

# Chapter 1

## Europeanization and Secessionist Conflicts: Concepts and Theories

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*This chapter explores the potential of the EU to bring about conflict settlement and conflict resolution in the divided states on its periphery through its multi-level framework and capacity for foreign policy action. A third level of governance provides new institutional options for conflict settlement and creates new incentives that may lead to a redefinition of the interests and identities of the parties involved in a secessionist conflict. Europeanization is defined as a process which is activated and encouraged by European institutions, primarily the European Union, by linking the final outcome of the conflict to a certain degree of integration of the parties involved in it into European structures. The Europeanization mechanisms of conditionality and socialization aimed at conflict settlement may have unintended effects which can undermine the objective of conflict resolution.*

This chapter introduces a set of concepts and theories to frame our analysis of ethno-secessionist conflicts, with a special emphasis on the possibilities for conflict settlement and conflict resolution within a multi-level framework. For this purpose we use ideas from research on comparative federalism, conflict and peace studies, normative studies on war and secession, and literature on Europeanization.

The concept of Europeanization encompasses both inter- and intra-state processes. And indeed we do need to be attentive to the wider geopolitical setting of the four cases of conflict in divided states analysed in this research. In these secessionist crises, external powers have been – and some still are – supporting one party against the other. All the conflicts on the European periphery thus arise along a geopolitical fault line as well as a local one. Where hard-line positions are protected by an external power, this involvement weakens the incentive to the local parties to negotiate a compromise. However, it can also happen that the external power(s) will intervene – with intensive mediation or even force – to impose an alternative solution to secession. This may take the shape of a new constitution with some form of multi-tier governance and a power-sharing arrangement between the ethnic communities, with guarantees supplied by the external power(s), and – if needed – various arrangements for refugees and post-conflict rehabilitation.

If the external powers are unable or unwilling to organize a powerful impetus to change the *status quo*, either by coordinating their mediation efforts or by agreeing on a single leading mediator, the *de facto* secession normally becomes more entrenched. Where there is international competition, the opposing parties gravitate into the economic, security and political sphere of their protecting power. This leads to a new equilibrium which stretches indefinitely into the future.

Where attempts at a settlement are successful, conflict transformation may take place, possibly leading to conflict resolution. The root causes of the conflict then have to be transformed, with new political structures providing a fresh set of incentives and expectations, leading to a redefinition of the interests and identities of the parties.

This chapter explores how European Union structures can provide for such a process of conflict settlement leading to conflict transformation and resolution. In the following sections we first focus on the institutional possibilities for conflict settlement. We begin by highlighting some consequences of ‘traditional’ two-tier federal solutions for conflict settlement and conflict resolution, and the potential benefits of three-tier solutions. Secondly, we analyse Europeanization processes and mechanisms as potential methods of conflict settlement and conflict resolution. Thirdly, we examine the wide range of problems involved in the application of Europeanization mechanisms. Fourthly, the role played by external players (such as Russia and the United States) and by framework organizations in the Europeanization of conflict settlement and during post-accord dynamics within a European framework are taken into account.

### **1.1 Two-tier and three-tier federal solutions**

The international community of states does not see any of the present secessionist entities in Europe as having sufficient justification for being recognized. In these cases, independence is not perceived as a remedy against extreme forms of injustice such as the illegal occupation of a country, colonialism or the threat of genocide. Even if it is often not denied that there have been cases of injustice in the period preceding secession, they are not regarded as justifying independence. The international community supports alternatives to secession that can remedy such injustices and prevent them in the future. Multi-tiered forms of government, in which power is shared by the various levels and where every level of authority exercises a certain form of self-government following a federal model, is one of them. This may be combined with other forms of power-sharing between various national communities, or with minority rights.

Federal arrangements consist of a large variety of state structures that aim to strike the right balance between political communities’ need for unity and their need for diversity. In all federal structures the different levels of authority have law-making and executive prerogatives. Although federative solutions have many variants, in the following we highlight four main types – federations, confederations, associated states (federacies) and freely associated states.<sup>1</sup>

A ‘federation’ is a single sovereign state in international law, where sovereignty is shared at the domestic level through a division of competences between a federal government and at least two federated units, both levels having a set of state institutions, including a legislature and an executive. The federated entities have considerable powers and fiscal resources. Powers are distributed between the two orders on a constitutionally entrenched basis. This means that none of the levels of governance can change these constitutional features unilaterally. Each level of governance derives its rights and competences directly from the constitution, and in this sense no level of authority is subordinated to the other. Changes in the constitution generally require direct or indirect participation by both levels of government. In rare cases, the constitution may provide rules that regulate the right to secession.

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<sup>1</sup> On various types of federal structure see Ronald L. Watts, *Comparing Federal Systems* (Montreal and Kingston: McGill-Queen’s University Press, 1999); Preston King, *Federalism and Federation* (London: Croom Helm, 1982); Bruno Coppieters, *Federalism and Conflict in the Caucasus* (London: Royal Institute of International Affairs, 2001), pp. 6-8.

Some federations have been established to give national minorities an institutionalized position within a state, or even to go beyond the codification of minority status and follow the principle of national self-determination for all nations in a multi-national state. The establishment of such so-called 'ethno-federations' is facilitated when the various nations are concentrated in particular territories. Ethno-federalism poses particular problems, however, as regards the status of the territorial entities. Not all nations claim the same rights and powers or have the same leverage for achieving their objectives. A solution sometimes adopted is that of asymmetrical federations, in which one or more federated states enjoy a wider range of powers than the other entities.

Parties favouring secession tend to suspect federations of not being in their interests. If they are in a minority position, they are concerned that federal systems will not be able to prevent the majority from outvoting them on decisions that are crucial to them. Opponents of secession too may worry that federations will not serve their interests. They may perceive federal structures as a stepping-stone towards the future independence of the federated entities, or as an instrument enabling outside powers to intervene in their internal affairs. They may claim that the very capacity for self-government within an ethno-federal system becomes an asset and argument for independence – as it was the case in the dissolution of the Soviet and Yugoslav federal systems – or an instrument to create alliances with outside powers.

There is, however, no empirical evidence about ethno-federations generally that would make it possible to confirm the statement that they are doomed to a violent break-up or dissolution. Their record is mixed in this respect. It is certainly true that the federal experiences of the Soviet Union and Yugoslavia confirm that particular forms of ethno-federations are doomed to fail. But this is largely a question of constitutional design, and does not reflect a tendency to dissolve on the part of ethno-federations generally.

A 'confederation' sees two or more states join together for strictly limited purposes, for example for foreign affairs and defence, or economic policies.<sup>2</sup> Constitutions of confederal states take the form of a pact or treaty between sovereign member states, which does not deprive them of their sovereign statehood in international law. Rather than a unified state, a confederation should be termed a 'union of states', with a central government having minimal powers for joint decision-making. The union is represented by some form of assembly, whose members are not directly elected by the people but are appointed and instructed by the constituting member-states. They retain veto rights in the confederation's decision- and policy-making, particularly on fundamental policy issues.

Confederations tend to be one of the preferred federal models of seceding parties, as they allow their sovereignty to be preserved, and even internationally recognized. They generally give states the right to withdraw from the union, as well as the

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<sup>2</sup> The concept of confederation has a more important place in political science literature than in contemporary reality. In the history of confederations it is conspicuous that the most eminent examples are all cases in which confederal episodes ultimately gave way to more integrated federations or unitary states. The four classic cases were the Swiss Confederation, from late medieval times until 1798 and again from 1815 to 1848, the United Provinces of the Netherlands from 1579 to 1795, the German Bund from 1815 to 1866 and the United States Confederation from 1781 to 1789. Thus none of these confederations survived the third quarter of the nineteenth century, an international context where centralized statehood became a question of survival. See Xiaokun Song, "Confederalism – A Review of Recent Literature", in B. Coppieters, D. Darchiashvili and N. Akaba (eds), *Federal Practice – Exploring Alternatives for Georgia and Abkhazia* (Brussels: VUB Press, 2000), pp. 181-193, <http://poli.vub.ac.be>

international guarantees implied in the institution of sovereignty. For the same reasons, parties keen to preserve the unity of the state tend to be hostile towards confederations.

The transformation of a former federation or unified state into a confederation tends to be unappealing to an international community seeking to limit the proliferation of micro-states, as a confederation leaves the door open to secession. The formation of confederal-type structures out of several pre-existing states, on the other hand, encounters no such objections. The European Union is a unique supranational structure with a blend of federal, confederal and intergovernmental elements in its emerging constitution. As a model of integration, it is equally attractive to those who are striving to create new independent states and to those who wish to preserve their state's territorial integrity.

For some ethno-secessionist conflicts, attempts have been made to find a workable compromise between a federation and a confederation under the name of 'common state'. While the term has no generally accepted scientific definition, it has come to be used in connection with the search for solutions for the secessionist conflicts of the Caucasus, Cyprus and the Balkans. Common state proposals are generally based on the idea of creating a state structure with a single personality under international law, as is the case in federations, but with a level of domestic institutional integration that is no higher than in confederations. In such structures the powers of the federated level are far more extensive than those of the federal level (as in a 'thin' federation). Moreover, they follow a 'confederal' logic in their decision-making procedures, with extensive veto powers for the federated entities. Some key policy issues of the common state are not decided by the federal government but are tackled in common, and often outside the formal federal structures, by the governments of the federated entities. The federal level functions to a large degree as a coordination mechanism for policy issues that need to be prepared for international negotiations, rather than as a powerful tier of governance. This characteristic feature is typical of a confederation.

The idea of a common state with a single international personality satisfies the wish of the international community to limit the multiplication of micro-states and to protect the principle of territorial integrity. It does not create a powerful federal structure for resolving ethno-national conflicts. Critics of this kind of system argue that the absence of sufficient 'federal' powers makes the common state vulnerable to disintegration or ungovernability.

A federacy, or associated state, is a political arrangement where a smaller unit is linked to a larger unit in such a way that it retains a degree of self-government without, however, having any significant political role – or even necessarily having political representatives in the government of the large unit.<sup>3</sup> Some of its powers are beyond the authority of the centre. The two units have to come to a mutual agreement in order to dissolve their bonds. Puerto Rico's relations with the US may be used as an example here. Other examples include the Faroe Islands (with Denmark) and the Channel Islands (with the United Kingdom). The Faroe Islands are a self-governing part of Denmark, which is responsible for their external relations and security. They have two members in the Danish parliament, but are excluded from the customs area and general jurisdiction of the EU. Instead they have a separate trade agreement with the European Union. The Channel Islands (principally Jersey and Guernsey) are British dependencies, but they have no members in the UK parliament.

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<sup>3</sup> See Watts, *op. cit.*, p. 8 and Bruno Coppieters, *Federalism and Conflict in the Caucasus, op. cit.*, p. 8.

A freely associated state's relations with a larger state – such as those between the Marshall Islands and the US – are based on international law. The Marshall Islands are internationally sovereign and have joined the United Nations. They delegate their powers in defence matters to the United States, in exchange for substantial financial support. The creation of a freely associated state is often preferred by the seceding party as it entails international recognition of its statehood.<sup>4</sup>

Two-tier models offer some elements for a solution to ethnic conflicts. But there are also federal solutions that include a third level of governance, the main example being federations in the EU, where the participation of federated states (first level of governance) in federal institutions (second level of governance) is extended through EU institutions to European affairs (third level of governance). Other examples of such a third tier are regional organizations like the Balkan Stability Pact. The major external powers may act through these multilateral organizations to exert their influence on other states, thus actively shaping this third level of governance.

