

SIXTH FRAMEWORK
PROGRAMME

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**Guidelines and Recommendations for EU Conflict
Prevention and Management: The Case of the
South Caucasus.**

This report was compiled in the frame of the FP6 project “Human and Minority Rights in the Life Cycle of Ethnic Conflicts”.
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Guidelines and Recommendations for EU Conflict Prevention and Management: The Case of the South Caucasus

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MIRICO: Human and Minority Rights in the Life Cycle of Ethnic Conflicts

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1. Why should the Union care about minorities and their rights?

1.1 An obvious link: Human Rights and Stability

It is commonplace to argue that human rights contribute to the achievement and maintenance of stability and thereby security. Conflicts cause human rights violations and human rights violations cause conflicts. This vice-versa causal link creates a structural spiral of violence that leads conflicts to escalate. Given this context, it is not surprising that Human Rights are a condition of accession to the EU system. And it is a logical consequence that the Union also emphasizes this human-rights-codetermined understanding of stability in its foreign relations. In fact, the European Commission in 1996 already made clear that “structural stability” is a situation involving, firstly, sustainable economic development, secondly, democracy and respect for human rights as well as viable political structure, and, thirdly, healthy social and environmental conditions. Only such structural stability allows for the managing of political change without having to resort to violent conflict.¹ Also, the Council recognizes that there is an obvious link between conflict prevention and the protection of human rights.² In fact, the recognition of this link has led to the development of the Commission’s “check list for root causes of conflict”.³ Among the 8 chapters is chapter number 3: “respect for fundamental rights”. This requires the Commission to ask, whether in a given country civil and political freedoms are respected (“Respect of right to vote/eligibility, protection of civil liberties including freedom of speech & of assembly, free and fair elections respecting the rights of the opposition”); whether religious and cultural rights are respected (“Punition by law of religious, ethnic or cultural discrimination, recognition of minority languages e.g. in education, definition of the state with no reference to a dominant religious/cultural identity”) and whether other basic human rights are respected (“Prosecution of human rights violations (torture, illegal detention), gender equality, freedom of private practices (dress codes, private life etc.), adherence to and implementation of commitments under international human rights treaties and conventions, effective operation of human rights monitoring by NGOs and/or international organizations”). Thus, when it comes to early warnings and surveying third countries, there is already a general consensus that human rights have to be taken into account in order to assess the conflict potential of a given country or region. When preparing the Country Strategy Papers (CSP), the Commission takes account of these conflict indicators. The new framework for drafting CSP (presented in 2006) makes clear that human rights are a cross-cutting issue having a clear security dimension. The CSP “must analyse the

The EU has recognized that human rights play a central role in gaining and preserving “structural stability”, that is a situation where a country can organize political change without having to recur to violence.

¹ “The European Union and the issue of conflicts in Africa: Peace-building, conflict prevention and beyond”, Communication from the Commission to the Council of 6 March 1996.

² See e.g. the Council Common Position 2005/304/CFSP of 12 April 2005 concerning conflict prevention, management and resolution in Africa, in OJ L 97, 15 April 2005, 57-62.

³ See online at http://ec.europa.eu/external_relations/cfsp/cpcm/cp/list.htm.

country's political, institutional and security situation in a broad context, including governance, progress towards democracy, the rule of law and observance of human rights. The regional context must be specifically addressed here".⁴ However, the new framework - being in this sense more outspoken than the list of indicators - also requires the Commission to "examine ... the protection afforded for the rights of minorities and indigenous peoples".⁵

1.2 A less obvious differentiation: Human Rights and the Rights of Minorities in the EU-framework

Since the Treaty of Maastricht, the Union has made clear in its constitutional document, the EU-Treaty that it is founded on the protection of human rights. The rights of minorities and of persons belonging to minorities are, however, not explicitly mentioned in the Treaties as they are currently in force. On the other hand, one has to stress that the Commission has at various occasions underlined that the rights of persons belonging to minorities do form part of the EU's general values.⁶ Article 6 EU covers the protection of minorities - a fact which clearly indicates that minority protection is not only a value shared by the Member States but also one "the Union is founded on".⁷ In fact, the Race directive is a good example to show that the EU is not only with considerable political commitment but also with impressive legal force fighting any form of ethnic discrimination within Europe. Even beyond the area of hard law - such as in the fields of immigration, integration, employment and social inclusion - the Union is to a certain degree taking into account the special needs of persons belonging to minorities. However, one has to underline that it is only the limited area of anti-discrimination where the EU has developed a strong involvement in minority issues. When it comes to a more positive approach requiring states to actively accommodate and promote the needs of their minorities, the Union has remained rather absent. This is however less true for the EU's enlargement policies. For instance vis-à-vis the Western Balkans, the Union is obliging candidate states to guarantee the "[r]ight to establish and maintain ... own educational, cultural and religious institutions, organisations or associations", "[a]dequate opportunities for ... minorities to use their own language before courts and public authorities" and "[a]dequate protection of refugees and displaced persons returning to

Despite the fact that so far minority rights are not mentioned in the EU-Treaties (a fact to be changed by the Lisbon treaty) it is accepted that minority protection forms part of the EU's "constitutional values" as enshrined in Article 6 EU.

⁴ Communication "Increasing the impact of EU aid: A common framework for drafting Country Strategy Papers and joint Multiannual Programming", COM(2006) 88 final, 2.3.2006, 12.

⁵ *Ibid.*

⁶ See e.g. the response of the European Commission of November 23, 2001 to written question E-2538/01, OJ 2002 C 147E: 27 (28): "De l'avis de la Commission, les droits *des personnes appartenant à des minorités* font partie des principes communs aux Etats membres, énumérés à l'article 6, paragraphe premier, du traité sur l'Union européenne (traité EU)" (emphasis added).

⁷ See in the framework of EU's enlargement policy e.g. footnote 3 of the Commission's *Regular Reports* from October 9, 2002. See also replies to written questions in Parliament such as *Reply to Question E-2583/01* (Vittorino), OJ 2002 C 147E, 28 or *Reply to Question P-0395/02* (Reding), OJ 2002 C 160, 214.

areas where they represent an ethnic minority”.⁸ The EU involvement with minority rights is therefore, in a certain sense, limited to its enlargement activities. A second difference with the more general human rights involvement of the EU is that the EU developed in its internal affairs a tangible *acquis* in the area of human rights (but not so much a proper human rights policy) whereas - to the contrary - in the area of minority rights, the EU did not develop a legal *acquis* (but did develop a minority rights policy in the frame of enlargement). Slightly simplifying, one can therefore conclude that within the framework of the EU the relationship between human and minority rights is one of “law versus politics”.⁹ In close connection with this assessment stands the very fact that also as regards geography the treatment of human and minority rights differs within the EU-framework: minority rights play a rather visible role in the EU’s external relations in its most immediate neighborhood but a much less visible role in the EU’s internal affairs (and in its relations vis-à-vis third countries outside the enlargement context).

