, 26 December, 2010, Tbilisi, Georgia.

<sup>8</sup> Interview with EU diplomat in Georgia, 27 December, 2010, Tbilisi, Georgia.

The August 2008 war marks the beginning of the second phase of the conflict. The EU played a primary role in reaching a ceasefire between Georgia and Russia. The mediation took place in Moscow and Tbilisi at the bilateral level; the United States supported the EU only behind the scenes. According to the former French Foreign Minister Bernard Kouchner, ‘the Americans were out... [They] were phoning us and we were phoning back. They were sending a navy ship to the Black Sea, but so what? Nothing! So we had to stop the Red Army ourselves and it was our main and unique purpose – not to let the Russians take the capital [of Georgia]’ (Asmus 2010). In view of Russia’s rejection of US involvement in Caucasian affairs, the EU’s bilateral approach with Russia was seen as preferable to a multilateral one, be this a trilateral approach involving also Washington or one including Georgia.

### **EU’s Marginal Multilateralism?**

Beyond providing assistance to the Georgian government to support its economic reforms, in 2003 it looked like the EU’s official involvement in conflict resolution would be stepped up through the appointment of an EU Special Representative (EUSR) to the South Caucasus. With the EUSR, the EU set out to engage in conflict settlement through the collaboration with the UN and the OSCE (Council of the EU 2008). This EU mandate was thus quintessentially multilateral. However, the EU specifically designated itself as a secondary actor in this process. The EUSR was not authorized to act as a mediator between the parties at the bilateral or multilateral levels, but rather to engage in conflict resolution only in support of international organizations already engaged in mediation.

In the aftermath of the August 2008 war, when the OSCE called for the establishment of a mediation forum aimed at security and stability in the South Caucasus, the EU’s role also was supportive rather than that of a leading player. The initiative goes back to the “Six-Point Ceasefire Plan” reached by French (then EU) President Nicolas Sarkozy and his Russian counterpart Dmitry Medvedev, which brought the military confrontation between Moscow and Tbilisi to an end. The agreement, together with its follow-up document of 8 September 2008, envisaged the creation of a new multilateral platform (Civil Georgia 2008) involving the EU, the OSCE, the UN and the United States, as well as Georgia and Russia. At Russia’s request, officials from Abkhazia and South Ossetia were also included in the talks. Moscow’s demand coincided with that of the EU and OSCE, the latter also considering that the talks should be all-inclusive. To date, the main achievement of this forum has been Russia’s decision to withdraw its military troops from Perevi, a small Georgian village beyond the South Ossetian administrative border. Its main failure instead has been the inability to prevent Russia from vetoing the extension of the UN and OSCE missions to Georgia’s breakaway regions (Mikhelidze 2010), thus hindering a further multilateralisation of the peace process.

Thus the Geneva forum is the first multilateral forum in which the EU has participated and collaborated with other players as a direct conflict mediator. The issues discussed in this framework cover the activities designed for conflict prevention such as the “proposals for joint incident prevention and response mechanisms” drafted in February 2009, which aimed at ensuring security and stability on the ground by avoiding incidents and preventing criminal activities, as well as post-violence reconstruction and long-term conflict resolution. This last included the “Agreed Undertakings”, to deal with the supply of water, the rehabilitation of housing and damaged facilities as well as the return of refugees and property issues, such as restitution and compensation. However, according to some authors, the Geneva forum seems to be aimed at crisis management (mainly to prevent another confrontation between Georgia and Russia) rather than Georgian-Abkhaz and Georgian-South Ossetian conflict settlement and resolution (Whitman and Wolf 2010). For the EU it is not easy to engage with the key actor in the process – Russia – insofar as Moscow is not interested in acting multilaterally with the EU but rather prefers to keep relations at the bilateral level.

Beyond the Geneva forum, the EU continues to influence the resolution of the conflict by indirect means, for example within the framework of the Eastern Partnership, launched in 2009. The initiative includes six countries – Belarus, Moldova, Ukraine, Armenia, Georgia and Azerbaijan – and concentrates on four policy dimensions: bi- and multilateral relations, governance and financial assistance. The Eastern Partnership emphasizes ‘the need for their earliest peaceful settlement on the basis of principles and norms of international law’ (Council of the European Union 2009) and considers that conflict resolution in the South Caucasus is possible only through long-term goals related to democracy and development. Indeed, the activities that it promotes in the framework of the Eastern Partnership are centred on the promotion of good governance and financial assistance as well as regional trade and energy cooperation. Thus the Eastern Partnership reconfirms the EU’s preference for economic and political assistance in post-war situations rather than direct conflict resolution activities.

### **Factors Impeding Multilateralism**

All actors in the region, including the EU, have tried to engage with the conflicts in Georgia at the bilateral rather than multilateral level. This was especially true in the first period of the conflicts, up until the re-eruption of war in 2008. The motivation for the reluctance to create an effective multilateral forum for conflict prevention and resolution could be explained by the circumstances in which solutions have been sought. The EU, in principle, has represented an *encompassing institution*, interested in gaining trust and enjoying legitimacy among all the parties involved. As

noted by Bertram (1995) this represents a crucial component of successful multilateral diplomacy. Notwithstanding this, a number of competing factors have impaired the EU's potential as an effective multilateral actor in the region, which were particularly evident in the period from the 1990s to 2008, although they have persisted to some extent in the post-2008 phase of the conflicts too.