The present study analyses to what extent a third level of governance, particularly within the EU framework, may increase the number of options available in the search for a settlement. It defends the thesis that a third level of governance may create new incentives and expectations in a settlement process, and may even lead to a redefinition of the interests and identities of the parties involved in a secessionist conflict. This is particularly the case when the federated entities can be integrated into the third level of governance. Secessionist conflicts, which lie at the intersection of domestic and international politics, can be more easily resolved if the principle of national self-determination is not confined to domestic affairs. Contrary to strongly entrenched views, federations do not necessarily limit the implementation of this principle to internal self-determination, but may extend it to external self-determination, primarily through the right to external representation and through treaty-making power. As in the Belgian model of a multi-national federation, this possibility is greatly increased through the inclusion of federated entities in three-tier structures. The objective here is to develop a more precise and nuanced definition of possible schemes within a European framework, illustrating the wider range of variables that may influence the process of negotiating sustainable solutions when a third tier of authority is introduced.

## **1.2 Europeanization as a method of conflict settlement and conflict resolution**

In the section that follows we focus on Europeanization as a means of addressing secessionist crises. We restrict our analysis to present-day forms of Europeanization and exclude past experiences in this field. We will first offer a working definition of Europeanization suitable for use in discussing conflict settlement and conflict resolution. We will then focus on the role of the European Union as a framework for the conflict setting and as an actor in the conflict.<sup>5</sup> When analysing the Union's role as a player, we will put particular stress on Europeanization through conditionality and Europeanization through social learning.

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<sup>4</sup> The settlement of secessionist conflicts through the creation of an asymmetric federation, an associated state or a freely associated state are all based on the principle of asymmetric federalism.

<sup>5</sup> On the distinction between the EU as an actor organization and as a framework organization see Christopher Hill, "The EU's Capacity for Conflict Prevention", *European Foreign Affairs Review*, Vol. 6, No. 3 (2001), p. 325.

### 1.2.1 Defining Europeanization

Europeanization as an analytical concept is used to examine the changes in domestic structures and policies that occur in response to policies and practices institutionalized at the European level. It stands for a process in which European rules, mechanisms and collective understandings interact with given domestic structures. This means that Europeanization is marked by interrelationships between the various layers constituting the European multi-level structure.

Scholars of Europeanization have offered different definitions of the concept, and have used it for a variety of research purposes.<sup>6</sup> Definitions stress, for instance, the distinct features of governance within the European Union that are exported beyond its borders, or the impact of European integration dynamics on domestic policy-making processes, discourses and identities. It is notable that none of the definitions attempts to create a link between Europeanization and conflict settlement or conflict resolution in the context of secessionist crises.

In the area of conflict settlement, conflict transformation and conflict resolution, the EU can act in two ways. It can provide a framework for resolving the constitutional dilemmas related to secessionist crises, and/or it can act directly as a mediator or indirectly by supporting mediation efforts between the parties involved in the conflict. The intention of this study is to probe the extension of the Europeanization concept in the direction of secessionist conflicts in countries on the European periphery that were not EU members in 2003, but sought to develop closer relations with the EU or had by then already been granted applicant status. In other words, for the purpose of this study we restrict the scope of application of this concept in two ways. The first restriction is geographical, and refers to the periphery of the

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<sup>6</sup> Thomas Risse, Maria Green Cowles and James Caporaso define Europeanization as the emergence and development of distinct structures of governance at the European level (Thomas Risse, Maria Green Cowles and James Caporaso (eds), *Europeanization and Domestic Change* (Ithaca NY: Cornell University Press, 2001), p. 1. Robert Ladrech understands Europeanization as an “incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (Robert Ladrech, “Europeanization of Democratic Politics and Institutions: The Case of France”, *Journal of Common Market Studies*, Vol. 32, No. 1, 1994, p. 70). Johan P. Olsen differentiates between five possible meanings of Europeanization. According to him, Europeanization may refer to changes in the external territorial boundaries of the EU, to the development of institutions of governance at EU level, to central penetration of national and sub-national systems of governance, to the export of forms of distinctively European political organization and governance beyond the territory of the EU, and to a political project aiming at a unified and politically stronger EU (Johan P. Olsen, “The Many Faces of Europeanization”, *ARENA Working Papers*, 2002, WP 01/2, [http://www.arena.uio.no/publications/wp02\\_2.htm](http://www.arena.uio.no/publications/wp02_2.htm)). Claudio M. Radaelli defines Europeanization as a process of “(a) construction (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated into the logic of domestic discourse, identities, political structures and public policies” (Claudio M. Radaelli, “The Europeanization of Public Policy”, in K. Featherstone and C. Radaelli (eds), *The Politics of Europeanization* (Oxford: Oxford University Press, 2003), p. 30). Most studies of Europeanization have an explicit emphasis on the EU policy process and limit Europeanization effects to the EU member states. Olsen suggests a possible transfer of EU rules, procedures and paradigms to third countries but it is Heather Grabbe who offers a systematic analysis of the EU’s impact on the applicant countries from Central and Eastern Europe in the context of the EU accession process (Heather Grabbe, “Europeanization Goes East: Power and Uncertainty in the EU Accession Process”, in K. Featherstone and C. Radaelli (eds), *The Politics of Europeanization*, (Oxford: Oxford University Press, 2003), pp. 309-310).

EU. The second restriction is thematic, limiting the main focus of the study to secessionist conflicts with an ethno-political dimension.

Before we propose a working definition of Europeanization applicable to the field of conflict settlement and conflict resolution in divided states, a distinction needs to be made between Europeanization exclusively in the EU context and Europeanization in the context of the EU's periphery. In the EU context, Europeanization is an interactive process in which member states affected by the process of EU integration are at the same time the players who initiate and shape this process. There is thus a two-way relationship between structure and agency. Agency is transformed as a result of participation in EU structures. Transformed agency can then lead to a further transformation of structures, triggering a cyclical interrelationship between the two.

Where the EU's periphery is concerned, the dynamics of the Europeanization process are different. These states have varying degrees and different types of institutional contacts with the EU. Their relations are determined largely by geographical and geopolitical factors, linked in turn with the institutional choices and constraints decided on by the EU itself, with regard to its degree of external involvement. The distinctive feature of Europeanization at the EU periphery is that states affected by this process do not have the institutional means to co-determine decisions of the EU that affect them. In this context, Europeanization takes on a foreign policy dimension, and can thus be seen as a foreign policy instrument of the Union.

Based on these conceptual clarifications, the following working definition will be applied in this research: **Europeanization in the field of secessionist conflict settlement and resolution should be understood as a process which is activated and encouraged by European institutions, primarily the European Union, by linking the final outcome of the conflict to a certain degree of integration of the parties involved in it into European structures.** This link is made operational by means of specific conditionality and socialization mechanisms, which are built into the process of Europeanization.

The way in which the mechanisms of Europeanization are employed by the EU, and their consequences for secessionist conflicts at the periphery of the EU, vary from case to case. The impact of EU institutions and policies on divided states at countries on the the EU's periphery is felt at three levels: (1) the legal and administrative structures of domestic institutions; (2) domestic economic, social or security policies; and (3) societal changes in general, including changes in political representation, the party system, interest groups, domestic discourses, identities and other subjective aspects of politics. But it is difficult to measure the impact of Europeanization on each of these levels. Europeanization makes for neither a neat independent nor intervening variable when explaining domestic changes.

The Europeanization of divided states is usually a highly asymmetrical process. There is asymmetry not only between the EU and individual states generally, but also in the interaction pattern between the EU and the two conflicting parties involved in a secessionist crisis. Indeed one of the main characteristics of the Europeanization of divided states is that there are no direct – or even indirect – institutional channels for interaction between the EU and non-recognized authorities from secessionist entities. EU integration and EU policies are also perceived differently by the conflicting parties.

While in the EU context the Union is primarily regarded as the framework within which the process of Europeanization takes place, in the field of conflict

management an additional and equally relevant dimension – that of the EU as a player in its own right – needs to be included in the analysis. In certain situations, the EU's role as a player, mediating between the parties in conflict or supporting the mediation efforts, is linked to the role it will have as a framework during the post-conflict situation, when the parties will participate in its decision-making. The EU's role as an active player is usually intended to have short-term effects on the conflict, whereas its function as a framework has mainly long-term implications.

It is thus important to distinguish between, on the one hand, the EU's potential for influencing the political behaviour of players on the ground – by offering rewards and punishments that can change the conflict dynamic, guiding it towards a negotiated settlement of the conflict – and, on the other hand, the EU's potential for offering alternative solutions for conflict settlement, through its institutional system and levels of governance.

The first dimension – that of 'EU as an active player' – can affect the short-term strategies of the parties in a secessionist conflict and steer them towards an agreement, thus providing the necessary external push for conflict settlement. If the EU deploys the right set of incentives and disincentives to the conflict situation, it can also have a more lasting effect on the parties' interests and identities, thus contributing to the sustainability of a settlement.

The second dimension – 'the EU as a framework' – adds new constitutional and policy options to the list of available solutions to the disputed issues in the conflict, and as such can have both a short-term and a long-term impact on the institutional structure and/or policy choices of third countries. The EU can also serve as a general point of reference with regard to various governance practices and standards, thus contributing indirectly to conflict settlement and conflict resolution.

These two dimensions are not unrelated and may be intertwined, depending on the particular conflict case in question. There is considerable overlap between the roles of 'EU as actor' and 'EU as framework' in two cases. First, in countries with a confirmed European perspective where the pre-accession requirements give the EU serious leverage in the secessionist crisis. Second, in secessionist conflicts where the overarching EU tier of governance can present innovative institutional solutions. The interplay between the two roles is less tangible in countries situated on its remote periphery, where the incentive structure of the EU as player might not be operationally significant, and where the prospect of closer institutional links through EU accession or association is not on the immediate agenda.

We thus define Europeanization principally as EU-ization. But it is also critical to bear in mind that emphasizing the EU entails the risk of overlooking other important generators of change in the societies under discussion. In the context of conflict settlement and resolution, other framework organizations and players must be taken into consideration when analysing the effects of Europeanization. In particular, the Council of Europe (CoE) complements the normative appeal of the EU in the area of human rights protection and democratization generally. The OSCE and the United Nations (UN) have security mandates and are engaged in conflict management. In addition, unilateral players like the US and Russia have important geostrategic interests in some of the regions on the periphery of the EU and are in some cases regarded as more legitimate guarantors by the parties to the conflict. This makes it imperative to examine the influence of other external powers in the international organizations in each conflict case, specifying how they affect Europeanization processes in secessionist crises. In principle, other players can either complement or compete with the process of Europeanization, and receptiveness to both European and



non-European influences will vary from one case to another. We will come back to these aspects later on in this chapter.

