

Special report on the influence of the EU in the framework of its CFSP in the adoption of conflict settlement agreements

Stefan Wolff and Annemarie Peen Rodt

Introduction

In this report, we are looking very specifically at the role that the EU has played in the framework of its CFSP in the adoption of conflict settlement agreements in the Western Balkans. This topic implies significant overlap with our first report (Wolff and Rodt 2007) on the EU's reactive crisis management in the region since the early 1990s, especially as far as the framework of CFSP is concerned. We will not repeat our earlier findings here, but argue that, for analytical purposes, we can distinguish general CFSP crisis management (as discussed in Wolff and Rodt 2007) from influencing the adoption of conflict settlement agreements. There is also significant overlap with Work Package 5, led by the University of Nottingham, especially regarding the procedural aspects of EU policy. As a consequence, we consider this paper primarily as a conceptual contribution towards research to be done in Work Package 5, and we outline the relevant directions of research, based on our conceptualisation and brief empirical testing of the EU's influence the adoption of conflict settlement agreements, at the end of this paper.

We proceed in three steps. First, we conceptualise and operationalise the notion of "influencing the adoption of conflict settlement agreements" and apply this to the role of the EU in the Western Balkans. Second, we provide an overview of the conflict settlement agreements that were achieved over the course of the past decade-and-a-half and the role played by the EU in their adoption. Finally, we examine two cases in which the EU's role is (or most likely will be) very significant: Macedonia and Kosovo.

1. "Influencing the adoption of conflict settlement agreements": a conceptual preface

We conceive of adopting conflict settlement agreements as a three-stage process, comprising of a negotiation phase, an implementation phase and an operation phase. Within this framework, the negotiation phase is the one which is the most significant for shaping the institutional design of the agreement, and thus the nature of the political process during both the implementation and operation phases. Moreover, most conflict settlement agreements are at the same time very complex post-conflict reconstruction plans, involving economic, social, cultural and other issues alongside constitutional design (cf. O'Leary, Paris and Sisk forthcoming, and Roeder and Rothchild 2005). Implementation refers to the process of putting in place the institutions and procedures agreed during negotiations. As this can often be a prolonged process, especially where agreements are complex and are applied to post-war situations (e.g., BiH) or require substantial legislative and administrative changes to existing structures (e.g., Macedonia), implementation and operation often run in parallel for a considerable period of time. This means that the implementation of an entire conflict settlement agreement is often far from complete when the former conflict parties have to operate at least part of the institutions established in the agreement.¹ Uneven or incomplete implementation may affect the operation of a conflict settlement agreement: for example, constitutions are normally designed as whole packages and require, for their proper functioning, the existence and operation of all their institutions. If the agreement as a whole or some of its institutions do not perform well, there is a danger of it unravelling or renewed negotiations being necessary. While we would accept that the adoption of conflict settlement agreements is a process requiring a certain measure of flexibility, including optional or mandatory reviews over time, we also want to stress that

¹ In one, perhaps unusually prolonged experience, the 137 different measures contained in the 1969/72 special autonomy statute for South Tyrol took more than thirty years to implement, while the

there needs to be a certain degree of institutional stability and predictability to create an environment in which all conflict parties feel sufficiently secure to revisit the original agreement. This is unlikely to be the case if the implementation phase is flawed and early stages of the operation of an agreement cast doubt on its overall viability, be it because some signatories defect from the agreement or be it because institutions designed with parties' physical security in mind only do not "fit" the broader complexities of life in a post-conflict society.²

Considering the role of the EU, several preliminary observations are possible on the basis of this conceptualisation. The EU—as an international actor in its own right—was a latecomer in the Western Balkans in the sense that its influence during negotiations of agreements that were subsequently seen through to full implementation and operation was limited at best. At the same time, however, the EU has been, and continues to be a major player in the implementation and operation of agreements into whose institutional structure it has had little or no impact during the negotiation phase. This is problematic in the sense that the EU becomes the main sponsor of the implementation and operation of conflict settlement agreements with whose content it may not necessarily agree and whose structure it may subsequently wish to change. At the same time, however, one also needs to bear in mind that the EU, qua its member states and their membership in other international organisations such as the UN, the OSCE, and the PIC, does exercise some degree of influence even in the negotiation phase, if only by way of supporting/endorsing the outcomes of the relevant processes leading to a negotiated conflict settlement.