First, is a *lack of knowledge*. The EU did not engage with or seek to understand the causes and origins of the conflict when they first erupted (Coppieters 2007). Indeed, the EU was largely absent when the conflicts first broke out. By contrast, in the post-2008 phase, the EU rectified the problem by commissioning the "Tagliavini report",<sup>9</sup> which provided a historical and legal assessment of the eruption and conduct of the August 2008 war. But the initial lack of knowledge hindered an accurate identification of the dynamics between the conflict parties. Georgia has always stressed the geopolitical aspect of the conflict, downplaying the Abkhaz and South Ossetian positions, portraying it as a confrontation with Russia. The EU meanwhile viewed the conflict exclusively as a confrontation between the metropolitan state and the *de facto* republics, and refused (at least officially) to acknowledge Russia's role in the conflict. Even when the August War revealed Russia's direct involvement in the conflict, the EU initially continued to regard the conflict as a two-party game (i.e. conflict between metropolitan and *de facto* states).<sup>10</sup> Both the Georgian and the EU's positions had partial truths in them, but both were also inaccurate. To some extent, this inaccuracy in the EU's position was rectified after the War. However, in other respects the EU's original conceptualisation of the conflict persists. The Union has in fact exerted little pressure on Russia to fulfil the Medvedev-Sarkozy six-point Agreement or reach a new Russian unilateral declaration on the non-use of force (in response to Saakashvili's recent similar initiative).

The EU's choice to focus only on two parties of the conflict rather than engage effectively with all parties in a multilateral setting can in part be explained by a *perceived lack of leverage* (Bertram 1995). Well aware of its dependence on Russian energy resources and underestimating the interdependence between the EU and Russia, the Union has come to lose its leverage over Russia, thus impairing its ability to press Moscow to make concessions in favour of sustainable peace in the South Caucasus. The EU only directly engaged the Kremlin during the hot phase of war, in the summer of 2008. Then, EU policy was exclusively aimed at ending the military confrontation and reaching a ceasefire agreement. Neither before nor since, has the EU purposively engaged Russia, alongside Georgia and the breakaway entities, to push forward the peace process.

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<sup>9</sup> The independent international fact-finding mission on the conflict in Georgia, *Official Journal of European Commission*, 3.12.2008, [http://georgien.boell-net.de/downloads/IIFMCG\\_report\\_volume1\\_Ge.pdf](http://georgien.boell-net.de/downloads/IIFMCG_report_volume1_Ge.pdf).

<sup>10</sup> Interview with EU diplomat in Tbilisi, Georgia, 19 December 2010.

Third and relatedly, the EU has displayed a *lack of sense of urgency* deriving partially from a *lack of clarity of purpose* (Bertram 1995). According to Evans and Newnham, multilateralism is a 'policy of acting in concert with others' to achieve mutual goals (Evans and Newnham 1990). In the Georgian conflicts, the actors involved in the peace process, especially the EU and Russia, have, paradoxically perhaps, shared the same goal of supporting the *status quo* (Russia at least until Kosovo's independence in 2008), while diverging in their policies to achieve it. The EU has aimed not to jeopardize its bilateral relations with Russia. The Kremlin has sought to maintain and manipulate the condition of stable instability in the region in order to keep its hold on the South Caucasus. Beyond the goal of preventing further destabilization, however, there has been little intra-EU agreement on what policy to pursue in the Caucasus. The internal division between member states pressing for further engagement in the Mediterranean versus the Eastern neighbourhood often prevented the parties from acting under a shared policy scheme, whereas multilateralisation of conflict prevention or resolution requires the participation of international and local actors with a clear and shared strategy and policy goals. Besides, within the Union, there was no member state constituency pushing for the South Caucasus' inclusion on the EU foreign policy agenda before the 2004 EU enlargement.<sup>11</sup> Therefore, the EU generally contented itself with acting in a complementary fashion to the OSCE and UN, mostly concentrating on humanitarian and development efforts. Its effective multilateral intervention was limited to August 2008, when the war challenged European security directly.

The Caucasus is a region in which any form of external action – uni-, bi-, multi-lateral or even inaction – is determined by Western actors' bilateral relations with Russia. These dynamics hinder the EU's effective multilateralism in conflict resolution. As noted by Klein (et al. 2010), the preferences of the EU for a particular diplomatic approach (uni-, bi- or multilateral) 'depend primarily on the issue in question, the external partner concerned and/or the inter-institutional competition'. The Georgian conflict highlights how the EU's institutional limits and its inability to formulate a common position/strategy towards the South Caucasus as well as its 'paralysis of the EU decision-making' (Ibid.) have led to the passive multilateralism.

This is not to say that the EU has always been marked by passivity. When its security interests have been directly threatened, as in the 2008 war, the EU has acted. Yet, such action reveals the EU's tendency to act in the framework of 'ad hoc meetings and short-term arrangements to solve particular problems', an approach, which cannot be considered as multilateralism (Bouchard and Peterson 2009). Thus the EU's approach towards conflict resolution in Georgia was and continues

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<sup>11</sup> Interview with Georgian official, Tbilisi, Georgia, 21 December, 2010.

to be pragmatic and reactive. In the past, its policy was driven mainly by maintaining the *status quo* rather than solving the conflicts. In this respect, there was little reason to engage Russia, which, paradoxically, acted to pursue the same goal.

## ***The EU and the Crisis in BiH:***

### ***From Successful Multilateralism to Failing Unilateralism***

Since the beginning of the civil war in Bosnia and Herzegovina (further also as Bosnia or BiH) in the 1990s, BiH has turned into a laboratory that has tested the reaction of the international community to a post-Cold War conflict settlement and the post-conflict consolidation and reconstruction processes. BiH has also been a country where the transition from the NATO-led to EU-led military operation took place for the first time. And last but not least, BiH is the country of the Western Balkans where the conditionality of the EU association and membership has faced serious challenges in recent years.