Three most recent developments might however slightly change this picture.¹⁰ Firstly - in terms of constitutional environment - the upcoming changes to be introduced by the Treaty of Lisbon will explicitly underline that the protection of persons belonging to national minorities is an integral part of Europe’s fundamental rights protection system and therefore a founding value under EU Primary law. Secondly - in terms of policy-environment - the Union has in the recent years applied the Open Method of Coordination in areas such as of social inclusion, employment policy, migration and integration thereby contributing to the exchange of knowledge between Member States also with regard to the status of (mainly migrant) minorities. Thirdly - in terms of institutional environment - the EU has been since March 2007 equipped with the Fundamental Rights Agency in Vienna, i.e. an institution responsible for the protection of fundamental rights including the rights of persons belonging to minorities. The latter has become fully operative only in the second half of 2008 and is now ready to take over the tasks entrusted to it. With this given background, it seems timely to redesign the Union’s political engagement in the area of minority protection.

The EU’s perception of minority protection is so far rather political in nature and geographically limited to its most immediate neighborhood.

New Modes of Governance, a new EU-Treaty and a new institution (the Fundamental Rights Agency) provide impetus to redefine this picture.

1.3 The third link: Conflict prevention

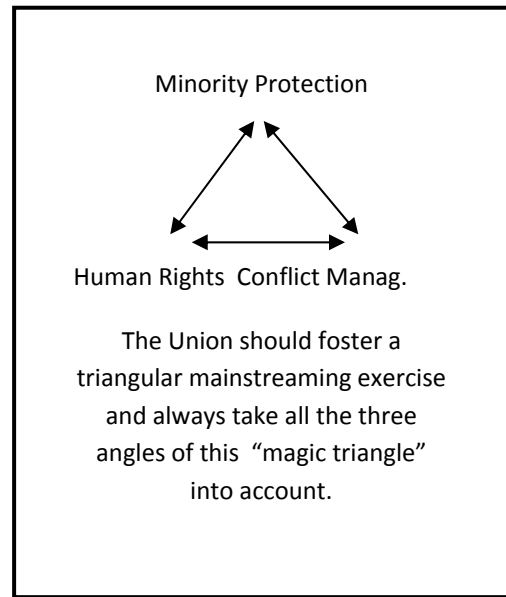
Just like the protection of minorities, conflict prevention is so far an area that is not explicitly mentioned in the treaties but will be so once the Treaty of Lisbon enters into force. The latter will make explicit what is already crystal-clear, namely that one of the

⁸ See the Annex to Annex III to Council Conclusions, Luxembourg 29/30 April 1997, in EU Bulletin, 4(1997), point 2.2.1.

⁹ For detailed analyse please consult Gabriel N. Toggenburg (ed.), *Minority Protection and the enlarged European Union: The way forward*, (LGI Books, Budapest 2004).

¹⁰ Gabriel N. Toggenburg, “The European Union vis-à-vis minorities: a play in three parts and an open end”, in *Csaba Tabajdi/European Parliament* (forthcoming).

aims of the EU's Common Foreign and Security Policy is the prevention of conflicts and that operations to stabilize post-conflict situations equally fall into the EU's mandate.¹¹ And just like minority protection, the EU's conflict prevention efforts are a relative newcomer in the EU's playfield. All three of the policy fields - human rights, minority protection and conflict prevention - should be mainstreamed into all the various EU policy instruments. To some degree, this takes already place. So for instance, the new framework for drafting CSPs explicitly says that when looking at the political situation of a given country, potential "factors for conflict, the risk of national or regional conflict breaking out, continuing or flaring up again, and key cultural and social factors directly influencing the political process (e.g. ethnic tensions or migratory flows)" should be addressed.¹² In fact, already the Commission's checklist for root causes of conflict makes the interconnection between minority-issues and conflict prevention clear. In its point 5, the checklist addresses the "relations between communities and dispute-solving mechanisms" and poses the question how good the relations between identity groups are ("Ability of major identity groups to mix together, frequency of outbursts of racial/religious violence, perpetuation of negative stereotypes or mutual suspicions by collective memory and culture, existence and effectiveness of reconciliation mechanisms (e.g. justice commissions)"); whether the state arbitrates over tensions and disputes between communities ("Existence and effectiveness of mechanisms arbitrating between conflicting parties (wisemen, elders, ombudsmen), political manipulation of ethnic/identity differences, existence of regional fora for conflict prevention/resolution") and, whether there are uncontrolled flows of migrants/refugees ("Social friction between migrant and host communities (e.g. adverse pressure on food, water etc.), respect for basic rights of migrants/refugees, impact of migration flows on ethnic/identity balance of host regions"). Various other efforts have been undertaken to mainstream human rights in various other EU-policy instruments.¹³ What though seems important is to put more emphasis on the role of minorities in the area of conflict prevention. Moreover, the EU should not entirely ignore the security dimension of minorities within the EU territory. Just as within the OSCE, the OSCE High Commissioner on National Minorities should focus more clearly on Western Europe and maybe expand its mandate towards new minorities, the EU could sharpen its awareness for the role of community-tensions and conflict-prevention. So far the EU has engaged only in the case of the Irish conflict where it invested between 1995 and 1999 nearly 600 Mio Euro (PEACE I) and between 2000 and 2006 another 800 Mio Eur (PEACE II). It might be worthwhile to reconsider the EU's role for tensions within the EU and - more importantly - to further mainstream the protection of minorities into the EU's efforts of conflict prevention and into its human rights policies.



¹¹ See Art. 21 Par. 2 lit. c), Art. 42 and Art. 43 EU.

¹² For an overview on CSP please see: http://ec.europa.eu/external_relations/sp/index_en.htm

¹³ See for instance the programming guide for strategy papers as of 7 July 2006.

This manual will - along the narrative of the highly topical conflicts in Caucasus and with frequent references to the recent conflict in the Balkans - try to show that minority rights play an important role in the area of conflict management. In the end, human rights, minority protection and conflict prevention form a triangular relationship where the Union cannot follow a plausible (let alone successful) pick and choose approach. Looking at all three angles of the triangle will make the EU more successful and - maybe - the world a little bit better.