### 1.2.2 *The EU as framework*

The search for win-win solutions to ethno-national and secessionist conflicts could be aided by making use of the potential role of the European third tier of governance. The third tier could facilitate conflict settlement and conflict resolution both at the institutional level and in the policy fields of economy, politics and security. But adding new and innovative options also requires the existence of domestic political players who are willing to seize them.

What precise advantages and potential are offered by the EU framework? In cases where ethno-political and secessionist conflicts are characterized by absolute and mutually exclusive positions over statehood and sovereignty, the Union's multi-level framework of governance could increase the potential for win-win agreements. This is because of the fundamentally transformed application of statehood, sovereignty and – subsequently – of secession within the Union. Sovereignty is shared in practice, and is no longer absolute and undivided. Although the Union is predominantly constituted and shaped by its member states, through its policies and its institutions it blurs the black-and-white legalistic differences between monolithic and divided sovereignty. Decision-making and implementation in a given policy area are determined by a particular allocation of powers between levels of government. While different levels of government remain legally distinct, in practice they become inter-related and interdependent through different channels of communication and policy procedures. The supra-national level penetrates the national level as a number of powers originally regulated by nation states are dealt with either exclusively or in part by the European Union, particularly in the area of economics, and justice and home affairs. As a result, the role of the second (state) level within the EU is fundamentally transformed. While remaining fully fledged 'states', EU member states delegate several sovereign powers to 'Brussels', and within the Council of Ministers decisions in most spheres are taken on the basis of majority rule.

The EU framework also increases the scope for sub-state-level roles in EU policy-making. This does not mean that EU membership necessarily upgrades the roles and status of the sub-state level of governance. Rather it provides greater opportunities for developing it. Whether these opportunities are seized depends on the internal structure of the member states, i.e., on the extent to which federated entities and regions already have clearly identified roles within their state. If and when regional levels of government play important roles within their member state, their position can be further strengthened within the EU. Two important examples in this respect are the opportunities for sub-state players to participate in Council of Ministers meetings and the opportunities for direct contact between sub-state players and supra-state EU institutions.<sup>7</sup>

The EU framework fosters the development of multiple rather than exclusive identities.<sup>8</sup> EU citizenship becomes an additional layer of identification, which does

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<sup>7</sup> For a more detailed explanation of the relevance of the Belgian model in the context of Cyprus, see Michael Emerson and Nathalie Tocci, *Cyprus as Lighthouse of the Eastern Mediterranean* (Brussels: CEPS, 2002), <http://www.ceps.be>.

<sup>8</sup> Thomas Diez, "Why the EU Can Nonetheless Be Good for Cyprus", *Journal on Ethnopolitics and Minority Issues in Europe (JEMIE)*, Issue 2 (2002), [http://www.ecmi.de/jemie/download/Focus2-2002\\_Diez.pdf](http://www.ecmi.de/jemie/download/Focus2-2002_Diez.pdf).

not necessarily compete with national identifications. This additional layer of EU citizenship could ease tensions in ethno-political conflicts by leading to a greater acceptance of multiple identities generally.

The transformation of the meaning of borders within the EU could also increase the potential for the resolution and transformation of ethno-political conflicts. The liberalization of the movement of goods, services, capital and people within the Union dilutes the meaning of territorial boundaries between member states. Consequently, in cases of ethno-political conflicts where the drawing or re-drawing of territorial borders is an issue on the conflict settlement agenda, the EU framework could improve prospects for an agreement. It would do so by increasing the feasibility of a non-linear border. In other words, within the EU framework a map of straight lines would be less of a necessity, given the purely administrative nature of both intra- and inter-state borders in the EU. This in turn could facilitate an agreement on territorial adjustments between ethnic communities.

Finally, specific Commission funds have been allocated for weakening inter-state borders and encouraging the creation of European border-regions, straddling EU member states. Such funds could also be an important asset in conflict-ridden countries where the redefinition of territorial borders and the opening of previously blockaded frontiers is contingent on economic considerations.

### *1.2.3 The EU as third-party actor*

The role of third parties in ethno-national and secessionist conflicts has been explored extensively in the literature on conflict settlement, conflict transformation and conflict resolution. *Conflict settlement* (or management) approaches revolve around how resourceful – and not necessarily impartial – mediators exert leverage on the conflicting parties. By exerting leverage, the mediators shift the relative balance of bargaining strength and create incentives for a negotiated settlement. These efforts may lead to a cease-fire or settlement, but do not necessarily lead to conflict resolution. The trading of gains and losses, or arm-twisting by the third party, may eliminate excessive violence and instability. The third party may also be able to bring the conflicting parties together in a co-operative process for the constructive management of differences. This may be achieved for instance by providing additional institutional resources to the parties to help them overcome their mutual antagonism. But the causes of the conflict itself – i.e., the effective incompatibility of subject positions – are not necessarily modified through such a process.<sup>9</sup> *Conflict transformation* is defined by Thomas Diez as the transformation of subject positions from incompatibility/antagonism to compatibility/tolerance.<sup>10</sup> *Conflict resolution* suggests the ending of the negative or mutually destructive aspects of the conflict itself. Conflicts between the parties may persist, but they do so within the boundaries of a democratic debate and dialogue.<sup>11</sup>

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<sup>9</sup> Peter Harris and Ben Reilly (eds), *Democracy and Deep-Rooted Conflict: Options for Negotiators*, (Stockholm: International Idea, 1998), p. 20.

<sup>10</sup> See Thomas Diez, “‘Roots’ of Conflict, Conflict Transformation and EU Influence. Summary of Initial Comments, European Commission Workshop”, Brussels, 14 February 2003, <http://euborderconf.bham.ac.uk/publications/files/brussels20030214.pdf> (accessed on 11 December 2003).

<sup>11</sup> Peter Harris and Ben Reilly (eds), *Democracy and Deep-Rooted Conflict: Options for Negotiators*, *op. cit.*, pp. 17-18.

Conflict settlement, transformation and resolution approaches need not be mutually exclusive – on the contrary, they can very usefully complement one another.<sup>12</sup> Different approaches could be used at different stages of a conflict. Conflicts evolve over time. At different stages, different forms of third-party intervention may be useful in unblocking deadlock or facilitating de-escalation. Furthermore, conflict settlement, transformation and resolution efforts can be mutually reinforcing. All-encompassing conflict resolution can only gain momentum once a negotiated settlement has been reached, particularly in the case of intra-state secessionist conflicts with blockaded frontiers and segregated communities. Likewise, conflict resolution efforts should both foster the conditions for an agreement and help to consolidate peace accords.

In most of the so-called frozen conflicts on the European periphery, mediation directed at transforming the configuration of underlying interests is essential. Yet a change in structure is also important, to the extent that it transforms the underlying conditions that gave rise to the conflict. Europeanization could provide the mechanisms to generate these changes. In what follows we concentrate on two main mechanisms of Europeanization: conditionality and social learning.<sup>13</sup> They can be viewed as the main instruments constituting the EU's capacity for foreign policy action on its periphery.

#### *1.2.4 Europeanization through conditionality*

Over the last decade, and in the process of its eastern enlargement, the EU developed its conditionality policies as means to transform the governing structures, economy and civil society of the applicant states. Heather Grabbe makes the case for a powerful Europeanization effect in EU applicant countries through the conditionality built into the EU accession process.<sup>14</sup>

The main thrust of the EU conditionality model is based on cost-benefit calculations in which domestic change is a response by the applicants to the material and social benefits offered by the EU, such as financial and technical assistance, institutional ties, market access and an invitation to begin accession negotiations.<sup>15</sup> In Grabbe's view, two specific intervening factors apply to EU applicants: the

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<sup>12</sup> See for example David Bloomfield, "Towards Complementarity in Conflict Management: Resolution and Settlement in Northern Ireland", *Journal of Peace Research*, Vol. 32, No. 2 (1995), pp. 151-164.

<sup>13</sup> Drawing on the literature of two distinct strands of institutionalism – rational choice institutionalism and sociological institutionalism – Boerzel and Risse discern two pathways of domestic change in response to Europeanization: (1) domestic redistribution of power among political and societal players as a result of new opportunities and constraints arising from the European-level policies and institutions; and (2) socialization and social learning leading to the internalization of new norms and the development of new identities (Boerzel and Risse, in Featherstone and Radaelli, *op. cit.*, pp. 58-69). According to Risse, Cowles and Caporaso, in the case of the EU member states, a 'goodness of fit' test between European-level and domestic-level processes determines the degree of 'adaptational pressures' on member states, although mediating factors can facilitate change, and can also account for the differential impact of Europeanization. In this context the authors examine multiple veto points, mediation by formal institutions and political and organizational cultures as intervening variables leading to differential empowerment and learning in member states. See Thomas Risse, Maria Green Cowles and James Caporaso (eds), *Europeanization and Domestic Change* (Ithaca NY: Cornell University Press, 2001).

<sup>14</sup> Grabbe, *op. cit.*

<sup>15</sup> Frank Schimmelfennig, S. Engert and H. Knobel, "Costs, Commitment, and Compliance. The Impact of EU Democratic Conditionality on European Non-Member States", EUI Working Paper RSC 2002/29 (Florence: EUI, 2002).

asymmetry of their relationship with the EU and the uncertainty embedded in the accession process itself. These two factors help to explain the differentiated responses to EU 'adaptational pressures' in Central and Eastern Europe.<sup>16</sup>

Depending on the depth and speed of the transformation process, EU institutions determine when and whether to give the green light either to the different stages along the accession process or to the delivery of additional benefits. The stages that have applied to the Central and Eastern European Countries include: privileged access to trade and aid, signing and implementing enhanced association agreements, the starting of accession negotiations, the opening and closing of thirty-one chapters of the *acquis communautaire*, the signing of the Accession Treaty, ratification of the Accession Treaty by member state parliaments and the European Parliament and, finally, entry into the EU.

In the sphere of conflict settlement, the EU's policy of 'carrots and sticks' and its direct involvement as a mediator in a secessionist conflict constitute the core of its potential for exerting influence. Thanks to its superior power *vis-à-vis* the parties, the EU is in a position either directly to coerce them into agreeing on an acceptable solution or indirectly to shift the domestic balance of power by encouraging moderate groups and discouraging hard-liners. The strongest incentive the EU can put on the negotiating table to guide and nudge the parties towards a conflict settlement is the prospect of EU membership, but other forms of partnership with the EU are also an option. In particular, progressive inclusion in EU common policies such as the single market or justice and home affairs, without formal institutional insertion into EU structures, can also act as a strong inducement.

These ultimate rewards give the EU the leverage necessary to demand institutional and policy changes that are a matter of dispute between the parties involved in a conflict. Most often, disagreements on the conflict agenda concern specific issues such as trade, monetary policy, taxation, refugee policy, citizenship questions, border control and all the institutional issues to do with who has authority over decision-making in these and other policy areas. By attaching specific rewards to preferred solutions to these open questions, the EU can intervene directly in the conflict dynamic, helping either to find a compromise that satisfies both sides or to widen the gap between them by exacerbating their differences.