The EU, however, plays another important role in the Western Balkans that has significant bearing on the influence—direct or indirect—that it can exercise on the

core institutions regional and provincial governments and parliaments were fully operational from the start (cf. Wolff 2003).

negotiation, implementation and operation of conflict settlement agreements in the region. Association and potential future membership in the EU are a significant attraction to the conflict-torn countries of the former Yugoslavia and give the EU additional leverage to ensure that conflict settlements are negotiated, implemented and operated to the EU's liking. While this process may not always be perfect and free from problems, it has, overall, contributed to moving the region towards greater stability.

2. The EU and conflict settlement agreements in the Western Balkans

Following the violent disintegration of the former Yugoslavia, four conflict settlements were achieved over the past decade-and-a-half, and a fifth one is pending. Table 1 maps these settlements and indicates the role of the EU in each of its phases.

Table 1: The EU and conflict settlement agreements in the Balkans

	Croatia	BiH	Macedonia	S&M	Kosovo
Negotiation	-	-	+	++	-
Implementation	-	+	++	(+)	?
Operation	-	++	++	(+)	?

The temporary autonomy status for Krajina and Eastern Slavonia was negotiated, implemented, and operated under UN auspices without any noticeable influence of the EU as an institution per se. EU member states did have some role in the implementation and operation of the settlement, but acted in a UN capacity, rather than an EU capacity.

² Cf. Wolff (forthcoming); on commitment issues see also Fearon (1998), van Houten (1998), Laitin (2001), and Walter (2002).

In BiH, the EU was involved in several early attempts at resolving the conflict, but none of them ever reached the stage of implementation, let alone operation. The two lasting settlement agreements—the Washington Agreement resolving the Croat-Muslim dispute and the Dayton Peace Accords—were negotiated with the US as the main mediator/arbitrator between the parties. Despite its failure to see any of its own initiatives successfully concluded at the negotiation table, the EU has nevertheless played an increasingly important role in implementation and operation of the settlement, now running both the civilian police mission, the military peacekeeping force, and having supplied the High Representative who is also the EU's Special Representative to the country. This shift is also visible at a more superficial level—the Washington and Dayton Agreements were followed later by the introduction of the Bonn powers that accelerated the implementation process of the Dayton Accords and put its operation on a more secure and predictable footing.

In Macedonia, for the first time in its history as a conflict manager in the Balkans, the EU played a major role in the negotiation of an agreement and subsequently took the lead role among international organisations in the country in the implementation and operation of the Ohrid Agreement. We will discuss the details of this involvement in greater detail below.

While not part of the MIRICO project as such, the EU's role in facilitating agreement between Serbia and Montenegro over a new constitution in 2003 was arguably the single most direct influence that the EU has had in any negotiations of a conflict settlement agreement in the Balkans since the early 1990s. Yet, similar to the Union's early experiences in BiH, the agreement on a new constitution for the State Union of Serbia and Montenegro can hardly be considered as having been implemented or operated by either side in any meaningful way, except for the referendum provision that led to Montenegro's independence in 2006.

Finally, the case of Kosovo is still in the balance. As we will discuss in greater detail below, the EU's role in the negotiation of both the Rambouillet and final status agreements was predominantly by way of supporting processes initiated and conducted by other players. While being a key player in the current UNMIK administration, it can be expected that the EU will take the lead role in the implementation and operation of whatever final status agreement will be reached.

3. Case studies: The EU's role in the adoption of conflict settlement agreements in Kosovo and Macedonia

In both Kosovo and Macedonia the EU has been and is playing an important role in terms of influencing the negotiation, adoption and implementation of conflict settlement agreements. The Union's increased influence in this realm is enabled and reinforced by the strategic integration of its enlargement and Common Foreign and Security Policy (CFSP) agenda and, in Macedonia, the genuinely joint approach adopted by the Council and the Commission, which has given the Union a stronger voice and a wider range of instruments to make itself heard.