2. Pre-Conflict Phase: On the verge of war

2.1 The former Soviet Union as a laboratory for researching ethnic conflicts

Since the late 1980s, the South Caucasus, as well as parts of the North Caucasus, has been the stage of permanent turmoil. It has been the scene for numerous claims and counterclaims to national statehood, ethnic borders and administrative statehood. Old wounds have obviously reopened with deadly force, leading to sustained warfare and segregation in numberless cases. The most dominant explanatory paradigm is to juxtapose the 'disintegration of an empire' with the 'emergence of national revival groups'. And indeed, the USSR as an empire-like polity with the ruling Communist party, which had a long record of crimes such as mass deportations and repressions vis-à-vis various minorities, serves as comprehensive argument in this regard. Thus, the pretext of the 'international character' of the Soviet Union was in many cases, as in Moldova where the Cyrillic alphabet was imposed on Romanian, pushed through the forcible use of the Russian language. Hence, there is not a lack of arguments to bring the distinction disintegration/national revival into play. However, this argumentation does not give convincing answers to some of the most interesting as well as persistent questions: Why is it that after the disintegration of the Soviet Union the ethnic conflict has continued and is even growing? Why is it that the minorities - most discriminated against under the Soviet Union - have not initiated ethno-national movements? Why is it that ethnic conflicts did not concern the most dominant ethnic group - the Russians - but mostly small minorities and small metropolitan states?¹⁴

It is for this reason that the Soviet Union, under whose fragile umbrella 15 republics, 20 Autonomous Soviet Republics (ASSR) and more than 30 autonomous oblasts and okrugi existed until 1991, is a unique case study to trace the phenomenon of how irredentism and separatism occurred in the environment of a Communist Federation, which prided itself on its commitment vis-à-vis national minorities and the final solution of the national question. The relevance of juxtaposing the Balkans and the Caucasus in this regard can be already legitimized by the fact that the Soviet Constitution of 1936 served as the main source of inspiration for the decision to create a federal Yugoslavia with six equal constituent republics, made during the second AVNOJ Conference in the town of Jajce in 1943.¹⁵

Despite its ideological claim to unify peoples of all Soviet republics stretching from the Carpathians to the Kuril Islands, the Soviet Union represented in fact a set of hierarchically structured ethnic territorial units. But the conceptual weakness of this system became more than visible even prior to the transition period of the 1980s: In many of these territorial units, for instance in the ASSR of Abkhazia, the titular ethnicity was outnumbered by other ethnic groups (such as the Georgians), as a result of the deportation and repopulation policies of Stalin during and after World War II. On the other hand, and even more ironically, many minorities did not enjoy the benefits of holding clearly defined territories with various degrees of self-rule: The Russians in the Baltics, the Russians in Kazakhstan but also the Tajiks in Uzbekistan, just to name a few out of numberless examples. One of the reasons for not granting administrative rights to these 'non-status' minorities was the existence of a Soviet Socialist Republic (as in the case of Russia or Tajikistan), on the other hand. However, the Soviet leadership had a much gloomier view on the issue of

¹⁴ Valery Tyshkov, *Ethnicity, Nationalism and Conflict in and after the Soviet Union - The Mind Aflame* (International Peace Research Institute Oslo, 1997), 25.

¹⁵ Norbert Mappes-Niediek, *Die Ethno-Falle. Der Balkan-Konflikt und was Europa daraus lernen kann*, Ch. Links Verlag, 2005.

nationalism and its allegedly “transient nature,” as Vladimir Lenin had predicted in the 1920s. This can be proven by an illustrative example: Given the situation during a transitional phase that some minorities hold territorial autonomy and certain other minorities are deprived of this privilege, one would - especially in a time of economic crisis and decline - suppose that the latter have more reasons to push for independence and will more likely put their claims into practice, including by means of force. But surprisingly, none of that happened with the exception of the Gagauz people in Moldova, who, however, solved their initial confrontation peacefully with the central government of Kishinev in 1994 by establishing the autonomous territorial entity of Gagauzia.¹⁶ As a matter of fact, and this shall lead to the underlying problem of *structural factors* for ethnic conflicts, practically all secessionist or irredentist struggles on the territory of the former Soviet Union were carried out between (former) autonomous regions and their central governments.¹⁷ Secession emerged, leading to full-scale violence, in Abkhazia, Nagorno-Karabakh, South Ossetia, Chechnya and other places. The loudly vocalized claim for self-determination in these regions was, as in any other cases of secession, a strong postulation that people consider themselves to be separate from others. But in order to put this claim into practice, a people must first be aware that they constitute a national group before they insist on secession or irredentism,¹⁸ what they might call non-negotiable. Hence, what is clear in this regard, is the huge influence of the Soviet nationalities policies - how it created favorable conditions for secession and how it shaped and - to a certain extent even produced - this awareness.

The degree of autonomy granted to a specific minority group and its given constitutional status is in itself not decisive, whether or not that group develops secessionist desires

¹⁶ For a more comprehensive analysis of the autonomy of Gagauzia see: <http://www.oeko-net.de/kommune/kommune09-01/agagaus.htm> (German).

¹⁷ Svante E. Cornell, *Autonomy and Conflict: Ethnoterritoriality and Separatism in the South Caucasus - Cases in Georgia* (Silkroad Studies, 2002) 1-19, see <http://www.silkroadstudies.org/new/inside/publications/0419dissertation.pdf>

¹⁸ Walker Connor, “Nationalism and political illegitimacy”, in Daniele Conversi (Ed.), *Ethnonationalism in the Contemporary World* (Routledge 2002), 24-29, at 29.

2.2 How ethnicity is constructed: the potential of “ethnic engineering”

In order to comprehend one of the basic structural factors favoring ethnic conflicts in the Caucasus, some historical remarks have to be mentioned: Beginning with the 1920s, the Soviets began to pursue a policy with regard to national minorities which has been labeled “Korenisacija”.¹⁹ The aim of this policy was to promote representatives of titular nations of Soviet republics and national minorities from lower levels of the administrative subdivision of the state, into local government, management, and nomenklatura in the corresponding national entities. But moreover, it provided for the creation of territorial autonomy and self-rule on an ethnic basis. The idea behind this approach was a purely communist conviction: The end of class struggle would remove the support base of nationalism in society. In addition, nationalism as such was seen as inherently short-lived, and thus its transient nature would lead to the disappearance of this phenomenon. Given these speculations, the ruling communists thought that they could even accelerate this historical process by granting all national groups far-reaching rights to develop their language and culture; it even led in the cases of the respective SSRs to the right of secession. In short, the Communists were persuaded that the more concessions were made to national demands, the quicker nationalism as such would vanish.²⁰ Obviously the ruling class was counting on a sort of trade-off between nationalism and (regional) ethnocentrism. As a result, a policy was implemented that aggressively “nativized” national minorities, partly even without asking them. In other cases, as in the case of the Belarusian language, Korenisacija unfolded a positive potential serving as linguistic obstetrician since it provided for the very first time in history school and university textbooks in Belarusian.²¹

Not every political reference to ethnicity has negative consequences or follows a clearly negative motivation. Strengthening the element of ethnic belonging was also used in the fight against nationalism and social injustice.