But how do conditionality policies – whether directly or indirectly related to conflict settlement and conflict resolution efforts – change domestic practices?<sup>17</sup> Rational institutionalism argues that domestic players are goal-oriented and purposeful. They engage in strategic interactions, using their resources in ways that maximize their usefulness on the basis of ordered preferences. They weigh the costs and benefits of different strategies, anticipating the other's behaviour. EU conditionality generates 'simple learning'. This means that rationally calculating players, confronted by institutional constraints, may easily alter their strategies and tactics in order to achieve their objectives. But this does not mean that they will therefore change their underlying identities.<sup>18</sup>

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<sup>16</sup> Grabbe, 2003. The Union developed two main steps in the process: gate-keeping, and bench-marking and monitoring. See Heather Grabbe "How does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity", *Journal of European Public Policy*, Vol. 8, No. 6 (2001), pp. 1013-131.

<sup>17</sup> For an analysis of the effects of Europeanization on domestic change, see Tanja Boerzel and Thomas Risse "When Europe hits home: Europeanization and domestic change", *European Integration Online Papers*, Vol. 4 (2000), No. 15, <http://eiop.or.at/eiop/texte/2000-015.htm>.

<sup>18</sup> See Jeffrey Checkel, "Norms, Institutions and National Identity in Contemporary Europe", *International Studies Quarterly*, Vol. 43, No. 1 (1999), pp. 83-114, p. 90; and Jeffrey Checkel, "Social

EU conditionality policies can have either a direct effect, by prescribing one particular solution or ruling out another, or an indirect effect by altering the domestic opportunity structure.<sup>19</sup> In the former case, these policies can influence the whole range of feasible solutions in peace negotiations. If the EU categorically rules out the option of secession within an applicant or potential applicant state, both the main and the secessionist entities may have to concentrate on compromise solutions, such as a loose federation. The extent to which this will alter the positions of the two parties will depend on how much they value the incentives offered by the EU.

Yet given the EU's limited ability to prescribe legislation and policies beyond its borders, conditionality affects domestic change principally by altering the domestic opportunity structure. EU conditionality policies may offer resources and legitimization to some domestic players while constraining the ability of others to pursue their goals. The EU's capacity to mobilize domestic actors crucially depends on the will, resources and interests of particular groups, as well as on the existence of cohesive pro-European identities around which interests can be mobilized.

According to Marina Cowles, James Caporaso and Thomas Risse, the extent to which 'adaptational pressures' generate domestic change depends on the 'goodness of fit' between EU and domestic practices.<sup>20</sup> To what extent is there compatibility between domestic practices and EU standards and conditions? Great incompatibility makes conditionality unlikely to have any effect. When, instead, some groups within the domestic political system are working towards change in a direction similar to that advocated by the EU, conditionality could strengthen these groups and/or modify the direction of policy change. When EU conditionality legitimizes the discourse of particular domestic players, EU conditions are absorbed or accommodated and become part of domestic political dynamics.

But the extent to which these conditions actually alter domestic practices may remain limited. Domestic positions may be reframed only superficially, through a different political discourse, which now includes an additional EU dimension. Real policy practices or bargaining positions are then not necessarily altered significantly. However, EU conditionality may also transform domestic policies or positions beyond the level of political rhetoric. This may occur when EU conditionality contributes to a change in the domestic political configuration, for example by influencing electoral results.

The impact of EU conditionality on the domestic opportunity structure thus depends critically on the value attached to EU benefits by various groups within the society, and on the extent to which the various domestic players are generally committed to the EU integration project.

### *1.2.5 Europeanization through social learning*

Conditionality is not the sole mechanism for channelling EU influence. Equally important in analysing the possible impact of the EU on its peripheries are the socialization processes of domestic political élites and the social learning processes of

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Construction and Integration", *Journal of European Public Policy*, Vol. 6, No. 4 (1999), 545-560, at p. 546.

<sup>19</sup> Christoph Knill and Dirk Lehmkuhl, "How Europe Matters: Mechanisms of Europeanization", *European Integration Online Papers*, Vol. 3, No. 7 (1999), <http://eiop.or.at/eiop/texte/1999-007a.htm>

<sup>20</sup> Marina Cowles, James Caporaso and Thomas Risse, "Europeanization and Domestic Change", in T.Risse, M.G.Cowles and J.A.Caporaso (eds), *Transforming Europe: Europeanization and Domestic change* (Ithaca, NY: Cornell University Press, 2001), pp. 1-20.

societies as a whole. While conditionality can be expected to operate mostly in the short run, socialization – by affecting the strategies of domestic players – has longer-term effects and can impact on the way in which domestic players define their interests and identities. The constitutive norms of the EU – in terms of both its liberal market principles and its standards of democratic governance – play an important role by offering a point of reference to all external players who seek closer relations with it. Furthermore, the EU institutions responsible for foreign policy are both ‘sites of socialization’, through initiating exchanges with third countries’ élites, and ‘promoters of socialization’ through engaging in persuasion and argumentation in relation to ideas and proposals.<sup>21</sup>

Social constructivist literature argues that, through participation in common institutional structures, players change their identity and also, therefore, their perceived interests and ensuing action. This can occur in a top-down fashion, where ‘agents of change’ or ‘norm entrepreneurs’ in close contact with the international framework mobilize other domestic élites and the general population, and persuade them to change their perception of their interests.<sup>22</sup> Bottom-up change is also possible. In this case, non-state players unite in their support for international norms and mobilize to induce decision-makers to change state policies.

Social learning is a process based on interaction, and the dense institutional environment of the EU is particularly well suited to socializing agents from within.<sup>23</sup> With regard to non-EU members, the success of socialization will depend to a large extent on the density of institutional ties and contacts between the EU and these third countries, and on the legitimacy of EU-promoted norms and policies as perceived by the external players.<sup>24</sup>

The EU’s willingness to engage directly in a secessionist conflict as a mediator, and its commitment to integrating a country into its own institutional framework, affect the opportunities for institutional and private dialogue with the opposing sides. The success of socialization will then depend on how well the conflict solutions offered or promoted by the EU resonate with domestic political visions and conflict solutions.<sup>25</sup> It is also likely that the EU’s suggestions and demands will not be considered equally legitimate by both sides in a secessionist conflict. Within each of the parties in a secessionist conflict, EU-sponsored ideas and proposals will generally be accepted more readily by some domestic groups and political formations than others. The consistency of the messages conveyed by the different institutional structures of the EU will also affect the credibility of the EU’s line, and how favourably it is received by local players. The salience of European geostrategic orientations among political élites on the periphery, as opposed to Russian or American ones, is also critical in this respect.

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<sup>21</sup> See Jeffrey Checkel, “International Institutions and Socialization in Europe: Introduction and Framework”. Oslo: ARENA, 2003, available from [www.arena.uio.no/Checkel.htm](http://www.arena.uio.no/Checkel.htm).

<sup>22</sup> Peter Haas, “Epistemic communities and international policy coordination”, *International Organization*, Vol. 46, No. 1 (1992), pp. 1-36.

<sup>23</sup> See Jeffrey Checkel, “Social Construction and European Integration”, in Thomas Christiansen, E. Jorgensen & A. Wiener (eds), *The Social Construction of Europe* (London: SAGE Publications, 2001).

<sup>24</sup> Schimmelfennig, Engert and Knobel, *op. cit.*

<sup>25</sup> Thomas Risse develops the resonance argument to account for differential Europeanization of nation-state identities in the EU. He argues that “... some collective nation-state identities resonate more with Europeanization than others and are expected to incorporate understandings of Europe and of European order earlier.” Thomas Risse, “A European Identity? Europeanization and the Evolution of Nation-State Identities”, in Thomas Risse, M. Cowles and J. Caporaso (eds), *Transforming Europe: Europeanization and Domestic Change* (Ithaca, NY: Cornell University Press, 2001), p. 202.

### 1.2.6 The relationship between the two Europeanization mechanisms

Are the mechanisms of change – through policies of conditionality on the one hand and through norm diffusion and social learning on the other – mutually exclusive or complementary? There are certainly important differences between the two. Change through conditionality policies may occur in the short to medium term, as actors with unchanged identities and interests simply alter their actions to adapt to a change in the situation. More genuine and deep-rooted change, which occurs through the actual transformation of identity and interests, may only be expected over the longer term.<sup>26</sup> Over time, and through institutional contact (in which policies of conditionality may feature prominently), players may alter their perceived identity and interests. They first adopt a change in discourse, which is gradually internalized and results in a genuine changing of identity and interest. The change in action is no longer the result of coercion or incentives: it is the outcome of an endogenous process of change within the principal parties to a conflict. The importance of time in these processes of domestic change must be stressed. While in the initial phases of Europeanization a rational, institutional approach may better capture the mechanisms of change, over the longer term endogenous processes may become the main driving forces behind domestic transformation.

The positive roles of the EU, as player and as framework, may likewise reinforce the mechanisms of conditionality and socialization. Particularly at the level of élites, conflict often persists not only because of strong threat perceptions and a securitized discourse, but also because of vested interests in the *status quo*. Leaders may be relatively content with a stalemate, as compared to the many uncertainties associated with a settlement, and will therefore lack the political will to reach an agreement. In such cases, it is imperative for third parties to improve the benefits of a settlement by providing additional resources that would induce the élites to settle. These resources may consist of both new incentives – in line with the EU's role as a player implementing the conditionality mechanism – and new structures – in line with the EU's role as a framework organization providing new resources in the socialization of the élites.

There is thus a close link between the mechanisms of conditionality and socialization. Tanja Boerzel and Thomas Risse have suggested that the logics of action and interaction underpinning these two mechanisms may occur simultaneously notwithstanding the analytical distinction between them.<sup>27</sup> In peace-making processes, the two mechanisms are not always mutually reinforcing. In some conflict cases, conditionality and socialization can be complementary, and can be activated to achieve conflict settlement and transformation. In other cases, the application of conditionality may reduce the prospects for socialization. Conditionality policies do not automatically lead over time to endogenous processes of social change. If, for example, conditionality is perceived by domestic players as favouring one side of the conflict to the detriment of the other, the possibility of socializing both sides equally will be lessened. If conditionality policies are viewed by one or both parties as insufficiently legitimate, if existing domestic practice is uncontested, if European norms are insufficiently related to domestic norms or if institutional ties between the

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<sup>26</sup> Tanja Boerzel and Thomas Risse, "When Europe Hits Home: Europeanization and Domestic Change", *European Integration Online Papers*, Vol. 4, No. 15 (2000), <http://eiop.or.at/eiop/texte/2000-015.htm>.

<sup>27</sup> Boerzel and Risse, *op. cit.*, pp. 74-75.

EU and the parties to the conflict are too weak, conditionality may have no effect – or may even have an adverse effect – on social change in a divided state.

### **1.3 Problems with applying Europeanization mechanisms**

In the following section, we will analyse the potential problems with applying Europeanization mechanisms in divided states at the European periphery. First, we will examine to what extent the lack of a clear definition of the idea of the EU and of its further enlargement prospects affects the efficiency of these mechanisms. Second, we will address the question of the value of the benefits delivered by European integration prospects. Third, we will evaluate the consequences of withdrawing benefits in a policy of conditionality. Fourth, we have to take into account how communication takes place between European peripheries and the complex institutional set-up that constitutes the European Union. Fifth, we will deal with the crucial question of minority rights in the process of Europeanizing divided states. A sixth problem is time lags: reforms are demanded in the short term, while benefits are promised in the long term. Seventh, we will focus on the problems arising when federal solutions are imposed from outside. The eighth and last theme addressed in this section are the intended and unintended effects of Europeanization.