The first phase of the conflict in BiH was an element of a broader fragmentation of the former Yugoslavia, which started at the beginning of the 1990s. Shortly after the declaration of independence in March 1992, the first inter-community clashes in Bosnia rapidly deteriorated into a full-scale civil war, with the heavy involvement of Bosnian neighbours - Serbia and Croatia. The first phase of the conflict lasted between April 1992 and December 1995 and resulted in the most devastating conflict in Europe since 1945, with some 100 000 persons killed and over 2 million displaced. The international community initiated several political plans to prevent or to intervene into the Bosnian conflict, but without any significant impact.<sup>12</sup> The ineffectiveness of the international involvement was also demonstrated in the peace-making attempts of the UN-led operations (UNPROFOR). The United Nations' failure to protect the "safe zone" in Srebrenica turned into the symbol of the impotence of the international community in the first half of the 1990s.

The open internal military conflict in BiH stopped effectively only after the NATO operation *Deliberate Force* in August and September 1995. Consequently, the key elements of the constitutional framework for the Republic of BiH were set by the Dayton Accords (officially called "the General Framework Agreement for Peace in Bosnia and Herzegovina" or Dayton/Paris Accords) signed by representatives of Yugoslavia/Serbia, Croatia and the president of BiH, and co-signed by France, the US, the UK, Germany and Russia in December 1995. The Dayton Agreement has also been a basis for the presence of the international community in Bosnia, in

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<sup>12</sup> The Carrington-Cutileiro plan in 1991-92, the Vance-Owen plan in 1993, the Owen-Stoltenberg plan in 1993, or the Contact group plan from 1994.

particular the NATO-led IFOR (and later SFOR) operation to oversee the military-security aspects of the Dayton agreement and a High Representative for BiH to supervise their civilian aspects, as well as the EU-led operations launched in the 2000s.

## **The Actors Involved**

The Bosnian conflict provided for a platform on which the abilities (or their absence) of different international actors to tackle a post-cold war conflict were tested, sometimes with very unimpressive results. The different international actors in BiH created a very complex environment in which the post-Dayton constitutional authorities of BiH, the EU Presidency, the EU member states, the European Commission, the Office of High Representative, EU military and police missions, OSCE and NATO all cooperated or competed with each other (cf. Penksa 2006: 12).

International institutions with global or regional areas of activity were involved in the settlement of the Bosnian conflict and its follow-up as well as actors created specifically by the international community in response to the conflict(s) in the territory of ex-Yugoslavia. The global and regional institutions involved primarily the UN, NATO, OSCE and the European Union, as well as, though less intensely the Council of Europe (including the European Court for Human Rights). The newer actors involved primarily institutions created by the Dayton/Paris Accords (the Peace Implementation Council and the High Representative for Bosnia and Herzegovina/HR for BiH) but also institutions linked with the Dayton Agreement only indirectly (such as the International Criminal Tribunal for Former Yugoslavia). The list of international actors would be incomplete without considering the role of state actors. This can be demonstrated, among others, by the fact that five states sponsored the Dayton/Paris Accord and two others co-signed it beside Bosnians.

However, it is the United Nations that has provided general framework for international involvement in BiH. The activity of the UN, and in particular the UN Security Council, was to provide the legal justification and cover for the activities of the international community in Bosnia, both in the pre-Dayton and post-Dayton period. In this respect, the situation in BiH differed from Kosovo in 1999 where the NATO-led intervention was only very weakly embedded in the international law. On the other hand, the UN's reputation in BiH was weakened significantly by its inability to end the atrocities in Bosnia in the first half of the 1990s.

The Dayton Accords nonetheless explicitly requested the UN Security Council to act in new areas, such as the establishment of an UN International Police Task Force in Bosnia. A UN Security Council resolution also established the post of the High Representative for Bosnia and



Herzegovina in 1995. In other areas, the UN was asked to authorize an effective transfer of responsibility from direct UN command to other international organizations, including the transfer from the UN-led UNPROFOR to NATO-led IFOR and from IFOR to SFOR in 1996. In some fields of the post-Dayton regime, the UN usually simply acknowledged an already ongoing process such as the organization of the elections in Bosnia. Moreover, the UN led the first post-Dayton police mission in BiH, the UN International Police Force (IPTF), which played a crucial role in the rebuilding and transformation of the law enforcement authorities in BiH.

NATO was already active in the pre-Dayton phase of the conflict (with air-strikes in 1994-5) but its role has increased significantly since 1995-6, when the NATO-led operations IFOR and SFOR were vested with key responsibility for the military aspects of the implementation of the Dayton Agreement. NATO's presence in BiH was reduced again in 2004 when the NATO-led SFOR operation was replaced by the EU-led operation EUFOR Althea. However, even after 2004, NATO was present in BiH via its Headquarters in Sarajevo and by fulfilling some operational tasks linked to the search for those indicted by the International Criminal Tribunal for Former Yugoslavia (ICTY).

The primary role of the OSCE was in assisting with the organization of the elections in BiH (elections were originally organized by the High Representative in BiH and later the responsibility was transferred to Bosnian authorities) and monitoring of the election process. The potential of the OSCE, however, was much broader. It was even considered as a candidate to replace the post-Dayton UN police mission in 2003, instead of the EU-led mission (Penksa 2006: 5).

The Peace Implementation Council (PIC) has been the key multilateral platform for political and strategic decisions in the post-Dayton process. It involves 55 actors – both states and key international organizations and agents (including the Council of Europe, European Bank for Reconstruction and Development, EU, International Monetary Fund, NATO, and the UN Commission for Refugees). Within the PIC, a narrower Steering Group (composed of Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States, the Presidency of the European Union, the European Commission, and Organization of the Islamic Conference, represented by Turkey) serves as a forum for more frequent meetings and more intensive discussions. The PIC acts as a consultation body for the HR for BiH and can also (in a limited way) review his decisions.<sup>13</sup> The Council also provides a framework for long-term strategic decisions about BiH, for instance regarding the financial assistance from the international community. The ambassadors of the members of the PIC and/or the Steering Group also frequently comment (by

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<sup>13</sup> The PIC halted plans to close the Office of the HR in 2009.

declarations and communiqués) on many issues of the internal BiH politics (such as the state of the judiciary, the establishment of a Missing Persons Institute, freedom of speech and assembly, the budgetary stability of Bosnia, and cooperation of Bosnian authorities with the ICTY).