Although Lenin and Stalin disagreed on the setup of the Soviet Union,²² Lenin urged through his position that the Soviet Union should be composed of equal republics without any hierarchical standing with respect to each other. But this idea of a federation was, according to Lenin, only a transit station: “Marxists will never, under any circumstances, advocate either the federal principle or decentralisation. The great centralised state is a tremendous historical step forward from medieval disunity to the future socialist unity of the whole world, and only *via* such a state (*inseparably* connected with capitalism), can there be any

¹⁹ It derives from the *term korennoe naselenie* (коренное население - root population) and can be translated with “indigenization” or “nativization”.

²⁰ Cornell, *op. cit.*, note 17, 69.

²¹ It is important to emphasize that the Korenisacija was aimed not only at overcoming economic differences but also sociocultural ones. It was also seen as a tool for the lesser developed peoples to catch up with the better developed Russians. In addition, the Russians were dominant in the proletariat and the non-Russians were overwhelmingly made up of peasants. Because the proletariat was the favored class of the Bolsheviks, non-Russians mistrusted not only Russians but also the Communist party as a Russian party. Korenisacija was also supposed to counterbalance in this respect.

²² Stalin preferred that all non-Russian areas should only enjoy autonomy within Russia, but Lenin was much more in favor of a centralized state. In summary, the policies of both differed only cosmetically.

road to socialism.”²³ Hence, the Soviet Union was only superficially created as a Federation of 15 equal Soviet Socialist Republics (SSRs) that joined it. But nevertheless, it could not avoid the creation of an hierarchical federation of ethnically defined territories as a structural response to ethnic diversity thereby balancing unitarism and autonomy: The second place - after the 15 SSRs - in the Soviet federal hierarchy was occupied by ASSRs, of which there were over 15, and third and fourth were Autonomous regions (oblasty) and areas (okrugi). But the criteria for establishing these divisions were less than clear and often based on arbitration. This holds especially true for the foggy distinction between SSR and ASSR: The level of the political and cultural autonomy of ASSRs, which were subjected to the jurisdiction of the respective SSRs, varied throughout the existence of the Soviet Union, but especially when it comes to institutions, the distinction was less than clear. Equal to an SSR, the ASSR had all the attributes of a state such as a parliament, a constitution, clearly defined boundaries, except for the (anyway unrealistic) right to secession, which was only granted to the SSRs.²⁴

What can be extracted from this suggestion for *structural factors* of ethnic conflict, is that Korenizacija, the partly arbitrary boundary drawing and the aggressive way of delighting micro-ethnic groups with their culture and language, amplified and created certain distinctions that were not relevant or

at least not decisive before. We can hence conclude that this matryohska-doll like federalism, where many SSR contained autonomous regions, created favorable conditions for secession when a political system is in flux. We have the same experience in the Balkans where Kosovo never reached the status of a Yugoslav republic as Bosnia did, but the status of an autonomous province also provided justification there for secession and political claims for separation from the Serbian state. Yet, under Stalin, the nationalities policies were dramatically turned around, and the doctrine of Korenizacija, which used to be the guideline for the Soviet nationalities policies, was officially proscribed. A period began in which the institutions that promoted these policies were brutally dismantled. But the excesses of collectivization also hit the various ethnic groups and resulted in mass deportations and the constitutional downgrading of many national minorities. The handling of ethnic groups, the logic of deporting peoples and re-populating regions, the idea of divide and rule was one of the guiding concepts of the ethnic Georgian Joseph Stalin. His actions still represent structural explanations for conflict on the ground: The Ingush people were deported to Central Asia, and their lands were upon order of Stalin re-populated with ethnic Ossetes - this also led to the disappearance of Ossetes in South Ossetia and shaped there too the partly wrong view on Georgia.

As in the case of Abkhazia, which used to be a Soviet Socialist Republic on equal level with Georgia, it was only under Stalin incorporated as an ASSR into the Georgian SSR in 1931, allegedly as punishment for the Abkhaz Communist leadership and their failure to overcome

Ethnic boundaries are constructed, redefined and deconstructed by politicians who thereby become “ethnic entrepreneurs”. Ethnicity can thereby be tuned on and off in the political discourse. Mechanisms of power sharing and constitutional engineering provide useful tools in this exercise.

²³ Vladimir Lenin, “Critical Remarks on the national question”, in *National Liberation, Socialism and Imperialism, Selected Writings by V.I. Lenin*. (New York: International, 1968), i46, see: <http://www.marx2mao.com/Lenin/CRNQ13.html>

²⁴ Cornell, *op. cit.*, note 17, 71.

the protest of the peasant population against Stalin's collectivization policies.²⁵ What followed then, was a massive Georgianization of Abkhazia and its native people, and it seemed that history repeated itself: The tragedy suffered by the Abkhaz people during the Russian conquest in the 19th century and the forced emigration of the Muslim part of the Abkhaz people to Turkey²⁶ was compounded by a repressive policy by Georgia. Hence, Alexei Zverev reasons correctly that "Stalinist repressions hit Abkhazia like the rest of the USSR, but here it had an additional ethnic coloring as it was carried out by Georgians."²⁷ The deportation and re-population policy resulted in the vanishing of the Abkhaz population in their own homeland, so that in 1955 the population of Abkhazia was comprised of only 13,3 percent ethnic Abkhazians.²⁸ With his Georgian comrade Lavrenti Beria, systematic assaults on the Abkhaz culture were also carried out: All schools that used the Abkhaz language were closed, the Abkhaz alphabet was eliminated and replaced by Georgian letters, and Abkhaz newspapers were abolished.²⁹