#### *1.3.1 The idea of Europe*

While the process of Europeanization is generally conceptualized as being based on universal values and on the acceptance of the principle of multiculturalism, these visions are contradicted by alternative discourses on European identity that emphasize particularity, e.g. by highlighting specific cultural traditions, like Christianity. Such discourses show how Europeanization as an affirmation of a post-national order may be countered by exclusivist discourses.<sup>28</sup> A retrenchment into nationalism may be facilitated by the ambiguities surrounding European identity.<sup>29</sup>

This ambiguity of European identity is reinforced by the importance the EU attaches to the delimitation of Europe, in particular to the borders of the European Union. This delimitation is based on the assumption that European values are manifested within these territories, and that applicant countries could moreover be ranked according to the degree to which their political and legal systems are capable of expressing these values.

Tracing the borders of Europe is a particularly relevant issue for countries on the European periphery. The discussion on the geographical borders of the European polity has occupied several political generations, and will probably engage several more generations to come. There are at present several European polities: the OSCE's definition of Europe includes the United States, Canada, and the post-Soviet states of Central Asia, the Council of Europe's definition of Europe excludes those states, and the European Union's definition of Europe is an open one.

Decisions on the next stages of European Union enlargement – after the inclusion of Bulgaria and Romania in 2007 – will not be taken soon. In the short term, however, the European Union needs a coherent policy on its new 2004-07 borders. Instead of drawing geographical borders around the hypothetical idea of a European

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<sup>28</sup> Nicos Trimikliniotis, "The Location of Cyprus in the Southern European Context: Europeanization as Modernization?", *The Cyprus Review*, Vol. 13, No. 2 (2002), pp. 47-73.

<sup>29</sup> Claudio Radaelli, "Whither Europeanization? Concept Stretching and Substantive Change", *European Integration Online Papers*, Vol. 4, No. 8 (2002), <http://eiop.or.at/eiop/texte/2000-008a.htm>.



polity, the European Commission has put forward the idea of a 'wider Europe' and has designed a neighbourhood policy framework that would include all countries geographically bordering the enlarged European Union, with the exclusion of Turkey and those countries of the Balkans that have currently a perspective of membership to the European Union and are already part of existing policy frameworks. In a footnote to its March 2003 communication to the Council on 'neighbourhood' policies for a Wider Europe, the Commission claimed that, for geographical reasons, the South Caucasus states could not be included in this framework 'for the time being'.<sup>30</sup>

Closer relations between the EU and neighbouring countries are seen, in this communication from the European Commission, as promoting economic integration, cross-border cooperation, reforms which include legislation in line with the *acquis communautaire*, sustainable development and shared responsibility for conflict prevention between the EU and its neighbours. The EU wants to operate with specific incentives other than the mega-incentive of accession as a full member state. The incentives include an extension of the internal market and regulatory structures, prospects for the lawful migration and movement of persons, and intensified security cooperation: "Russia, the countries of the Western NIS and the Southern Mediterranean should be offered the prospect of a stake in the EU's Internal Market and further integration and liberalization to promote the free movement of persons, goods, services and capital (four freedoms)".<sup>31</sup> Concrete benefits and preferential relations would be given in exchange for progress made by the partner countries in implementing reforms.<sup>32</sup> The first action plans for individual countries were intended for 2004. Of our four case-studies, Moldova is included in this 2003 definition of the Wider Europe.

The exclusion of the South Caucasus from the Wider Europe framework, in the European Commission's document of March 2003, was related to the set of problems concerning endogenous processes of change. The general question arising from this set of problems is whether social learning is possible beyond the borders of the EU. Are the accession process and the different forms of contractual relations beyond accession, dense enough to generate a process of endogenous change that goes beyond altering the domestic opportunity structure? Can the principles of multi-level governance, porous borders, multiple identities and soft security be internalized outside the Union beyond the level of European rhetoric? In excluding the South Caucasus from the Wider Europe framework, the Commission and the Council seemed at first to have given a negative answer to these questions, insofar as the prospects for deeper integration in the EU's Internal Market through the liberalization of the 'four freedoms' are concerned.

For countries that have no accession prospects, or that were excluded from the Wider Europe framework in 2003, there may be a negative exclusion effect. This exclusion may make it more difficult to mobilize domestic support for democratic reforms. This potentially negative consequence of the 2003 decision contradicts the European Union's policy in support of the new Georgian president Mikheil

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<sup>30</sup> Communication from the Commission to the Council and the European Parliament, "Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours", Commission of the European Communities, Brussels, 11.3.2003, COM(2003) 104 final, p. 4. On the following see Bruno Coppieters, 'EU Policy on the Southern Caucasus', policy paper for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy of the European Parliament (meeting of 20 January 2004), on the Internet on <http://www.europarl.eu.int/meetdocs/committees/afet/20040120/wider%20europe%20caucasus.pdf>

<sup>31</sup> *Ibid.*, p. 4.

<sup>32</sup> *Ibid.*, p. 9.

Saakashvili. That is one of the reasons why the European Council decided, on 26 January 2004, to ask the European Commission to prepare a new report on the relationship between the South Caucasus and the 'Wider Europe – Neighbourhood' policy for the middle of 2004.<sup>33</sup>

The EU policy instruments deployed in various categories of European countries such as applicants, prospective applicants, countries involved in the Wider Europe framework and countries beyond this framework – instruments ranging from an accession process, stabilization and association to less complex forms of partnership and cooperation – thus include different institutional capacities for Europeanization through conditionality and socialization. Some coherence in the application of the European idea in EU policies will increase the effectiveness of the various treaty instruments.

### *1.3.2 The value of benefits*

When analysing the mechanisms of Europeanization, other potential problems related to the EU's capacity to act beyond its borders need to be borne in mind. There is the quality of the 'carrot'. Domestic change driven by conditionality calls for sufficiently valuable EU benefits. Their perceived value depends both on the objective elements in the EU offer and on the subjective assessment of those benefits. When full membership is an option, the EU's potential leverage is higher than in cases where relations are based on association or on partnership and cooperation. This raises the question of whether the EU can significantly influence states on its periphery that it is not prepared to integrate fully in the near future, such as, for instance, the European countries of the Wider Europe.

Furthermore, different players within a third country may value EU benefits differently. Domestic players have different aims and objectives. Accordingly, their assessment of the Union differs. Although full membership is the most powerful foreign policy instrument at the EU's disposal, it may be of little value to those forces within a country whose aim is first and foremost to assert absolute sovereignty within a predefined territory, or to forces interested in a particular type of alliance with Russia which would rule out any involvement by the European Union in their region. To the extent that these forces enjoy the upper hand within the state, EU conditionality is unlikely to induce positive domestic change. Depending on the relative balance of the different domestic forces and the interaction between them, the overall effect of EU conditionality will be positive, negative or nil.

The effectiveness of the conditionality mechanism largely depends on the possibility of Europeanization through socialization. Social learning is most likely when international (in this case EU) norms resonate with domestic ideas and practices. Yet often, in ethno-political conflicts, the discourse is based on premises very different from those that are characteristic of the EU. Notions of absolute sovereignty, exclusive identities, territorial integrity and military balance feature prominently in ethno-political conflicts. Such notions will affect the perceived value of EU instruments.

### *1.3.3 Granting and withdrawing benefits*

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<sup>33</sup> 2559<sup>th</sup> Council Meeting – External Relations, Brussels 26 January 2004, <http://ue.eu.int/pressData/en/gena/78833.pdf> (accessed on 1 February 2004).

A further problem with EU conditionality, identified by Heather Grabbe, lies in the effects of 'gate-keeping' as a means of influence.<sup>34</sup> EU institutions determine when and whether to grant a particular benefit to a third party. Yet gate-keeping cannot induce precise changes at precise moments in time. An effective policy of conditionality would necessitate an automatic entitlement to rights when obligations are fulfilled and the automatic withdrawal of benefits when they are not. In practice, these consequences are never so automatic.

Various political imperatives have to be taken into account. Both the granting and the withdrawal of a benefit to a third state require consensus within the Union. For an association agreement or an accession treaty to come into force, there must be unanimity among the member governments and ratification by national parliaments and the European Parliament. Such a consensus clearly depends on the fulfilment of its contractual obligations by the third state (i.e., in the case of membership, the fulfilment of the Copenhagen criteria and the adoption of the *acquis*). But it also depends on other factors, motivated by underlying political or economic imperatives. The eastern enlargement occurred despite the fact that some conditions had not been fulfilled: the importance of the enlargement far exceeded that of the minutiae of compliance with the *acquis communautaire*.

The same is true for the withdrawal of a benefit. The suspension of an agreement would eliminate the contractual links between the EU and these third states, and thus reduce the EU's potential source of influence in these countries.

In determining when and whether political conditions are met, some degree of political discretion is inevitable. When flagrant violations go unpunished, however, or when benefits are not granted despite the overall fulfilment of contractual obligations, then the EU's credibility is seriously impaired. In other words, when other conditions, unspecified in the contract, govern the Union's relations with third states, then EU conditionality policies lose their effectiveness. Not only does EU conditionality towards that particular third state suffer, but the Union's general image and credibility are also damaged.

Political discretion is also explained by the vagueness of certain conditions. When are human rights respected? When is a country sufficiently democratic? Human rights violations and features of undemocratic practice, racism and xenophobia exist within the EU as well as outside it. Instead of being clear-cut, the meeting of criteria is often a question of degree. In addition, the Union does not have ready-made benchmarks with which to monitor the implementation of reforms, nor has it any specific models that would give a precise idea of the kind of reform expected.

#### 1.3.4 *The many voices of the EU*

The way in which incentives are communicated by the EU to the third country is also critical for the efficiency of Europeanization mechanisms. The complex institutional setting of EU foreign policy, and the many voices speaking for the EU on external relations, may sometimes distort the message. While the Council of the European Union, the European Council and the European Parliament may make rhetorical statements and take practical steps in favour of a state's reunification within the framework of European integration, in its relations with the latter the Commission may follow a different policy. From the perspective of the Commission, it may in

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<sup>34</sup> Heather Grabbe, "How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity", *Journal of European Public Policy*, Vol. 8, No. 6 (2001), p. 1020.

some cases be easier to integrate two sovereign states than a complex federation. It is far easier, for instance, for the Commission to prepare treaty negotiations or to negotiate with a unitary state that has clear decision-making and ratification procedures than with a federation, where decision-making at different levels has to be coordinated, generally resulting in more cumbersome ratification procedures. Negotiations are even more difficult with federations divided by severe conflicts between the federated entities or their various levels of governance.

### 1.3.5 *The protection of minority rights*

The meaning of conditionality is particularly relevant for many of the core issues relating to conflict settlement and conflict resolution in divided societies. The exact meaning of Europeanization in terms of minority rights is defined far less precisely than the economic content of the *acquis communautaire*.<sup>35</sup> Europe as a politically integrated multicultural society offers more guarantees for the recognition and protection of minority rights and cultural diversity than does the framework of nation-states.<sup>36</sup> Europeanization places these states in a setting that offers not only models of federal or quasi-federal constitutions, but also supra-national institutions that can play a crucial role in conflict resolution. Here we should mention the EU's innovative practice of multi-level governance and the role of regions within the EU.