However, the most visible external actor in the post-Dayton BiH has been the High Representative for BiH and his Office (OHR for BiH). The post was created 1995 and its holder<sup>14</sup> has been vested with control of civilian aspects of the implement of Dayton Agreement. The HR for BiH was given an impressive catalogue of competencies within the Bosnian constitutional structure by the Dayton Accords, including the 'hard' power of dismissing Bosnians (whether elected or non-elected) from their office if they are deemed to be obstructing the implementation of the Dayton Agreement (the so-called "Bonn powers").<sup>15</sup> As an informal rule, the HR is a citizen of an EU country<sup>16</sup> while his deputy has US citizenship. The time framework of the activity of the HR and his team was not defined in the Dayton Agreement. As a consequence, the possible closure of the Office of the HR for BiH has been discussed on several occasions.

The International Criminal Tribunal for the Former Yugoslavia is the major international judicial body for the prosecution and punishment of those found guilty of most serious crimes committed in the context of the ex-Yugoslavian conflict. The ICTY was established by UN Security Council resolution 827 from May 1993 and started functioning in 1995-6. Up to February 2011, the ICTY had concluded proceedings with 125 accused individuals with over thirty cases still to be determined by the Court.

Bosnia joined the Council of Europe in 2002 and also ratified the European Convention for Protection of Human Rights and Fundamental Freedoms. With this, the BiH also joined the system of the European Court of Human Rights (ECoHR). Until today, the most important decision of the ECoHR relevant to the BiH was the Court's ruling in the Sejdic-Finci case. In this case, the constitutional system of Bosnia and the power-sharing mechanism under Dayton Accords, which require candidates in the parliamentary elections to declare themselves as a Bosniak, Serb or Croat, was challenged before the ECoHR by two BiH citizens of Jewish and Roma origin. The ECoHR found BiH in violation of the guaranteed right to stand for election (Art. 3 of Protocol No. 1 of the Convention) and the prohibition of discrimination (Art. 14) in December 2010, thus declaring

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<sup>14</sup> Carl Bildt (1995-1997), Carlos Westendorp (1997-1999), Wolfgang Petritsch (1999-2002), Lord Paddy Ashdown (2002-2006), Christian Schwarz-Schilling (2006-2007), Miroslav Lajčák (2007-2009) and Valentin Inzko (since 2009).

<sup>15</sup> The Bonn powers were not included in the original version of the Dayton Accords but added only later. They have been controversial and the critique of the Council of Europe contributed to their less intensive use by Christian Schwarz-Schilling while Lajčák returned to using their full potential (cf. Venneri 2007: 27).

<sup>16</sup> Until 2011, the HRs for BiH were citizens of Sweden, Spain, Austria (twice), the United Kingdom, Germany and Slovakia.

one of the cornerstones of the post-Dayton regime in violation of Bosnian international obligations and opening the constitutional system of BiH for further reforms.

## **The EU in Bosnia and Herzegovina**

The European Union was present in BiH, directly or indirectly, from the very beginning of the split of Yugoslavia. However, the intensity and format of the EU's involvement varied significantly in different moments of the Bosnian independence. In general, three phases of the EU's involvement in BiH can be identified: the pre-Dayton period (1991-1995); the period between the adoption of the Dayton Accords and the establishment of the EU Special Representative for Bosnia (1995-2002); and the period after the establishment of the EU Special Representative and the launch of EU-led police and military missions (2004-present).

The EU's internal institutional structure has had a number of consequences for the EU's representation in BiH and therefore its coherence and efficiency. The EU is not represented by a single entity in the BiH but by three major EU actors: the EU Special Representative for BiH, the EU military mission EUFOR Althea, and the EU Delegation in Bosnia (in the pre-Lisbon period, the Delegation of the European Commission). This institutional trio is supplemented by the EU Police Mission (EUMP), which succeeded the UN-led International Police Task Force in 2003.<sup>17</sup>

Relations between the EU and BiH have not developed in isolation from a more general framework of the EU's relations with the whole region of Western Balkans. Since the early 2000s, the EU has been trying to formulate a more complex strategy for this region that would contain efficient incentives for transformation, stabilization and mutual cooperation of the states involved. The cornerstone of this Stabilisation and Association Process is a set of bilateral Stabilisation and Association Agreements between the EU and the individual states of Western Balkans. The structure and content of these separate agreements, however, are in many aspects similar to each other, including the perspective of EU membership, a regular evaluation process, and organization of joint summits between the EU and the states participating in the process.

As a result, the EU has combined multilateral and bilateral approaches to the states of Western Balkans within this broader strategy. Both the adoption and ratification of the Stabilisation and Association Agreements with individual countries based on their transformation performance and the EU's visa liberalisation process toward the region provide good examples of

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<sup>17</sup> The EUPM also has an autonomous position in relation to the EUSR, regardless the debates on transfer of the EUPM command under the authority of the EUSR (Penksa 2006: 13). In years 1991-2007 the EU Monitoring Mission was also present, but it had not been created exclusively for BiH and its tasks covered the whole ex-Yugoslavia territory.

this dichotomy. In the latter case, for example, the EU concluded general visa facilitation agreements with all countries of the region in 2008. It removed the visa regime on individual basis, however, according to the level of the countries' progress in areas considered by the EU as priority, thus trying to stimulate domestic reforms. In the case of BiH, the lack of performance has "delayed" the introduction of the visa free regime in comparison to Serbia, Macedonia or Montenegro (introduced in 2009) for more than a year.