A comparable situation can be reported from the Autonomous Oblast of South Ossetia. Although the degree of conflict between Tbilisi and Tskhinvali has by and large been on a lower level compared to the Abkhaz issue, Ossetian sources claim that South Ossetia was ruthlessly annexed by the Menshevik government of Georgia in 1918. Yet, when the Bolshevik leadership of South Ossetia overturned Georgian rule in 1920, they expected recognition from Russia, but Soviet Russia kept its formal recognition of the Georgian borders including South Ossetia in order to avoid a conflict with its neighbor and to win Tbilisi over to the Soviet cause.³⁰ Furthermore, under Stalin, Ossetes were also barred from obtaining a higher education and restricted in getting jobs in the state administration.³¹

To sum up the issue of structural underlying factors, Brubaker correctly reasons that "Nationhood and nationalism [in the post-Soviet regions] flourish today largely because of the [Soviet] regime's policies. Although anti-nationalist, those policies were anything but antinational. Far from ruthlessly suppressing nationhood, the Soviet regime pervasively institutionalized it. The regime repressed nationalism, but at the same time, . . . it went further than other states before or since in institutionalizing territorial nationhood and ethnic nationality as fundamental social categories. In doing so, it inadvertently created a political

Political realities on the territory of the former Soviet Union show that many ethnic conflicts have an old violent history behind. The half-life-period of animosities due to ethnic violence is frighteningly long.

²⁵ David Marshall Lang, *A modern history of Soviet Georgia* (Greenwood Press 1975), 256.

²⁶ Until today, the largest part of the Abkhaz people are still living in Turkey and not in Abkhazia.

²⁷ Alexei Zverev, "Ethnic Conflicts in the Caucasus 1988-1994", in Bruno Coppietiers (Ed.), *Contested Borders in the Caucasus*, 1996. See: <http://poli.vub.ac.be/publi/ContBorders/eng/ch0103.htm>

²⁸ Stanislav Lakoba, "History: 1917-1989", in George Hewitt (Ed.), *The Abkhazians - A Handbook*, Richmond (Surrey, 1999), 24.

²⁹ Edward Mihalkanin, "The Abkhazians: a national minority in their own homeland", in Tozun Bahcheli, Barry Bartmann and Henry Srebrnik (Eds.), *De Facto States - The Quest for Sovereignty* (Routledge 2004), 143-163, at 144.

³⁰ Svante E. Cornell, *Autonomy and Conflict: Ethnoterritoriality and Separatism in the South Caucasus - Cases in Georgia*, Silkroad Studies, 2002, 189, see: <http://www.silkroadstudies.org/new/inside/publications/0419dissertation.pdf>

³¹ Zverev, *op. cit.*, note 27.

field conducive to nationalism”³² Or to put it in other words: The Caucasus provides a highly interesting case study to trace the curve of ethnicity as a construct that might lead to instrumentalized ethnicity as a tool in the process of ethno-mobilization. And these structural elements of nationhood, repression and constructed difference provided the main catalyzing elements for actors in the processes of ethno-mobilization in the late 1980s.

2.3 The nation as a quasi “natural” phenomenon: a means for ethno-mobilization?

Consequently, these structural conditions as discussed above plant the seeds of *political factors*, through which discriminatory political institutions are installed, hate speeches are delivered and policies are pursued that deliberately disadvantage or even exclude a significant part of the population from political life, especially in a time of disintegration of the underlying political system as in the case of the Soviet Union. Paradoxically, sometimes these political factors are carried out under the pretext of democratization. It is under exactly this pretext of democracy that very often slogans are brandished to correct the unjust drawing of borders in the past and to seek revenge for tragedies suffered. It is hence the time when primordialism reveals its strength although having been for decades under the historical carpet. But also the memory of terrible acts of genocide committed in the form of deportations and organized starvation of minority groups comes up again into the societal consciousness and this trauma - the trauma of humiliation and loss of collective dignity - along with some territorial question marks represent one of the major triggers of ethnic conflict.

Primordialism argues that nations are ancient, natural phenomena. Every person has a nation as obviously one has a measure of height. Nations differ in culture and language. These differences might even suggest that there are “natural” differences in thinking and interests.

An illustrative example can be reported from the North Caucasus which demonstrates that the quest for democracy can bring instability into the accommodation of ethnic and cultural diversity. With the arrival of Perestroika, Art. 6 of the Soviet Constitution of 1977, which had called for the single party principle, was eliminated. But this tectonic plate movement had unintended consequences for the peaceful inter-ethnic cohabitation in the Northern Caucasus as well. For example, in the Autonomous Soviet Socialist Republic of Dagestan, Avars who traditionally occupied the post of the first secretary of the Dagestan Communist Party found themselves deprived of this influential and powerful job. Soon afterwards, ethnic tensions began to appear more often.³³

Also in Georgia, under the pretext of democracy, ethnic entrepreneurs came to power. But tensions began to arise even prior to the final dissolution of the Soviet Union: Already in 1957, 1964, 1967 and 1978, mass meetings and demonstrations took place in Abkhazia demanding to detach Abkhazia from the Georgian Union Republic.³⁴ And then finally in 1989,

³² Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge University Press 1996), 17.

³³ International Crisis Group, “Russia’s Dagestan: Conflict Causes”, ICG Europe Report No. 192 - 3 June 2008, see: http://www.crisisgroup.org/library/documents/europe/caucasus/192_russia_s_dagestan_conflict_caus es.pdf

³⁴ Mihalkanin, *op. cit.*, note 29, 146.

the national Abkhaz assembly “Ajdgýrala” was founded and passed the “Lykhny Declaration” asking the Central Committee of the Communist Party of the Soviet Union to upgrade Abkhazia in order to restore its status of a Union Republic. This triggered an equally dangerous explosion of nationalism from the Georgian side: tens of thousands Georgians gathered and held nationalist protest rallies in the cities of Gali, Sukhumi and finally in Tbilisi. And the Georgian capital became the place of a tragic incident: On 25 March 1989, troops of the Soviet Ministry for Internal Affairs opened fire on the protesters, killing twenty and injuring hundreds.³⁵ The brutality of this action, from which Mikhail Gorbachev desperately tried to distance himself, marked a crucial turning point and further radicalized the irreconcilable positions of the parties to the conflict. And this event also cemented the view of the Georgians that their minority groups were only political tools of Moscow.³⁶ From that time on, the official Georgia is reformatting the Georgia-Ossetian and Georgian-Abkhaz dimensions into a Georgian-Russian conflict.

In this atmosphere of hate and instability, Zviad Gamsakhurdia’s “Free Georgia Round Table” coalition, which brandished the slogan “Georgia for the Georgians,” won in an overwhelming victory the elections for the Georgian Supreme Soviet in October 1990. There is no doubt that the party, as well as the first Georgian President Zviad Gamsakhurdia, were democratically elected, but actions and hate speeches of these figures opened the stage for what should become a bloody protracted conflict in South Ossetia and Abkhazia.