Kosovo – Rambouillet and the final status negotiations

Despite its newly established CFSP, the EU failed to halt the violent disintegration of Yugoslavia in 1990s. Once it became apparent that the Union as a collective of its member states was unlikely to succeed in brokering a conflict settlement agreement between the warring parties in Bosnia, individual EU member states (the UK, France, and Germany) sought through the Contact Group (of which the US and Russia were also members) to foster such an agreement, but without success. Eventually, the European Union was sidelined by the US-led NATO intervention and the subsequent US-brokered Dayton peace agreement, finally, ending the war in Bosnia in 1995 (Silber and Little 1996).

Four years later, the EU and its infant CFSP were failing once again to bring peace to the Balkans, this time in Kosovo. In 1999, the Contact Group summoned the warring parties to Rambouillet in an attempt to bring about a conflict settlement. The Contact Group (which Italy had joined in 1996) proposed an Interim Agreement for Peace and Self-Government in Kosovo, which would have effectively awarded Kosovo autonomy under the protection of a proposed NATO-led Kosovo Force (KFOR) with Serb forces simultaneously being withdrawn from the province. The Kosovo Albanian delegation signed the agreement, but it was rejected by President Milosevic. Only after a three-month NATO air campaign beginning in March 1999 did Milosevic agree to withdraw his troops and admit KFOR to Kosovo (Gegout 2002, ICG 2007a).

The KFOR presence in Kosovo was mandated by United Nations Security Council Resolution 1244, passed in June 1999. In this resolution, the UN also formally established the United Nations Interim Administration in Kosovo (UNMIK), which was to set up and oversee Kosovo's provisional institutions of democratic self-government. In spite of the 2004 violent clashes in Kosovo, UN Special Envoy Kai Eide in July that same year advised that the UN increase the powers of the provisional government (PISG) and initiate negotiations on the future status of the province. In response, UN Secretary General Kofi Annan appointed former Finnish president Martti Ahtisaari to lead the status negotiations, which over the next fourteen months comprised 26 expert missions to the region and seventeen rounds of direct negotiations with Prishtina and Belgrade. Based on these negotiations, Ahtisaari concluded in his Proposal for the Kosovo Settlement, supported by the Secretary General and currently awaiting the final decision of the Security Council, that 'Kosovo's status should be independence, supervised by the international community' (Report of the Special Envoy of the Secretary-General 2007, UNSCR 1244, ICG 2007a and 2007b).

Negotiating the future status and thus a sustainable conflict settlement agreement for Kosovo has since 1999 been an UN-led process. As stressed by the European Parliament in its 2007 Report on the future of Kosovo and the role of the EU, '[a] final decision on the future status of Kosovo can only be taken by the United Nations Security Council' (European Parliament 2007: 7). The status negotiations are, however, a process in which the EU and its member states play a significant supporting role. Apart from the direct influence on the adoption of any future settlement held by those EU member states, which are also permanent members of the UN Security Council (UK and France), individual EU member states (the UK, France, Germany and Italy) have had substantial influence in shaping the expected final conflict settlement for Kosovo through Contact Group decisions such as i) the adoption of the 'Standards before Status' policy, the rejection of ii) Kosovo ever returning to 'the situation prevailing before March 1999' (i.e., direct Serbian rule), iii) partition or iv) its union with any other country (i.e., Albania). Likewise, the Contact Group articulated the 'guiding principles' for the future settlement for Kosovo.³ (European Parliament 2007; ICG 2007b, Gegout 2002)

As in most parts of South-Eastern Europe, and Central-Eastern Europe before it, the attraction of eventual EU accession gives the Union substantial leverage in Kosovo. In terms of shaping the status settlement agreement, the EU has exercised this influence in support of the UN lead in the negotiations. Already in 2005, the European Commission absorbed the UN standards into its European