Nevertheless, the impact of the EU's multilateral approach to the Western Balkans should not be overestimated in the BiH case. A dominant part of the EU-BiH relations can be perceived as unique. The scope of the presence of international bodies within BiH and the intensity of the international involvement in the post-conflict reconstruction of BiH, have been unique (in particular in comparison with presence of international actors in Serbia, Croatia, Montenegro, or even Macedonia). For these reasons, this study focuses on the BiH's case and pays a relatively limited attention to the general EU's strategy for Western Balkans.

### **The EU's Multilateralism**

In the period before the Dayton agreement and its immediate follow-up, the EU seemed to live up to its declarations to multilateralism. In the pre-Dayton phase of the conflict, the European Community/European Union was involved (or was co-founder) of several platforms given the task of seeking a solution to the conflict that followed the break-up of Yugoslavia. In 1991, for example, the European Community called for a Conference on the former Yugoslavia chaired by Lord Carrington, a former Secretary General of NATO, and also established the Arbitration Commission of the Peace Conference on the former Yugoslavia composed of five constitutional judges from different Community states under the French jurist, Robert Badinter.<sup>18</sup> In drafting several unsuccessful plans aimed at ending the civil war (including the Vance-Owen and the Owen-Stoltenberg plans), the EU's representative, Lord (David) Owen cooperated with special representatives of the United Nations. However, the EU became increasingly marginalised in the practical handling of the conflict.

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<sup>18</sup> The Arbitration Commission was vested with task to provide legal opinions for the Conference. Among others, the Arbitration Commission formulated its opinion on legal aspects of (non-)recognition of the independence of Bosnia and on the legal character of the borders between Bosnia-Herzegovina and Serbia under international law. In years 1991-1992, the European Community sponsored the Carrington-Cutileiro plan which resulted into Lisbon plan/agreement agreed by A. Izetbegović, R. Karadžić and M. Boban (representing three major ethnic/national communities in Bosnia) which operated with ethnic-based power-sharing in Bosnia and decentralisation of the central government. This plan, however, has never been implemented.

The European Union was not a formal signatory of Dayton Agreement. It was, however, represented at the formal peace conference by Carl Bildt who was the EU's Special Envoy to the former Yugoslavia and the first "post-Dayton" High Representative for BiH.

The major platforms for EU involvement in BiH were the Peace Implementation Council and its Steering Board, and, once opened in 1996, the European Commission Delegation, together with regular HoMs (Heads of Missions) meetings which brought together the head of the European Commission delegation and heads of embassies of the EU states present in BiH. The EU's adaptation to the multilateral patterns of behaviour in BiH was strengthened by the format of the EU's involvement in the PIC, the major multilateral actor in BiH. Within it, the EU was represented simultaneously by its EC Delegation, the rotating EU presidency, and indirectly by several member states that were permanent members of the PIC, such as the UK, France or Germany, whose positions in the PIC were not necessarily always in full harmony.

Within the complex international presence in BiH, the EU focused on financing elements of the BiH transformation,<sup>19</sup> leaving political transition, elections and the secure environment agenda to other international actors. When it acted in these latter areas, it was only indirectly via the PIC. The fact that the EU lacked independent military capacity together with the informal agreement that the UN High Representative in BiH would be a diplomat from an EU state, made it easier for the EU to accept this limited role within the multilateral environment of the post-Dayton BiH.

In later periods, the EU's approach developed into what could be described as "EU-led" or "EU-dominated" multilateralism, in which the EU aspired to occupy a leading position within the multilateral framework. The EU still declares its support for the multilateral format of the international engagement in BiH. In practice, however, when the "EU-dominated" multilateralism failed to be accepted by other international actors in BiH or to deliver the expected results, the EU has tended to choose other strategies, both bilateral and unilateral. At the same time, any attempt by the EU to dominate triggered a reaction from some EU states, in particular from the UK, which circumvented the declared EU leading role in the HoMs by using the PIC as a forum for decision-making.<sup>20</sup>

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<sup>19</sup> A new coherent financial instrument for ex-Yugoslavian space, Community Assistance for Reconstruction, Development and Stabilization, was launched in 2000.

<sup>20</sup> Interview with an official from the Czech Republic's embassy in Sarajevo, April 2011.

## The EU's Bilateralism

The turning point of the EU's presence in the BiH was the year 2002. Firstly, the EU created the post of EU Special Representative for Bosnia and Herzegovina in 2002. Subsequently, the EU launched its first foreign police mission/operation (2003) and the large-scale military operation EUFOR Althea (2004) in BiH. This shift in the BiH-tailored EU's approach was only strengthened by more general development of the EU's policy towards the Western Balkans, which materialized primarily in the EU's plan to conclude Stabilisation and Association Agreements with countries of the Western Balkans.

This period also seem to be the starting point of EU bilateralism in BiH. Alternatively, the format of the EU's involvement can be described as EU bilateralism under the umbrella of multilateralism. In all cases of the EU bilateral involvement, the EU actor was "shielded" by resolution(s) of the UN Security Council and approved by the PIC.

In several domains of international involvement in BiH, the EU created a specific cooperation format with another international actor which had been the dominant actor in the respective policy field before. In several policy areas, the EU in BiH replaced, in an amicable and negotiated way, another/other international actors which dominated in the earlier phases of the international involvement in the BiH. Two important examples of this approach touch upon security in BiH. Firstly, the EU-led police operation EUMP replaced the UN-led International Police Force/. Secondly, the EU-led EUFOR Althea operation replaced the NATO-led mission SFOR a year later.