In parallel, Vladislav Ardzinba who had been elected chair of the Abkhazian Supreme Soviet in 1990 established the Abkhaz National Guard, a mono-ethnic paramilitary unit, which started to become active in replacing Georgian with Abkhaz in leading positions of the Autonomous Republic. As the tensions began to grow stronger, the rhetoric of Georgian officials also became more extreme: Gorbachev, who began to realize that the Soviet Union was coming to an end, was still proposing in 1991 to reform the Union Treaty of 1922. Georgia’s Minister of Education, Termur Korizde, said that if Abkhazia really signed the renewed treaty, “rivers of blood would flow”.³⁷

What is furthermore remarkable, is the fact that Georgia had one of the highest numbers of PhDs and professional academics throughout the Soviet Union, but not even such a well educated society was immune to the deadly policies of ethno-nationalism. Just the contrary, as the Georgian academia became an important megaphone of nationalism and joined the political class in portraying the Abkhaz people as guests on Georgian soil. Some shocking comments, like the one of the well-known and highly reputed historian Mariam Lordkipanidze, illustrate this: “The so-called independent Abkhazian SSR was an artificially created entity, whose existence in isolation from Georgia was absolutely unnatural and untenable historically and culturally. [...] The existence of Abkhazian autonomy in any form within the boundaries in which it took shape under Soviet rule is absolutely unjustified. [...] Abkhazians were never molested by Georgians, they only attacked and plundered one another.”³⁸ The ethnic entrepreneur Gamsakhurdia, who was interestingly a philologist, found out early on how to make use of such statements and to translate them into political actions.

Both sides began to create a security dilemma through their politics, and it culminated in 1992 when Georgian troops invaded Abkhazia and vandalized the whole country, triggering

³⁵ Dictionary of Georgian National Biography - Soviet Georgia, see: <http://www.georgianbiography.com/history9.html>

³⁶ Which is to a certain extent questionable, especially given the military assistance of volunteer Cossack and Chechen formations which were fighting side by side with their Abkhaz comrades

³⁷ Georgia Hewitt, “Abkhazia: A problem of identity and ownership”, in J. Wright, S. Goldenburg and S. Schofield (Eds.), *Transcaucasian Boundaries* (UCL Press 1996), 190-226, at 215.

³⁸ Tyshkov, *op. cit.*, note 14, 14.

the ethnic cleansing of 200,000 Georgians and destroying the fundament for co-existence until the very day. Moreover, the criminal behavior of the Georgian forces during the war shaped the view of the Abkhaz people that the plan of post-Soviet Georgia was to destroy them: The deliberate destruction of the Abkhaz National Archives, the machine-gunning of cultural monuments and artifacts, grave human rights violations as well as Georgia's bloody war rhetoric³⁹ are since then given as standardized reasons by official Sukhumi to justify independence. Tragically, this war could have been avoided since Abkhazia had at no point declared independence before 1992; Abkhaz as well as Georgian sources say that both sides had been prior to the outbreak of the war heavily engaged in negotiations about a confederal arrangement. The conflict between Abkhaz and Georgian forces was prompted by a unilateral action, violating agreements, taken by Georgian forces rather than by actions of the Abkhaz in the pursuit of independence.⁴⁰

In comparison with Abkhazia, the conditions for ethnic conflict in South Ossetia differed in three main aspects. Firstly, the Ossetes as of 1989 comprised more than 66% of the whole population. Hence, Stalin's repressions did not fundamentally change the majority position of Ossetes on their own territory. Secondly, the totally different geographic position made South Ossetia an unlikely candidate for secession: North Ossetia, the autonomous region of Tskhinavli's "ethnic kin" is only reachable through the Roki-tunnel, a mountain tunnel through the Great Caucasus which was completed only in 1985. It is beyond doubt that this regional peculiarity made South Ossetia much more vulnerable in the course of a conflict. This can be emphasized by the fact that the notion of being "Ossetian" was not very much pronounced and the rate of inter-marriages between Ossetes and Georgians was relatively high.⁴¹ The most famous product of an Ossetian-Georgian marriage was allegedly Joseph Stalin himself. And the third fundamentally different dimension is the positioning of South Ossetia in the first national conception of Georgia following the break-up of the Soviet Union; in deep contrast to Abkhazians, Ossetes never received a considerable form of tolerance from the Georgian side. Quite the contrary, South Ossetians were - also by the Georgian academia - seen as relative newcomers on Georgian soil, and even South Ossetia as a term was subsequently replaced by artificial names such as Samachablo, or "region Tskhinvali", emphasizing its belonging to Georgia.

But all the other attributes such as ethno-mobilization, hate speeches and the creation of a security dilemma occurred in South Ossetia as well. The only different catalyst for hostilities was beyond a doubt the abolishment of the South Ossetian AO by the Georgian Supreme Soviet in December 1990, which further paved the way for atrocities. Georgian paramilitary forces began in 1991 to carry out violent reprisals against the defenseless population in South Ossetia, and numberless Ossetes were subjected to displacement. This of

The example of Georgia – one of the best educated societies in the Soviet Union – shows that education alone is not an efficient protection wall against radicalization. Quite to the contrary there are examples of prominent academics taking the lead in fueling the process of ethnic radicalization.

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³⁹ Such as the comment by Tengiz Kitovani "I am willing to sacrifice 100,000 Georgians to rid Georgia of the 97,000 Abkhaz" see: Rick Fawn, *The Georgian-Abkhaz Conflict: Perceptions of its Origins and Prospects for its Resolution* (Publication of the Defence Academy of the United Kingdom, 2000), see: www.da.mod.uk/colleges/arag/document-listings/cee/g81/G81.chap8/

⁴⁰ *Ibid.*

⁴¹ Cornell, *op. cit.*, note 17, 187.

course triggered an equally violent response from Ossetes, especially the burning alive of four Georgian peasants in March 1991, one of the cruelest episodes of the conflict.⁴² Another cruel episode was the massacre of Ossetian refugees fleeing Tskhinvali by unidentified gunmen in 1992. The recent unsuccessful Georgian assault on South Ossetia gives proof to the fact that peace leaves a lot to be desired.