³ The ten guiding principles for the settlement of the Kosovo status issue suggested that once the process had started it must be brought to a conclusion endorsed by the UN Security Council and could not be blocked. The settlement agreement should i) comply with international standards and contribute to the security of the region, ii) conform to European standards and assist the whole region's integration into the Euro-Atlantic structures, iii) ensure multi-ethnicity, iv) through decentralisation enable the participation of all communities in central and local government, v) safeguard the protection of Serb religious sites, vi) exclude partition or union with another country, vii) ensure the security of Kosovo and its neighbours, viii) safeguard multi-ethnicity in the police and judiciary and strengthen Kosovo's ability to enforce the rule of law, fight terrorism and organised crime, ix) ensure future economic and political development and cooperation with international organisations and financial institutions and x) ensure an international civilian and military presence to supervise the implementation of the settlement and standards and protect minorities (ICG 2007).

Partnership with Kosovo and formally separated its annual progress reports on Serbia, Montenegro and Kosovo, signalling that their future integration into European structures would be separate (Grabbe 2006, ICG 2007a).

The European Council (in concurrence with the UN) envisages a central role for the EU and its member states in the implementation and operation of any future status settlement agreement. The EU and UN have together proposed a joint International Civilian Office (ICO) and European Union Special Representative's Office, launched within the framework of the CFSP and mandated by the UN Security Council to monitor and guide the status implementation process. A joint ICO/EUSR Preparation Team has, since October 2006, co-chaired a structure set up to handle the transfer of authority from UNMIK to the Kosovo authorities following a proposed new UN Security Council Resolution, should it be adopted. Awaiting a new UN Resolution, the EU is continuing its preparations for the proposed ICO/EUSR mission and a proposed European Security and Defence Policy (ESDP) Rule of Law mission, however, the EU's overall level of influence on the conflict settlement agreement and its implementation can evidently not be determined before such an agreement is in place and being implemented (European Commission 2005, European Parliament 2007, ICG 2007b).

Macedonia – the Ohrid Framework Agreement

Following the violent clashes between the ethnic Albanian National Liberation Army (NLA) and Macedonian security forces in 2001, the EU has played a central role in the negotiation, implementation, and operation of a conflict settlement agreement between the belligerent parties. Significant pressure and support from the international community, and the EU, NATO and the US in particular, enabled late Macedonian President Boris Trajkovski and principal international mediators, Francois Leotard (EU) and James Pardew (US), to negotiate a conflict settlement agreement between Macedonia's four largest political parties (two Macedonian

and two Albanian) in August 2001 in Ohrid. The Ohrid Framework Agreement set out to grant greater recognition and rights to the country's ethnic Albanian minority while preserving the territorial integrity of the country. In short, the agreement's main provisions sought to amend the constitutional preamble so it would refer to the Republic of Macedonia as 'a state of all its citizens'; establish the official status of the Albanian language; institutionalise non-discrimination and equitable representation in national and local parliamentary procedures; provide for stronger minority participation; decentralise the state structures and finally, invited the deployment of NATO troops to facilitate the cessation of hostilities and supervise the demobilisation and manage the decommissioning of the NLA (Council of Europe 2001, Brunnbauer 2002).

The strong divisions between the conflicting parties made it clear from the very beginning of the negotiations that external support, monitoring and occasional intervention would be crucial to the implementation of the conflict settlement agreement. As in most of the South-Eastern European region, Euro-Atlantic integration is a top priority for Macedonia, thus giving the Union significant bargaining powers in the country. Subsequent to its lead role and active mediation efforts in the negotiations, which led to the adoption of the Ohrid Framework Agreement, the EU has contributed significant political, financial and technical support to the Macedonian authorities in the implementation of the agreement. The Council and Commission have made what appears to be a conscious effort to incorporate the EU CFSP agenda into its accession strategy for Macedonia, increasing its leverage on CFSP issues through the promise of eventual European Union membership. This integrated enlargement and CFSP approach was reinforced by the appointment of Erwan Fouere as both the incoming EUSR and the Head of the EC delegation to Macedonia just a month before Macedonia was formally granted EU candidate status in December 2005; effectively giving the EU a clearer and stronger voice and Macedonia all the more

reason to listen. In November 2006, Macedonia was also formally invited to join NATO at the Alliance's next summit in 2008, demonstrating how the EU's new approach is coordinated also with the other principal international actors engaged in Macedonia (Brunnbauer 2002; BBC 2007, ICG 2007c).