However, as James Hughes and Gwendolyn Sasse argue, EU conditionality on minority protection suffers from a lack of clear criteria on which to base this protection, especially since the application of these rights is controversial between and within the EU member states themselves. The EU agenda for minority rights is marked by constant tension between individual and group rights. Minority rights protection is therefore the most weakly defined of all the 'Copenhagen criteria', and there are no established EU benchmarks. As the EU's own mechanisms for enforcing and monitoring compliance are poorly developed, it relies for this monitoring on international organizations, such as the CoE or the OSCE, or on NGOs.<sup>37</sup>

The relation between EU conditionality and the institutionalization of minority rights is further determined by the particular importance attached to the strengthening of the state institutions of former communist countries (the majority of applicants), especially those that have recently acquired independence. This focus means that great emphasis is laid on strengthening the legitimacy of these institutions, including by providing support for a nation-building process. In such contexts, the defence of minority rights may be defined as facilitating access to the majority culture for members of minorities, rather than as a protection of minority cultures.<sup>38</sup>

### 1.3.6 *Time lags*

EU conditionality entails the problem of a time lag. Particularly within the accession process, reforms are demanded in the short and medium term, while the benefits

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<sup>35</sup> James Hughes & Gwendolyn Sasse, "Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs", *Journal on Ethnopolitics and Minority Issues in Europe*, Issue 1 (2003), [http://www.ecmi.de/jemie/download/Focus1-2003\\_Hughes\\_Sasse.pdf](http://www.ecmi.de/jemie/download/Focus1-2003_Hughes_Sasse.pdf).

<sup>36</sup> Nicos Trimikliniotis, "The Location of Cyprus in the Southern European Context: Europeanization as Modernization?", *The Cyprus Review*, Vol. 13, No. 2 (2002), pp. 47-73.

<sup>37</sup> Hughes & Sasse, *op. cit.*, pp. 12-13.

<sup>38</sup> Hughes & Sasse, *op. cit.*; Eiki Berg & Wim Van Meurs, "Borders and Orders in Europe: Limits of Nation- and State-Building in Estonia, Macedonia and Moldova", *Journal of Communist Studies and Transition Politics*, Vol. 18, No. 4 (2002), pp. 51-74.

(membership) are actually delivered in the long term. This generates two sets of problems. First, because of their unpredictability, long-term benefits are valued less than short-term ones, and this diminishes the potential incentives for reform generated by EU conditionality. Secondly, time lags may also encourage domestic policy-makers to delay reforms until the delivery of the benefits is nearer. This may be particularly true in conflict situations. The settlement of an ethno-political conflict through the acceptance of a compromise agreement is viewed by the parties as taking a leap into the unknown. Even in cases where mutually beneficial agreements are possible, agreeing and implementing a solution to a secessionist crisis is generally perceived as highly risky. EU membership can be viewed as a hedge against risk, thanks to the particular types of security guarantees embedded in EU accession. The parties to a conflict may therefore be reluctant to reach an agreement until the prospects of membership are closer and surer.

### *1.3.7 The problems associated with externally imposed federal solutions*

Generally speaking, a constitutionally entrenched division of power between different levels of governance which is based on the freely given consent of the whole population – including its minorities – does not create a severe political dilemma. But the situation is more complicated when the federalization of a state divided along ethnic lines has to address the consequences of a unilateral declaration of secession that has led to a full-scale war. This problem is not peculiar to the Europeanization of secessionist conflicts, but generally has to be addressed in all secessionist conflicts in which a third party attempts to impose federal solutions.

Once mass violence has taken place, the choices entailed in a peace settlement cease to be as free as they are in the absence of violence. A violent secessionist conflict follows a logic of its own, particularly when it leads to the creation of a *de facto* state. The war itself is a contest of wills outside the framework of a commonly accepted constitutional order, and is regulated only by a restricted set of international rules (international humanitarian law). These legal regulations generally fail to be enforced, which increases the difficulty in subsequently reaching an agreement considered just by both sides. The international security organizations also follow very particular legal rules when mediating in the aftermath of a violent conflict between a recognized government and the leadership of a *de facto* state.

In dealing with a post-war situation in a secessionist conflict, it is generally difficult to reach a federal agreement (or any other type) without some degree of external pressure. But the degree of external pressure used to create new state institutions (which can range from conditionality – reflected in various forms of cooperation – all the way to outright military force) will negatively affect their legitimacy in the eyes of the parties concerned. The difficulty of implementing such types of solution explains the need to apply a comprehensive set of normative principles in concrete cases, in order to judge the legitimacy of such an effort.<sup>39</sup> These principles are summarized in the box below.<sup>40</sup>

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<sup>39</sup> See Bruno Coppieters, “Conclusion: Just War Theory and the Ethics of Secession”, in Bruno Coppieters and Richard Sakwa (eds), *Contextualizing Secession: Normative Studies in Comparative Perspective* (Oxford: Oxford University Press, 2003), pp. 252-279 and Bruno Coppieters, “Secession and War: A Moral Analysis of the Russian-Chechen Conflict”, in: *Central Asian Survey*, December 2003, Vol. 22, No 4, pp. 377-404.

<sup>40</sup> This set of principles is based on a reinterpretation of the various principles to be found in just war theory. The just war tradition analyses the legitimate use of violent means. Both the decision to start a

## THE FORCEFUL IMPOSITION OF A FEDERAL SOLUTION

- (1) It is one of the primary tasks of any state to correct or prevent injustices. But a federal settlement that does not reflect a consensual agreement between the population groups concerned, or the direct imposition of a federal framework by outside powers, should have a more specific 'just cause'. There should be an urgent need to reunify a country, in application of the principle of territorial integrity, or to safeguard the right to national self-determination. The need to create an appropriate framework for safeguarding the right of refugees to return to their homes is a further instance in which the imposition of a federal compromise may be justified.
- (2) The compromise solution or the imposition of a federal framework should be guided by the 'right intentions' of the external players involved in the mediation process, which should be consistent with a 'just cause'.
- (3) A federal compromise solution imposed from the outside which largely opposes the consensual will of the parties involved may only be a 'last resort' solution for remedying or preventing injustices. Before this step is taken, it must be very clear that all efforts to achieve the same objectives by means of consensual solutions have proved fruitless.
- (4) Only a 'legitimate authority' may impose external pressure on the parties to a conflict. The UN (in the case of the use of force) and the EU (in applying conditionality) may act as a 'legitimate authority' in exercising pressure on the parties in conflict in order to achieve compromise solutions. The conditions under which the UN Security Council may decide on the character of such a federal arrangement and its forceful implementation are specified in the UN Charter.
- (5) A 'reasonable chance of success' in upholding the 'just cause' is a prerequisite for a federal compromise or the imposition of a federal solution. The probability of a breakdown of the federal arrangement under conditions leading to a new violent conflict would destroy the legitimacy of such an arrangement. The extent of the violence preceding a settlement, and the degree of external pressure exercised in order to reach an agreement, will affect its likelihood of success in various ways.
- (6) The principle of 'proportionality' must be respected: the anticipated cost of imposing a federal model should not be disproportionate to the expected benefits, by which is meant the remedying or prevention of injustices.

In a normative analysis of the legitimacy of an externally imposed federal model, each of these principles has to be applied separately to a concrete case-study. State structures resulting from a federal arrangement have to be able to remedy or prevent injustices, and in applying this just cause principle must be based on the right intention.

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war and the use of military means in waging it must be in accordance with each of the individual just war principles. These principles are as follows: (1) a war should have a 'just cause', i.e., the injustices to be prevented or remedied should be serious enough to justify the use of military force. (2) The decision should be guided by 'right intentions'. (3) Only a 'legitimate authority' may launch a war to uphold a 'just cause'. (4) A 'reasonable chance of success' in upholding the 'just cause' is a prerequisite for starting military operations. (5) The principle of 'proportionality' – cost-benefit calculation – must be respected. (6) The use of violence may only be a 'last resort' solution.

Forms of representation and type of governance must also be in accordance with the principle of legitimate authority. The federal arrangement must, moreover, have a reasonable chance of success, and its moral benefits must outweigh its costs, in accordance with the 'proportionality' principle.

All principles are thus crucial. The 'last resort' principle stresses the exceptional nature of the use of external pressure to achieve a legitimate federal solution. The right of the international community to impose a federal state on conflicting parties as a 'last resort' may be compared with the right to wage war. In the just war tradition, the latter is to be regarded as an exception to the general rule that parties in conflict must seek a peaceful means of settling that conflict. A federal settlement to a secessionist conflict, imposed by external pressure or force, must be considered an exception to the rule that federalism should reflect the freely given consent of the population – or, in the case of a multinational state, the populations – involved. Such an imposition may therefore be used only as a last resort.

Although all the principles must be applied separately to a concrete setting, it must be borne in mind that they are closely related to one other. Regarding the 'just cause' principle, federalization imposed using outside force may in fact remedy existing injustices or prevent future ones. It may restore the territorial integrity of a country, introduce a limited right to national self-determination for national minorities and grant refugees the right to return to their homes or to obtain fair compensation for property they have lost.

Generally speaking, it is unlikely that an agreement on federalization resulting from a high degree of external pressure will be perceived as fair by all parties to the conflict. This will undoubtedly lead to accusations that basic state interests are being betrayed. Those on the secessionist side who oppose a negotiated federal solution will stress the idea that the sovereign character of their 'state' precludes its legitimate inclusion in a federation. Those who oppose the concessions made by the central government to the secessionist party will similarly stress the fact that the terms of the federalization process – particularly the way in which power is divided by the levels of government – have been imposed on them by force, or by outside forces. The likelihood of success of the federal arrangement will then depend on the degree of external pressure and on the design of the federal institutions themselves, such as electoral rules. Reconciliation procedures to deal with the pre-accord violence may also reinforce post-accord stability.

Thus the individual principles are affected in various ways by the degree of external pressure used to reach a federal settlement. The degree of pressure then used to enforce a settlement will affect not only the 'likelihood of success' of the federal structure, but also the 'proportionality' calculation. From this perspective, it is necessary to analyse the potentially negative effects of an externally imposed solution on the efficiency of state institutions, on the principle of democratic representation, and on the degree of self-sustainability of the state institutions. The principles of 'likelihood of success' and of 'proportionality' are in this case closely linked: if the likelihood of success of an imposed federal settlement is small, costs are generally out of proportion to benefits.

It may be concluded that the degree and type of external pressure are a crucial variable in the achievement of a federal agreement that is considered just and legitimate by the conflicting parties. External pressure may range from the military imposition of a federal solution to milder forms – such as those applied through conditionality in the framework of EU integration. It is not necessarily the case, however, that the likelihood of success of imposed federal constitutions or their

legitimacy are inversely proportional to the degree of external pressure applied. Such questions must be examined on a case-by-case basis. But this overview suffices to demonstrate that, as a general rule, and despite their unintended effects, the ‘soft’ mechanisms of Europeanization – conditionality and socialization – do not create the same problems in the formation of new federations and other federal arrangements as the harsher forms of external pressure, such as sanctions or the use of force.