The EUFOR Althea operation, launched in 2004, was the successor to SFOR.<sup>21</sup> The general objective of Althea was analogous to that of SFOR – i.e., to provide for and to guarantee a secure environment in which the Dayton Agreement could be implemented. Althea also supported the activities of the ICTY in The Hague as well as training and capacity-building BiH's armed forces. Originally, the size of Althea forces was around 7000 troops in 2004. By 2010, Althea had been reduced to some 1600 troops in Bosnia, although they could be reinforced by troops from Kosovo under NATO command. In terms of its composition, EUFOR Althea was not limited to EU states – in addition to 21 EU states, a long list of non-EU states were also involved, including Turkey, Canada, Chile, Albania or Macedonia (Törö 2010: 339).

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<sup>21</sup> Althea is authorized both by the UN Security Council resolution(s), the last one is the UN Security Council Resolution 1948 (2010), and by a Decision of the Council of the EU.

NATO has remained present in BiH via other channels since 2004. The Althea operation was an exercise within the “Berlin Plus” format, i.e. the EU used NATO planning capacity and EU troops in BiH used premises formally owned by NATO. Furthermore, the replacement of the NATO-led mission by EUFOR Althea did not fully end the physical presence of NATO troops in BiH. Several NATO officials remain seconded at the BiH ministry of defence and NATO is still directly involved in activities aimed at the capture of individuals indicted by the ITFY.

The European Union Police Mission (EUPM) in BiH was the first ever EU foreign police mission.<sup>22</sup> The EUPM’s major task has been to advise on and to monitor police reforms in BiH, including by strengthening the fight against organized crime. However, the EUPM has had no executive mandate and, for instance, no power to dismiss or decertify police officials in BiH who fail to follow its instructions (those powers are vested in the HR for BiH) (Penksa 2006: 5). The EUPM was launched in January 2003 and replaced the UN-led police mission IPTF (1995-2002). There was a personal continuity between the IPTF and the EUPM, but the EUPM’s mandate was defined more narrowly.

In both situations, the transfer of responsibility was not a “hostile takeover” by the EU. In contrast, the international predecessor agreed with the new EU role and the transfer also received the confirmation of the UN Security Council. However, the transfer of responsibility has been much less debated and welcomed by some internal actors in BiH. In particular, the EU’s involvement in police reform in BiH received a particularly cold reception and provoked proposed alternatives to the involvement of the EU (Penksa 2006: 5).

The most complicated and confusing situation resulted from the EU’s bilateral policy towards the UN HR in BiH (and its administrative apparatus). The post of the EUSR for BiH was established in 2002. From the very beginning, there was, by political decision, a personal overlap (or a “personal union”) between the holders the EUSR post and the post of High Representative for BiH under the Dayton Agreement. However, the formal mandates as well as the staffs of the EUSR and the HR have differed (Grevi 2007: 85).<sup>23</sup> In particular, the Bonn powers were exercised by the double-hatted HR/EUSR in his capacity of the HR only.

The merger between the EUSR and the HR is therefore primarily based on a bilateral agreement between the EU and the HR. Both functions can be separated again in the future. The autonomous

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<sup>22</sup> Formally, there have been several EU police missions in BiH which followed each other and whose powers partially differed. Therefore, terms like EUPM-1 or EUPM-2 are used in the literature.

<sup>23</sup> However, there was a double-hatting in several senior posts in the OHR and the EUSR office and both offices shared the same building – the seat of the OHR (Interview with an official from the OHR in Sarajevo, April 2011).

character of the EUSR is further supported by the EUSR's mandate, according to which it is the EUSR, not the HR who is obliged to 'regularly provide the EU High Representative for Foreign Affairs and Security Policy and the [EU Political and Security Committee] with oral and written reports' (Council of the EU 2010: Art. 12) The EU's plans to fuse the EUSR with the head of the EU delegation in 2011 reinforces the point.

The EUSR is vested with (or burdened by) an extensive catalogue of tasks. They include:

- towards the EU's institutions: to 'provide the High Representative and the European Commission with advice' regarding the rule of law in BiH;
- towards other EU structures in BiH: 'provide EUFOR commander with local political advice', 'provide head of mission of the EUMP with local political guidance', or 'contribute to reinforcement of internal EU coordination and coherence in BiH';
- towards institutions of BiH: 'offer advice and facilitation in the political process' and 'provide political advice and facilitation in the process of constitutional reform';
- as well as towards the general public: 'ensure consistency and coherence of EU action towards the public'.

In contrast to the "hard" competencies of the HR (demonstrated in particular in his so called Bonn powers empowering the HR to dismiss Bosnian officials who obstruct the implementation of the Dayton Agreement), the EUSR is vested primarily with "soft" powers, such as advice or facilitation. The reasons behind the HR/EUSR's double-hatting seem to be to provide a framework for gradual increase of EU presence in BiH. The EU attempted to attract the coordination role for the international activity in BiH after a potential phasing-out of the HR and his Office from Bosnia. At the same time, the HR/EUSR's double-hatted format could provide the EU with a change to benefit from higher visibility and profile of already well-established international actor in BiH. However, this strategy has not worked out as it may have been anticipated.

Firstly, the "EU hat" of the HR/EUSR has been significantly obscured by the activities undertaken by the HR, in particular their exercise of the Bonn powers. In the perception of the general public, in BiH the EUSR's role suffered from a lack of visibility and it was the European Commission/EU Delegation and not the EUSR that was understood, by stake-holders, as the representative of the



EU in BiH.<sup>24</sup> Secondly, the EU failed in its policy aimed at decrease of the use of the Bonn powers by the HR. The EU's hope that with a 'membership perspective', the carrot of accession to the EU would bring about a decline in the need to use the HR's powers created almost a schizophrenia in the EUSR/HR's position since, in his capacity of the HR, he was under pressure from several primarily non-EU actors in the PIC, such as the United States or Turkey, to continue to use the Bonn powers as the transformative tool in BiH. While there was a temporary reduction in the use of Bonn powers under the 'hands off' approach of HR/EUSR Schilling, his successors, HRs/EUSRs Lajčák and Inzko, have found it necessary to use them once again.