In the specific framework of the CFSP, the EU, in March 2003, launched its first ever military mission, Operation Concordia, replacing the NATO presence in Macedonia, and in December that same year the Union launched the EU police mission to Macedonia (Proxima). Both missions, introduced within the new European Security and Defence Policy (ESDP), further facilitated the implementation of the Ohrid agreement and reinforced the EU's integrated common foreign and security policy and practice jointly implemented by the Council and Commission, constituting a good example for potential EU CFSP engagement in the negotiation, implementation, and operation of a conflict settlement agreement in Kosovo and elsewhere (European Council Website: ESDP 2007, Fouere 2006, Brunnbauer 2002).

4. Conclusions

The EU's influence on the adoption of conflict settlement agreements has varied over time. Initially (Croatia and BiH), the EU's influence was primarily reduced to supporting the implementation and operation of such agreements. While the Union itself did not have direct influence on the negotiations and the shape and structure of the eventual agreements that emerged from them, it could, through its individual member states, at least contribute to the broad international endorsement of the agreements in the UN and the PIC. While the EU's influence during the negotiation phase of the interim constitution for the State Union of Serbia and Montenegro and the Ohrid Agreement, was markedly higher, it has, in the case of Kosovo, been once again relegated to a more passive role on the sidelines of a UN-led process. Individual member states, via the Contact Group

and the UN Security Council, can represent EU positions in these forums, but the EU itself does not have a formal role in the negotiations.

What emerges clearly from this picture, thus, is a situation in which the EU as an international organisation takes an active role primarily in the implementation and operation of conflict settlement agreements, but has a much less pronounced and formal role during negotiations of such agreements. While it can exercise indirect influence on the outcome of negotiations qua its member states and their presence in other international bodies, such as the UN Security Council, its international role appears limited in this crucial stage of the adoption of conflict settlement agreements. This is problematic inasmuch as the Union is subsequently called upon to play a major part in their implementation and operation without having had a sufficient say in shaping the structures, institutions, and processes that define the parameters of the EU's subsequent involvement.

This leads us to two sets of questions that need to be explored in future work packages:⁴

1. What are the reasons of the Union's limited role during the negotiation stages of conflict settlement agreements? Is it self-restraint, lack of adequate institutions and capabilities, inter-institutional/inter-personal rivalries within the EU (including between the EU institutions and individual member states), or the broader institutional settings in which these negotiations take place that exclude organisations like the EU in favour of individual states?
2. What are the consequences of the Union's limited role during the negotiation stages of conflict settlement agreements? Is this detrimental

⁴ The following questions should be read in conjunction with those raised in Wolff and Rodt (2007: 21). They will all be addressed in greater detail in WP5.

to its subsequent involvement in the implementation and operation conflict settlement agreements? Will it lead to a more permanent 'division of labour' according to which the EU is emerging as a sub-contractor, for example of the UN, for supporting the implementation and operation of UN-brokered conflict settlement agreements? Would such a division of labour be beneficial for the EU? If yes, how can it be formalised? If not, how can it be overcome?