### *1.3.8 Intended and unintended effects of the EU’s conflict settlement policies*

The EU’s potential for conflict settlement through its Europeanization mechanisms can produce both intended and unintended results. The latter are intricately linked to the potential problems inherent in the mechanisms of Europeanization highlighted above. As outlined in the earlier parts of this chapter, the EU’s general policy stance is to favour common state solutions and to discourage secession. This position is motivated mainly by a refusal to accept unilateral changes of borders, the expected domino effect of increasing demands for independence and the repercussions of secession for ethnic co-existence in the contested territories. To avoid setting precedents, the EU opposes demands for the recognition of secessionist entities.

In principle, however, there are other policy options besides supporting a single sovereignty outcome in conflict situations. One model, indeed, would be to mobilize EU foreign-policy instruments and apply conditionality to the parties in the conflict, with the objective of keeping them together in one state. This is possible when both parties wish to be more closely linked to the EU. A second model would be to offer Europeanization-related incentives to one of the entities while isolating the other until it abandons its uncompromising ideas and returns to the negotiating table. A third model would be to engage in bilateral relations with the two entities separately – this would include a normalization of EU relations with the secessionist entity, up to the (reluctant) recognition of its independence.

There are important distinctions in the immediate objectives of these policy options, and although the EU has been inclined to consider only the first two models, the third is also worth examining. The intended and unintended effects of these models will be different depending on the party to whom the EU is willing to grant its conditional support. There are also different constraints on the effectiveness of the mechanisms of conditionality and socialization in the three models (see matrix).



## Europeanization and Conflict Settlement: Intended and Unintended Effects

	<b>Conditionality – Socialization Model I</b>	<b>Conditionality – Socialization Model II</b>	<b>Conditionality – Socialization Model III</b>
<b>EU policy</b>	<p>EU favours a common state solution and offers the joint entity privileged access to EU resources and institutions.</p> <p>EU applies ‘common state’ conditionality on both entities.</p> <p>EU socializes the common state.</p>	<p>EU favours one of the entities depending on:</p> <ol style="list-style-type: none"> <li>a) the democratic credentials of its regime;</li> <li>b) the reformist credentials of its government;</li> <li>c) the ‘reasonableness’ of its leadership in negotiations.</li> </ol> <p>EU offers the preferred entity privileged access to its resources and institutions.</p> <p>EU may, as last resort, grant recognition to the secessionist entity if it is considered the ‘reasonable’ partner; but not if it is ‘unreasonable’.</p> <p>EU applies pressure on the ‘unreasonable’ entity.</p> <p>EU socializes the preferred entity.</p>	<p>EU accepts secession reluctantly and may even grant recognition to both entities. EU offers privileged access to its resources and institutions to both parties but makes this conditional on their individually fulfilling the Copenhagen criteria:</p> <ol style="list-style-type: none"> <li>a) democracy;</li> <li>b) market economy;</li> <li>c) rule of law.</li> </ol> <p>EU socializes the two entities, separately.</p>
<b>Intended effects</b>	<p>Secessionist drive suppressed.</p> <p>Conflict transformation takes place.</p> <p>Players increasingly see the benefits of the common state.</p> <p>Institution-building at the common state level.</p>	<p>Isolation of the ‘unreasonable’ entity, aimed at policy or even regime change.</p> <p>Resolution of the conflict postponed until the isolated entity comes back to the negotiating table with a ‘reasonable’ position.</p>	<p>Conflict resolved through ‘velvet divorce’.</p> <p>Secession formalized.</p> <p>Democratization and economic development of both entities, to prevent conflict in the future.</p>
<b>Unintended effects</b>	<p>Creation of a superficial layer of common institutions.</p> <p>Main entity sees benefits from the dissolution of the common state.</p> <p>Indirect support for political parties with nationalist or anti-reform platforms.</p> <p>Emphasis on institution-building at the common state level undermines socialization and institution-building processes at the entity level.</p>	<p>Exclusion of isolated entity entrenches authoritarian leadership structures and illegal sectors of the economy, accentuating ‘failing state’ characteristics.</p> <p>Danger of conflict escalation up to the point of civil war.</p> <p>Socialization of the isolated entity precluded.</p> <p>Possible association of the isolated entity with another external power.</p>	<p>Proliferation of micro-states and potential tax-havens.</p> <p>Risk of destabilization of the region.</p> <p>Domino effect on secessionist movements in other regions of the world.</p>

Let us now analyse the three conditionality-socialization models in greater detail. In the first model, the EU openly declares its preference for a common state solution and directs its conditionality and socialization efforts towards achieving that result. It extends its rewards to the common state only, and actively supports the creation of common institutions and policy coordination mechanisms at the common state level. The intended objectives of this policy are suppression of the secessionist drive, recognition of just one legal subject under international law, and gradual conflict transformation. Local players begin to see the benefits of staying together through having the opportunity to be included in a variety of EU initiatives, ranging from the Wider Europe Initiative through the EU accession process to full membership, with the promise of substantive integration into different EU common policies even without formal membership. Inclusion in the Stabilization and Association Process with the promise of full EU membership is also to be found on this continuum of possible forms of integration with the EU.

Model I envisages the use of strong conditionality, and even direct mediation, by the EU, to induce the two sides in the conflict to agree to a common state in the short term. Through its policies of conditionality and mediation, the EU alters the strategic calculations of the players in the conflict and thus facilitates a conflict settlement. A far more thorough process of change, through socialization, is then encouraged, which helps foster conflict transformation and resolution. Conditionality and socialization complement each other in this model, as do the framework and active-player dimensions of the EU itself.

This model has received overwhelming support among EU members for dealing with the present secessionist conflicts on the European periphery. This approach can, however, deviate from its stated goal in the course of its implementation, producing adverse effects. One unintended consequence can be the creation of a superficial layer of common institutions and policy coordination mechanisms, which would exist for the purpose of satisfying the EU requirements but would not generate sufficient domestic support to make them effective or even functional.<sup>41</sup> The EU's insistence on and financial support for institution-building at the common state level may generate resentment at the sub-state institutional level and this, in turn, may undermine its attempt to nurture genuine support for the common state formula. A more serious setback could be the development of secessionist ideas in the main entity too, as a reaction to the need to consult and reach consensus with the secessionist entity on every issue that becomes a matter of common concern. The main entity may then lose interest in preserving a complex federal constitutional system, favouring instead the dissolution of the common state institutions and focusing wholly on EU membership or association as an independent state.

A second conditionality-socialization model available to the EU is to favour one of the entities openly, depending on: (1) the democratic credentials of its regime; (2) the reformist credentials of its government; and (3) the 'reasonableness' of its leadership. The EU offers full support to the entity that comes closer to espousing the EU values of democratic governance and is committed to reforming its domestic structures in line with the EU standards of democracy, market economy and rule of

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<sup>41</sup> For similar institutional anomalies in Central and Eastern Europe, created in response to EU pre-accession demands, see Frank Schimmelfennig, "Introduction: The Impact of International Organizations on Central and Eastern European States – Conceptual and Theoretical Issues", in R. Linden (ed.), *Norms and Nannies: The Impact of International Organizations on the Central and East European States* (Oxford: Rowman & Littlefield Publishers, INC., 2002), pp. 19-20.

law. The model seeks to isolate the entity that has an undemocratic regime or obstructionist leadership. If this is the main entity, the EU may consider the use of sanctions against it, and even the recognition of the secessionist entity, as last resort and when other means of putting pressure on the authoritarian leadership of the principal entity have been exhausted. If the undemocratic regime is the secessionist entity, the EU clearly communicates its unwillingness to grant recognition and applies all possible sanctions against it, including travel bans, economic pressure, etc.

While the EU is putting pressure on the ‘unreasonable’ entity, it is actively engaging the preferred entity and extends its financial and institutional resources to it. The EU demands the standards of democracy, market economy and rule of law from the favoured conflict party and launches the process of socializing its political leadership and society at large. By facilitating the democratization and economic modernization of the preferred entity, and by promising future inclusion in EU structures or neighbourhood initiatives, the EU deliberately helps increase the attractiveness of that entity *vis-à-vis* the isolated one. The objective here is to put indirect pressure on the citizens of the isolated entity so as to provoke either a policy shift or a regime change.

This model requires the EU to begin by adopting a pro-active approach to transforming the conflict configuration, thereby improving the chances for a subsequent conflict settlement. The negotiation of a common state agreement is postponed until a policy or regime change has effectively taken place in the isolated entity and its leadership is prepared to revisit earlier common state solutions. The model also calls for the EU to be flexible enough to reformulate its objectives and offer additional incentives to the parties in order to stimulate their reintegration as one state at a later stage. The EU may have to consider improving the incentive package offered to the common state as a whole in order to induce the preferred entity to accept reunification too. The risk here is that the preferred entity itself may abandon its attempts to seek a solution because of the benefits extended to it earlier in terms of EU integration/association.

Another disadvantage of this strategy is the danger that its effect on the isolated entity might be quite the opposite from what was intended. Exclusion might radicalize the isolated entity rather than Europeanize it, by entrenching its leadership, favouring authoritarianism and criminalization, and even accentuating its ‘failing regime’ characteristics. The worst-case scenario would be the escalation of the conflict between the two parties to the point of civil war. EU rewards offered to the preferred entity may be viewed in the isolated one as a threat, and this may trigger a negative reaction, perhaps even including a military response.

Furthermore, by relying on coercive mechanisms, the EU misses the opportunity to socialize the isolated entity. And if the overlap between EU norms and domestic practices is very slight, this could push the isolated entity to seek an association with or protection from another external power willing to offer it more favourable conditions. If such a scenario develops, the EU could find itself indirectly involved in a power struggle with other external players – such as Russia, for instance, which has its own magnetism *vis-à-vis* some parts of the former Soviet Union and can provide benefits in its turn, such as citizenship or energy resources. If this model is to have the desired effect, the EU needs a partnership and an agreement with other external players who have vested interests in the conflict region.

A third conditionality-socialization model for the EU would be to indicate that it will (reluctantly) accept secession on condition that there is a peaceful, mutually agreed and democratic separation. It puts pressure on both parties to accept these

conditions. It makes it clear that, for further integration/association with the EU, each must meet the Copenhagen criteria for democracy, market economy and the rule of law. In this case, conditionality is uncoupled from the quest for comprehensive common state solutions and is targeted instead on domestic reforms in the areas of democratization, economic development and the harmonization of laws. And since the normative appeal of EU standards is very strong for countries on the European periphery, the EU's insistence that these standards be upheld will meet with less resistance. As a result, socialization efforts may be expected to be more successful, and may reinforce the EU's attempts to put in place sustainable structures of good governance in neighbouring states. As regards contractual relations with the EU, one variant is to treat both states equally, as the EU did in accepting Czechoslovakia's 'velvet divorce' and including both republics in its accession framework.<sup>42</sup> Another variant is to include the bigger entity fully in one of the EU's external relations initiatives (accession process, stabilization and association process, Wider Europe policy) and to develop a special relationship with the smaller entity, if full membership for it is ruled out. The EU can offer the micro-states advanced association, not least to prevent some of the unforeseeable effects of their proliferation.