Secondly, the phasing-out of the HR and the OHR has not continued as quickly as expected at the beginning of the 2000s. Despite a gradual reduction in the size of the OHR, the institution continues to exist. Moreover, due to pressure in the PIC from the US and Turkey, which still want the OHR to remain engaged in BiH, it "survived" an attempt to close it down in 2009 (Vogel 2009). In spring 2011, there were debates over the location of the OHR, including over possibly moving it to outside BiH territory, but no steps had been taken at the time of writing.<sup>25</sup>

### **The EU as a Unilateral Actor**

As a reaction to this failure of strategy, the EU seemed to adhere to more unilateral steps in 2010/2011. The EU made plans to split the EUSR from the post of the HR for BiH and determined that the EUSR's function should be merged with the position of the head of the EU delegation in Sarajevo. Also, the EU seems to aspire to a more leading role in the HoMs meeting, on the basis of the enhanced powers of the EU in the foreign policy after the Lisbon Treaty and the new structural role of the European External Action Service.<sup>26</sup>

Delays in implementing these ideas were caused primarily by the vacancy in the post of the head of the EU delegation in BiH and not by any ongoing debate about the EU's strategy. The new double-hatted head of the EU delegation and EU Special Representative for BiH should benefit both from the enlarged team of the EU delegation, primarily by personnel with expertise in policy and governance agenda, and with a special tool box to influence the political situation and guarantee the transformation pace in BiH.<sup>27</sup> The content of this "EU tool box" was not made public by April 2011, but it was likely to include some instruments analogous to the present Bonn powers

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<sup>24</sup> Interviews with foreign diplomats and local community representatives in Sarajevo, April 2011; also cf. Penksa 2006: 13. In contrast, the EU element of the holder of the HR/EUSR post was described as crucial for the establishment of European integration department within the ministry of foreign affairs of BiH (Grevi 2007: 83).

<sup>25</sup> Interview with officials from the Czech Republic's embassy in Sarajevo and from the OHR, April 2011.

<sup>26</sup> Interview with an official from the EU delegation in Sarajevo, April 2011.

<sup>27</sup> Interview with an official from the EU delegation in Sarajevo, April 2011.

of the HR – with a difference that they could be used unilaterally by the EU and would be explicitly embedded in the constitutional order of BiH.

Another element of a more unilateral EU policy towards the BiH is implicit in the process of the association and potential membership of BiH, and the conditions laid down for progress towards accession. The first debates on long-term relations between the EU and Western Balkans countries reached more precise contours with the launch of the Stabilization and Association process in 2000. Debates on the long-term relations between the EU and Bosnia achieved more concrete dimensions with the confirmation of a membership perspective for Bosnia by the European Council in 2005 and the EU-BiH Stabilization and Association Agreement that was signed in 2008. However, the BiH has not acquired candidate country status, in contrast to Croatia and Macedonia, and it has not experienced the more rapid steps towards this status taken by Serbia and Montenegro. Another step, with both practical and symbolic value, was the EU's decision to facilitate (2008) and to partially liberalize (2010) its visa regime for the citizens of BiH. Regardless of the frequently expressed hopes for improved dialogue between the EU and the associated/candidate state and its entities, within the EU association and accession process, the very fact of the conditionality applied towards the BiH turns the Union's policy towards BiH into an essentially unilateral one. In contrast, the multilateral element of the EU strategy for Western Balkans, including (for example) support of mutual cooperation of the states of the region, seems surprisingly invisible in the case of BiH.

### **The Mismatch of Tools and Aspirations**

The post-Dayton regime gave rise to a moderate optimism about the efficiency of the international intervention in BiH. Hostilities were brought to an end, state functions were re-established, and many practical barriers between Bosniak-Croat Federation and the Republika Srpska were removed. More recent developments in BiH, such as the failure of constitutional reform, the critique of the Dayton-based power sharing regime by the European Court for Human Rights, or the secessionist steps by Republika Srpska, have produced sceptical comments on Bosnia's future.<sup>28</sup>

What have been the major reasons for this (alleged) failure? The EU was able to operate efficiently within the multilateral framework in the BiH as long as it was not the leader of the process. However, the dramatic increase in EU's presence in BiH after 2002 sent several consecutive and

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<sup>28</sup> For example, Lord Ashdown, a former High Representative, stated in April 2011 that the international community in BiH 'foolishly allowed itself to believe that the job was done and, distracted by Iraq and Afghanistan, shifted attention elsewhere. Even more foolishly, Brussels and many European capitals allowed themselves to be persuaded that inaction was the best policy, even when the evidence became overwhelming that the dynamic in Bosnia had, thanks largely (but not exclusively) to Mr Dodik [President of Republika Srpska], turned from one of progress towards statehood to one of retreat back to nationalism and dissolution' (The Economist 2011).

partially colliding signals which, eventually, hampered the efficiency of the EU's role. The first message was about the need to phase-out the directly controlling and micro-intervening role of the international community in BiH (a "job done" type of message) which took the form, amongst others, of the EU's critique of the use of Bonn powers by the HR for BiH. This message was not well-received by several other international actors in BiH.. The second message sent by the EU was about the new role of the association process and the perspective of EU membership as a new, and potentially more efficient, tool for the international community in BiH. Again, the inherent element of this message was the dominant role of the EU within the more general context of multilateral international involvement in BiH and a potential marginalisation of the role of other international actors. However, this message was not complemented, on the side of the EU, by a real and reliable "European vision" for BiH as the whole integration process of Western Balkans has been delayed in recent years.