References

- BBC (2007) *Country Profile: Former Yugoslav Republic of Macedonia*. Available at: <http://news.bbc.co.uk/1/hi/world/europe/country_profiles/1067125.stm> [Accessed 14/6/2007]
- Brunnbauer, U. (2002) The Implementation of the Ohrid Agreement: Ethnic Macedonian Resentments. *Journal on Ethnopolitics and Minority Issues in Europe*. Issue 1 (2002). Available at: http://ecmi.de/jemie/special_1_2002.html [Accessed 14/6/2007]
- Council of Europe (2001) *Ohrid Framework Agreement*. Available at: <http://www.coe.int/t/e/legal_affairs/legal_co-operation/police_and_internal_security/OHRID%20Agreement%2013august2001.asp> [Accessed 14/6/2007]
- European Commission (2005) *A European Future for Kosovo*. Brussels. Available at: <http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=505DC0156> [Accessed 14/6/2007]
- European Council (2007) *European security and defence policy*. Available at: <<http://www.consilium.europa.eu/cms3/fo/showPage.asp?id=268&lang=en&mode=g>> [Accessed 14/6/2007]
- European Parliament (2007) *Report on the future of Kosovo and the role of the EU*. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2007-0067+0+DOC+PDF+VO//EN> [Accessed 14/6/2007]
- Fearon, J.D. (1998) 'Commitment Problems and the Spread of Ethnic Conflict', in *The International Spread of Ethnic Conflict: Fear, Diffusion, and Escalation*, ed. by D. Lake and D. Rothchild. Princeton: Princeton University Press.
- Fouere, E. (2006) *The Western Balkans. Political order, economic stability and international engagement*. Available at: <http://www.delmkd.ec.europa.eu/en/key-information/key-speeches/Speech_271006.pdf> [Accessed 14/6/2007]
- Gegout, C. (2002) The Quint: Acknowledging the existence of a big four-US directorate at the heart of the European Union's foreign policy decision-making process. *Journal of Common Market Studies*, 40(2), 331-344.
- Grabbe, H. (2006) *The EU's transformative power*. New York: Palgrave Macmillan.
- International Crisis Group (2007a) *Kosovo: No good alternatives to the Ahtisaari plan (ICG Europe Report 182)*. Available at: <<http://www.crisisgroup.org/home/index.cfm?id=4830&l=1>> [Accessed 14/06/2007]
- International Crisis Group (2007b) *Kosovo final status*. Available at: <<http://www.crisisgroup.org/home/index.cfm?id=3zz225&l=1>> [Accessed 14/06/2007]
- International Crisis Group (2007c). *Macedonia*. Available at: <<http://www.crisisgroup.org/home/index.cfm?id=1244&l=1>> [Accessed 14/06/2007]
- Laitin, D.D. (2001) 'Secessionist Rebellion in the Former Soviet Union', *Comparative Political Studies*, vol. 34, no. 8, 839-861.
- O'Leary, B. (2005) 'Debating Consociational Politics: Normative and Explanatory Arguments', in *From Powersharing to Democracy*, ed. by S. Noel. Montreal and Kingston: McGill/Queen's University Press.
- Paris, R. and Sisk, T. D. (forthcoming) *State-building after Civil War: The Long Road to Peace*. London: Routledge.
- Roeder, P. G. and Rothchild, D. eds. (2005) *Sustainable Peace: Power and Democracy after Civil Wars*. Ithaca, NY: Cornell University Press.
- Silber, Laura and Little, Allan, 1996. *The Death of Yugoslavia*. London: Penguin.
- United Nations (1999) *Security Council Resolution 1244*. New York: United Nations.
- United Nations (2007) *Report of the Special Envoy of the Secretary-General on Kosovo's future status*. New York: United Nations.

- Van Houten, P. (1998) 'The Role of the Minority's Reference State in Ethnic Relations', *Archives européennes de sociologie*, vol. 39, no. 1, 110-146.
- Walter, B.F. (2002) *Committing to Peace: The Successful Settlement of Civil Wars*. Princeton: Princeton University Press.
- Wolff, S. (2003) *Disputed Territories: The Transnational Dynamics of Ethnic Conflict Settlement*. New York and Oxford: Berghahn.
- Wolff, S. (forthcoming) 'Complex Power Sharing as Conflict Resolution: South Tyrol in Comparative Perspective', in *Tolerance Established by Law Self-Government and Group Rights: The Autonomy of South Tyrol*, ed. by Joseph Marko, Francesco Palermo, Jens Woelk. The Hague: Martinus Nijhoff Publishers.
- Wolff, S. and Rodt, A. (2007) 'The Reactive Crisis Management of the European Union', *MIRICO Report*, Bozen/Bolzano: EURAC.