There is a sub-variant of this model in which the EU tries to normalize its relations with the *de facto* secessionist state without engaging in diplomatic recognition or offering formal integration into EU frameworks. In theory, the EU can be a foreign policy player without necessarily involving its framework in its relationship with third countries. Such normalization would initially take place at the level of trade, as with Taiwan. Other options include giving strong security guarantees to both sides in a negotiation process, or supporting democratization processes in unrecognized states.

It could be argued that the 'Europeanization' of European *de facto* states by engaging them in active socialization processes will have positive effects on future negotiations. The creation of institutional ties (whether formal or even informal) between these states and European framework organizations such as the Council of Europe or NATO may affect the way in which domestic players define their interests and identities. Such a process of transforming the local norms and values that prevail in both the secessionist entity and the rump state may then lead to the gradual convergence of the parties, paving the way for more successful negotiations on political status.

Normalizing trade relations with *de facto* states, granting them security guarantees and pursuing an active policy of Europeanizing them all contribute a certain amount of support to the state-building endeavours of secessionist entities. By easing political tensions and bringing the parties together in various cooperative frameworks, this support may facilitate the search for a settlement within a single-state solution at a later stage.

In practice, however, it is difficult to give these kinds of support to *de facto* states as the latter's international status remains in limbo. Such support would require the consent of the internationally recognized authorities from which the *de facto* states

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<sup>42</sup> In the case of Czechoslovakia's 'velvet divorce' at the end of 1992, there was no doubt about the legitimacy of the two new states that emerged from the agreed dissolution of a sovereign state. The institution of sovereignty is based on the principle of non-intervention in internal affairs, and the peaceful dissolution of an existing state is primarily an internal affair. This does not preclude the possibility that the European Union might in the future be fully entitled to lay down its own conditions if new states emerging from a 'velvet divorce' were to apply for closer integration with the EU.

have seceded. These governments (or the political opposition in these countries) may perceive such democracy-building and Europeanization policies as a form of gradual recognition by the international community, rather than as policies to integrate them into a common European legal space in order to facilitate a settlement. This does not mean that these policies would be impossible to implement, particularly if linked to negotiations on political status. One also has to take into account the fact that secessionist leaderships commonly declare themselves in favour of the Europeanization of their states and societies, and that substantial economic interests are at stake. International NGOs, moreover, are already active in all *de facto* states, working on democracy and other state-building programmes. In principle, EU structures are capable of mobilizing sufficient institutional and other resources to make such policies successful.

There is thus a variety of options, whose application depends on the situation on the ground. If, for instance, a common state solution backed by the EU (in line with the first option) proves unsuccessful in the sense that its unintended effects outweigh the intended ones, a switch to a separation scenario (in line with the third option) should not be ruled out. Likewise, if sanctions and pressure on the smaller entity succeed in changing the minds of its leadership, renewed interest in a common state solution, and EU support for it, could produce a sustainable outcome. But in order to conduct such a dynamic foreign policy, the EU needs to strengthen its performance as an active player. The intended and unintended effects of the strategies discussed above are also affected by the EU's capacity to take action in foreign affairs.

#### **1.4 The wider set of framework organizations and external powers**

So far, the focus has been on Europeanization, and the potential role of the European Union in various conflicts at the periphery of the EU. But as the distance between the conflict and the core of Europe increases, the EU's leverage decreases and the relevance of framework organizations and external players, in particular the US and Russia, increases. In what follows we will first focus on the potential of framework organizations in the field of conflict settlement and conflict resolution, and then highlight the role and interests of external actors.

Europeanization is not exclusively EU-ization, although this is how it has predominantly been taking place with and within the accession countries. In addition to the EU, the CoE, the OSCE and NATO are currently institutionalizing specific norms in specific fields of specialization, ranging from *constitutive norms* for the international community, such as democracy and transparency, to more *specific norms*, such as civilian control over the military.<sup>43</sup> These institutions use a variety of strategies in order to socialize the states of Central and Eastern Europe. Some use *inclusive strategies* aimed at socializing them from within. All the states that emerged from the dissolution of the Soviet Union were readily accepted as members of the OSCE, and the organization then began to 'teach' them new rules of behaviour. The new members had to accept an obligation to internalize the new norms. Other institutions, such as the EU, are following an *exclusive strategy*: the organization explains its constitutive norms, which applicant members are requested to meet before they are allowed to join.

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<sup>43</sup> On the distinction between constitutive and specific norms, and between inclusive and exclusive socializing strategies, see *ibid.* pp. 7 ff.

It is striking that the EU is the only organization that has strictly followed an exclusive strategy, without combining it with an inclusive one: NATO, for instance, has set up the Euro-Atlantic Partnership Council, in which the norms to be met are far easier to comply with than those required for NATO membership. The CoE has followed an intermediate strategy: some norms have to be met before accession, and compliance with a new set of norms is then required upon accession, and is subsequently monitored from within. This strategy facilitated the integration of the South Caucasus states, for instance, and their socialization.

The multilateral organizations relevant to our case-studies are the IMF, IBRD and EBRD in the economic sphere, the Council of Europe and the OSCE in the political, democratization and legislative spheres, NATO in the realm of security and the UN as mediator and peacekeeper. In practice there is a normative convergence and division of labour between the multilateral organizations. There are also some operational overlaps, such as between the Council of Europe and OSCE in the area of democratization, and between the UN and OSCE in conflict mediation. At present, the role of the multilateral framework organizations in conflicts with non-recognized secessionist entities is limited, as they are largely prevented from intervening by the major powers which are withholding recognition. The only exception is where the UN or OSCE is mandated to mediate or keep the peace, or to monitor human rights in non-recognized states.

What concerns us here are the policies of these players and organizations, and how they work with (or at cross-purposes with) each other and the EU. Naturally, the state players come first, as between them they determine the policies of the framework organizations. Whether the OSCE works usefully depends on the EU, Russia and the US combined. The Council of Europe depends essentially on the EU, but Russia also has a significant voice. How easy or otherwise it is to gear these and the other relevant multilateral organizations up to achieve important tasks in conflict management, and particularly to stabilize conflict settlements, depends on how compatible the objectives of these three major players are. The problem is not just the unwieldy decision-making procedures of consensus-bound councils of ministers with very large numbers of seats around the table. Problems also lie in the compatibility of the overall strategies of the Big Three (seeing that the EU is itself reasonably unified on Balkan issues), and the bottom-line objectives that each may have for the different conflicts.

Meanwhile, the whole range of multilateral organizations have been put to work together, with the UN, NATO, OSCE, Council of Europe, IMF and IBRD becoming a consortium of the international community. These are cases in which the European and Euro-Atlantic institutions are often perceived by states as being one huge enterprise. Here the process of Europeanization may be broadly viewed as embracing the work of all these framework organizations, with the strategic input of the US. The economic policies stipulated as conditions for receiving IMF and IBRD aid, sometimes called the Washington consensus, are readily supported by the EU in its conditionality.

These problems are virtually non-existent now in the Balkans and Cyprus, because the EU-ization process dominates. There the EU is becoming both lead player and framework organization. As prospects for EU accession become closer and more vivid politically for the region as a whole, these trends seem set to continue, still leaving open the possibility that the EU may use the other framework organizations more or less as supporting agents. But for Moldova and the Caucasus, compatibility of objectives is still an issue, with official diplomacy often extremely opaque. In the

light of the new paradigms for international relations emerging post-11 September and post-Saddam Hussein, we shall consider in what ways the major powers may be inclined to work together (or not) in Moldova and the Caucasus, including options for coalitions or troika alliances.

The role of external powers may be explored in considering the possible meanings of Pax Americana and Russification. The foreign and security policies of the US have oscillated hugely over the last century. At one extreme has been the Wilsonian approach, which led to the establishment of principled multilateral organizations, initially after the First World War and again, more forcefully, after the Second World War. This is the US that comes closest to the present European position. At the other extreme is the US that is at times inclined towards a hegemonic and unilateralist approach to international relations, favouring the use of force as a means of conflict settlement. The present Bush administration, in the aftermath of 11 September, is probably a relatively extreme case of the latter tendency. However, when it comes to the theatres of operation in the Balkans and the South Caucasus that are our immediate concern, the US-European cleavage is far less in evidence.<sup>44</sup>

In Moldova and the South Caucasus, Russia appears to be driven mostly by sphere-of-interest and geopolitical control motives, following normative political principles that show little commonality with those of the EU. This severe remark seems justified by the fact that Russia is politically and militarily protecting the secessionist regimes in the region without making any noticeable effort to reform them in line with generally accepted democratic norms. But Russia's evolution is capable of taking either of two directions: a deepening Europeanization coupled with growing respect for European norms, including in its attitude towards secessionist regimes, or a more assertive pursuit of its national interests in a *realpolitik* sense, with little regard for asserting common norms with the EU. The pendulum still seems to be swinging between these different approaches.

Finally, we must consider to what extent the Council of Europe and the OSCE could in future provide additional guarantees of impartial arbitration in ethnic conflicts within federations. The Council of Europe currently plays an important role in the Europeanization process by applying the legally binding European Convention on Human Rights through the European Court of Human Rights. The Framework Convention for the Protection of National Minorities outlines the principles that states should respect in this field, while the European Charter for Regional or Minority Languages protects these languages. The Council of Europe could be involved in judicial ways of mediating internal conflicts in new federations.<sup>45</sup> The existing experience of some federated entities (such as Flanders within UNESCO) – who combine participation in federal decision-making on 'national' positions to be

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<sup>44</sup> On the contrary, in the Balkans the US and EU have been able to work in close coordination, with complementarity of roles, as well as provide joint support for the work of the multilateral organizations. An instance of complementarity was, for example, the US-led military intervention in the 1990s in Bosnia and Kosovo, followed by political settlements that were virtually dictated by the US and supported by the EU, and then the ongoing phase of Europeanizing transformation of the former conflict zones. At this stage the US gradually withdraws, leaving the field open for EU-ization.

<sup>45</sup> A Constitutional Court of the Federation of the Bosnian type could be envisaged, in which a certain number (perhaps even the majority) of judges would be appointed by the President of the European Court of Human Rights (which is linked to the Council of Europe). Such a model has been included in the Dayton Agreements (three of the nine judges of the Bosnian Constitutional Court are appointed by the European Court of Human Rights). The UN proposal on Cyprus provides for such a constitutional court at state level.

defended in multilateral organizations with autonomously representing them in these multilateral organizations – is also relevant when designing federal alternatives to secession.

In order to stabilize a post-accord situation, a reunified state may join cooperative ‘regional organizations’, lying between the individual states and the global multilateral organizations or European Union structures, which can therefore be an additional level in the third tier. Such regional structures may be technical (transport and energy linkages, for example), but may also connect with larger political ideas about transforming former conflict situations through deepening regional interdependence. Such regional organizations, which would permit the representation of sub-state entities, will make possible the exercise of a limited right to national self-determination at the external level, particularly the right to external representation of federated entities, within the limits of their constitutional powers. A regional integration framework that recognizes these powers may thus enforce patterns of interdependence between the two levels of federal governance, and link them with intergovernmental – and possibly even supranational – levels of governance. The creation of such a framework would be Europeanization at its best.



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