As a result, it is primarily the EU's aspiration for a leading role in the international community in BiH, in combination with the lack of efficient conditionality tools at the EU's disposal, which have contributed to a situation in which the EU in BiH has shifted from relatively successful multilateral cooperation to primarily ineffective unilateralism.

## ***Conclusions***

This paper has analysed the EU's involvement in conflict resolution in its neighbourhood. Two case studies have been presented – on Georgia and on Bosnia. In both cases, the EU has sought to play a major role in helping the countries and respective parties to resolve their conflicts during all stages. Neither of them can be regarded as yet resolved. The 2008 Russia-Georgia war showed that the long-term absence of violence may reverse rapidly if a sense of "positive peace" is not achieved. In Bosnia, no such spectacular events could be observed, but the massive presence of international organizations in the country and the key constitutional role of the High Representative suggest that the country still needs external assistance.

The EU was not fully constituted as an international actor at the beginning of the 1990s during the first phases of the conflicts. It has, however, increasingly raised its profile, but also tended to engage rather slowly. Both in Bosnia and in Georgia, it took a long time before the EU started playing an independent role. In the first phases, it instead supported other already active external actors and only recently has it taken over or substituted itself for them. In both cases, the EU has been able to establish itself as a legitimate and active player, a status acknowledged both by the conflict parties and the international community.

There is, however, a significant difference in terms of impact. Whereas the EU has been pushing for a more rapid pace of reform in Bosnia, which should contribute to long-term conflict resolution, it has not yet been able to make a significant difference in Georgia. The context has played an important role in shaping these differences (cf. Klein et al. 2010). Although the same actors are largely involved in both regions, their engagement varies. The most visible example is the role of Russia, which is involved in Georgia much more strongly than in Bosnia. Turkey is another case in point, as it has been involved actively in Bosnia, but has kept a low profile in Georgia, because of its bilateral relations with Russia.

The viability of most EU actions depends heavily, too, on external actors. It has not been easy for the EU to engage with Russia. Clearly, Moscow is less interested in acting multilaterally with the EU than keeping relations at the bilateral level with particular member states. Similarly, if a potential partner's activity is curtailed by domestic politics (US low-profile reaction to Georgian crisis in 2008) or internal disputes (the end of OSCE mission in Georgia), there is very limited room for cooperation in a multilateral format. At the same time, the EU's partners' strong opinions also make a multilateral cooperation difficult, as it is more challenging to reach a common position.

Unsurprisingly, the EU's multilateral effectiveness is always reduced when there are internal disagreements. The case of Bosnia clearly shows that as long as the member states are able to follow a common line, the EU's influence is enhanced. In recent years, however, in the face of the seeming intractability of the problems in BiH, the consensus has apparently disappeared. Member states have started acting on their own and against each other in other fora (such as the PIC) and the EU's ability to lead the conflict resolution process in Bosnia has declined.

A common approach is necessary, not least because the EU is hardly ever represented in a unitary way. In Bosnia, the Commission, the Presidency, and several member states have all been members of the Peace Implementation Council. Moreover, the EU has launched a number of European (Common) Security and Defence operations in Bosnia, which often have been only loosely connected and coordinated. Similarly, besides the EU presence in Georgia, the member states have always been members of the OSCE, the most active external actor in the conflict.

Indeed, if we searched for a single word capturing the EU's involvement in both conflicts, it would be "plurality". The EU has been using various types of engagement. It has acted on a uni-, bi-, and multilateral basis as well as remaining inactive. Inaction was the dominant EU approach in the first phases of the conflicts, when the Union was not fully constituted and the member states were not able to agree on a sustained single position – a phenomenon painfully visible in the case of Bosnia

in early 1990s. Since its first involvement, the EU has acted multilaterally, participating in various councils that aimed at coordinating external actors. A tendency to remain in the background can be seen in efforts to support the activity of other organisations (for example, EU's support to the Joint Control Commission in Georgia).

Bilateralism, unlike the other forms of involvement, seems to have been circumstantial rather than a matter of choice. The most evident example was the Russian-Georgian war in 2008, when the EU negotiated the ceasefire, because there was nobody else available. The US was preoccupied with the upcoming presidential elections and both the UN and the OCSE were disabled by the fact that Russia was one of the warring parties. A slightly different development with the same result can be observed in Bosnia, where other external actors were ready to disengage with the rising EU presence in some phases of the process.

However, unilateralism is an ever-present factor of EU activity in the Neighbourhood. The EU has been unilaterally pushing its own ideals and concepts on both Bosnia and Georgia. It has done so through the association/enlargement conditionality common to the whole of Western Balkans in the case of the former and through financial assistance to both the state and civil society in the case of the latter.

A striking similarity can be found in the reasons for the EU's underperformance in both Georgia and in Bosnia. The most pressing problems have revolved around the EU's misunderstanding of the conflicts. In Georgia, the EU did not see the real nature of the conflict in the beginning and underestimated its urgency. Similarly in Bosnia, the EU judged the state of affairs wrongly in the mid-2000s. In terms of the problems on the ground, it has underestimated the strength of nationalism and the vested interests of all entities. In terms of the positions of other external actors, it has underestimated their willingness to remain engaged actively in Bosnia and has failed to consult them on an equal basis. As a result, it has not been able to play the leading role it expected to play and instead has resorted to a frustrated and ineffective unilateralism.

To conclude, the European Union uses all forms of engagement in conflict resolution in the neighbourhood. Diplomatic non-action was restricted to the first phases of the conflicts when the EU lacked the structure and experience needed as prerequisites for acting together. Whereas bilateralism is circumstantial and does not seem to be a preferred mode of EU activity in the conflicts, both uni- and multilateralism are favoured EU choices. Yet, both approaches are used with a varying degree of effectiveness. What our analysis suggests is that the EU has been

effective in supporting multilateral activities of other organisations, but much less so as a leading partner of such endeavours.

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