The Caucasus region represents a very comprehensive case study in which problematic group histories and different perceptions of history as well as primordial views on ethnicity can additionally bring the factors mentioned above to an escalation. The subdivision of conflict-generating factors such as political, cultural, social etc. should not be seen as dichotomy of either or. All factors can act together, and it sometimes happens that one factor is more decisive than another. Yet, in all cases of ethnic conflicts, and this holds in particular true for the Caucasus, different ancient myths create an identity-forming paradigm. They are consequently promoted by ethnic entrepreneurs and further entrench the us-versus-them scheme. Similar constructs echo from other conflict-ridden regions, but when the public as well as academic discourse is dominated by a primordial approach, which comprehends ethnicity in a context of inherent characteristic traits such as language, mentality and homeland with possible socio-biological ramifications (so that ethnicity is included into the genetic code of the people), these competing perceptions can easily scatter multi-ethnic societies that once used to live and co-exist peacefully. General similarities can be observed for many conflict regions where historians of two different ethnicities are promoting different and controversial concepts of what they then call “heartland” or “motherland”. But paradoxically, most of these national histories, encyclopedias and pseudo cultural research published during the crisis reflect only a little of the people’s actual history. These beliefs are mainly intended to legitimize politically constructed ethno-nations. And these ‘scholars,’ who are ethnic entrepreneurs as well, often portray that the sole origins of ethnic conflicts are to date back hundreds of years. Those who argue along these lines refer to decisive battles, great migration waves or betrayals. This is also true for many other cases. It is in such a situation very regrettable that often well-known historians take the lead in questionable discussions that have the character of hate speech. To sum up, what can be generalized for all ethnic conflicts is that all groups portray themselves as innocent victims or generous hosts who have been savagely betrayed by the other ethnic group.

The examples of the Caucasus and the Balkans show that ancient myths have been instrumentalized in order to legitimize political claims and foster their execution. One of the first victims of such a development is the peaceful co-existence between different groups in former multi-ethnic societies.

⁴² Zverev, *op. cit.*, note 27.

3. The conflict phase: how conflicts become violent and how they can be settled

When the underlying unease of a latent conflict is strong enough, triggering events or the maintenance of an unsatisfactory status quo can lead to a possible eruption of an armed conflict. Such triggering events can increase the prominence of particular people, identities, or issues. The event may be perceived as a threat to a particular group's well-being or existence, and old traumas may arise that could possibly strengthen the impact of underlying factors mentioned above. This was not only true for former Yugoslavia; it also applied to the collapse of the Soviet Union where only in the first years a total number of about 1,25 Million people were estimated to have been forced to abandon their homes.⁴³

3.1 The War in Abkhazia

One of the triggering events for war in Abkhazia was the re-adoption of the old 1925 Constitution by the Abkhaz Supreme Soviet shortly before the collapse of the Soviet Union in 1989, which provided for a treaty relationship with Georgia. The declaration was issued in both Abkhazian and Georgian and did not entail - as already discussed above - fully-fledged independence. And under the pretext of this event, but also given the internal struggle between Shevardnadze and supporters of Gamsakhurdia (the so-called "Zviadists"), Georgia started its assault on Abkhazia in order to "restore the constitutional order". The Georgian invasion of Abkhazia in 1992 was in its initial stage quite successful as well as brutal. Together with ethnic Georgian residents of Abkhazia and former prison inmates who were released under the condition of fighting in Abkhazia, Tengiz Kitovani's⁴⁴ troops took the capital Sukhumi on 18 August 1992.⁴⁵ The Georgian forces took quickly control of Abkhazia "in a bout of killing and looting characteristic of the undisciplined militias".⁴⁶ An official Abkhazian publication, the so-called "White Book of Abkhazia", listed for the period between August 1992 and March 1993 a total number of 2,000 non-Georgian civilians (including Armenians) killed by the Georgian military either in battle or during ethnic cleansing.⁴⁷ In a mood of victory and high spirits, the then Georgian President Shevardnadze announced via radio on 17 August 1992: "Now we can say that Georgian authority has been restored throughout the entire territory of the republic."⁴⁸ But history teaches us all too often that pride goes before a fall, especially when miscalculating two crucial factors: 1) The factor of "Caucasian family bonds" and 2) The Russian factor.

⁴³ Vladimir I. Mukomel, "Demograficheskie posledstvija etnicheskikh i regionalnih konfliktov v SNG", *Sociologicheskie issledovanija* 1999, No. 6, 66-71, at 69.

⁴⁴ A Georgian military commander with high profile involvement in the wars over Abkhazia and South Ossetia.

⁴⁵ Human Rights Watch Report: Georgia/Abkhazia: Violations of war and Russia's role in the conflict, 1995, see: <http://www.hrw.org/reports/pdfs/g/georgia/georgia953.pdf>

⁴⁶ Cornell, *op. cit.*, note 17, 189.

⁴⁷ Z. Khalvash and R. Khagba (Eds.), *Belaya kniga Abkhazii. Dokumenti, Materiali, Svidetelstva 1992-1993* (Moscow, 1993), 143-147.

⁴⁸ *Ibid.*

The whole sub-region of the Caucasus, roughly the size of Romania, is the homeland of approximately fifty different ethnic groups, which speak languages that belong to totally different language families. The collapse of the Soviet Union and the subsequent emergence of nation states did not assign the minorities (in either case) a crucial place in the respective national conceptions. This is compounded by the fact that many of these minorities often had connections with people who lived across prior (Soviet) administrative borders but within one country (Soviet Union) and now were separated by internationally recognized borders and were all of a sudden waking up in a pretty alien environment. This was not only true for the divided group of the Ossetes, but also applied for the Armenian minority in Abkhazia as well as other connections based on a certain kinship. And what the Georgians war strategists underestimated in the first place was how people stick together in this region: The first immediate response and assistance for the liberation of Abkhazia came from (para-)military units of the North Caucasus and anti-Georgian movements such as the Confederation of Mountain Peoples of the Caucasus. This military organization, which allegedly committed grave human rights violations during the war, called young men of all North Caucasian ethnicities to join the battle against the Georgians, and pro-Abkhazian demonstrations under the slogan “Hands off Abkhazia” were organized in many cities in the North; solidarity was even manifested in Chechnya. Volunteers began to arrive in Abkhazia by narrow mountain paths and were trained and equipped, some by the Chechen military leader Shamil Basayev. Paradoxically, the very same Shamil Basayev was successfully commanding some years later in the war against the Russians his “Abkhaz Battalion”, which gained direct combat experience in the battle against the Georgians. And this is one of the crucial peculiarities of the Caucasus sub-region: Ethnic groups in this region cannot be reduced to either pro- or anti-Russian chess figures - some equations such as “the enemy of my enemy is my friend” represent in view of the Caucasian complexity totally oversimplified assumptions. If “the enemy of my enemy is my friend”, the “friend of my enemy shall be my enemy as well” - but as discussed above, such simple models do not work in this particular region, and their application by Western media leads to totally wrong political decisions. Apart from irregular troops from all corners of the Northern Caucasus, Cossacks also joined the war on the side of Abkhazians, together with soldiers of the 14th Soviet Army who arrived directly from another troubled spot, namely Transnistria.

On the other hand, Georgia received considerable assistance from the extreme anti-Russian and antisemitic “Ukrainian National Assembly - Ukrainian National Self Defense”⁴⁹, which motivated its supporters to join the war against what they saw as Russia.⁵⁰ Some sources even say that sportswomen snipers from the Baltic states joined the Georgians for mercenary reasons.⁵¹ To sum up, Abkhazia became the battlefield of different actors, mercenary units and entrepreneurs of which Russia was only one, albeit a very dominant one.

The more complex the ethnic map of a given territory the more it is difficult to predict the development of a conflict once it becomes violent. Various spill-over effects interact and can potentially lead to unexpected shifts of the conflict.

⁴⁹ Ukrainian: УНА УНСО, *Українська Національна Асамблея - Українська Національна Самооборона*, this party still exists in Ukraine and maintains excellent relationship with the neo-Nazi party NPD (National-Demokratische Partei Deutschlands).

⁵⁰ Newsru Ukraina, *Українські політики бойотся говорит о воєні*, 14th of August 2009, see: <http://rus.newsru.ua/ukraine/14aug2008/movchat.html>

⁵¹ Zverev, *op. cit.*, note 27.

Russia's role in the conflict shifted from an initial reluctance to intervene to open support for Abkhazia. At the outset of the conflict, Russia urged both sides to come to terms peacefully in a diplomatic way, but after Abkhazia was overrun by the Georgians and a new security dilemma⁵² began to unfold at the very fragile Southern belt of the country, the Russian military started jointly with Northern volunteers to drive the Georgians out. It further strengthened the view of Georgia, which was undoubtedly convenient, that ethnic conflicts do not exist, but rather some extremists are motivated by an ancien regime to hijack Georgian territories. But for the sake of clarity and fairness, some grossly neglected facts have to be emphasized as well. The Abkhaz soldateska became more and more uncontrollable for Moscow, and on more than one occasion a ceasefire was brokered by Russia, which was then - very much to the anger of the Kremlin - breached by the Abkhaz. Apart from this, Russia had to assume a huge responsibility for the humanitarian costs and consequences. Russia became automatically part of this conflict since it evacuated tens of thousands Georgian as well as Abkhaz civilians from the conflict regions,⁵³ and provided food and accommodation for endless streams of refugees. Despite contrary claims, according to which war in the Caucasus primarily affects Europe, the European Union does not suffer the direct impact of Caucasian security dilemmas to an equal degree as Russia's fragile North Caucasus. To accuse Russia of having inspired the Georgian-Abkhaz conflict seems doubtful as well. This totally oversimplified suggestion implies that Russia not only provoked the military invasion of Georgia, it also means that Russia - a collapsing empire in a turbulent transitional period, an ancien regime at the verge of a civil war - was absolutely sure of the course of subsequent events in the highly unpredictable region of the Caucasus.⁵⁴

Ultimately, Georgia lost its control over Abkhazia, and Abkhazia began to institutionalize its de facto republic, viewing independence as non-negotiable. Moreover, the 200,000 ethnic Georgians who were expelled from Abkhazia and are living today in inhuman conditions in provisory housing were the ones that paid the price for a totally unnecessary escalation of what could have been resolved peacefully, for instance, by inviting Abkhaz officials to discuss the implementation of autonomy. Atrocities beyond description were carried out on both sides and give proof that complexities of ethnic diversity must not be solved by force. In this light, the most recent Georgian military assault against South Ossetia represented probably the last nail in the coffin to be hammered into the prospects for refugee return or re-unification.

⁵² Russia had to cope with the humanitarian consequences of the war and was concerned with how this war creates unease in the multi-ethnic Russian North Caucasus.

⁵³ Human Rights Watch, *op. cit.*, note 25.

⁵⁴ Fawn, *op. cit.*, note 29.

3.2 The War in South Ossetia

South Ossetia also serves as a comprehensive example that ethnic diversity is not per se a root cause for conflict. Ossetes and Georgians were living together peacefully for decades; even the rate of inter-ethnic marriages, especially of Ossetes living outside South Ossetia, was very high. But this region had a very complicated history which made it easy for politicians to instrumentalize ‘old injustices’: Heavy violence broke out in 1920 when Georgian Mensheviks as well as paramilitary units invaded South Ossetia and put down the Bolshevik uprising. Allegedly, 5000 Ossetes were killed and more than 13,000 subsequently died from hunger and epidemics.⁵⁵ Ossetian sources claim until today that it was only due to the Soviet *Realpolitik* at that time that South Ossetia was incorporated as an autonomous region into the Georgian Union Republic and not unified with its ethnic kin in the north. In addition, when an old authoritarian system breaks down as the Soviet Union did, minority groups who had previously received protection from central authorities

The breaking up of a federal system like for instance the Soviet Union fuels a new dynamic into the majority-minority relations in the subunits of that system. This phase can create conditions favorable to the outbreak of conflicts.

suddenly find themselves in an environment that exemplifies the anarchic nature of politics.⁵⁶ Hence, the Ossetes became responsible for their own well-being since the newly independent state of Georgia lacked robust institutions that guaranteed freedom, meaningful self-rule and physical security. The Ossetian popular front “Ademon Nykhas” (Popular Shrine), which was formed in 1989, represented one of these efforts. This organization and its leader Alan Chochiev organized street rallies and other manifestations and opted very soon for a reunification with North Ossetia due to increasing threats of Georgianization. Subsequently, its demands were turned into political agitation by the Supreme Council of South Ossetia, which desperately urged that Ossetian should be introduced as an official language as well as that a constitutional upgrading of the region should be envisaged. Although North Ossetia with its allegedly excellent relations to the Kremlin served a crucial lobbying factor,⁵⁷ Moscow and Tbilisi jointly refuted these claims in the early stage of the conflict.

But again, as in Abkhazia, the Georgian response was a fatal manifestation of nationalism. In August 1989, the Supreme Council of Georgia put forward a Georgian language program as a deliberate nationalistic expression. Though Georgian at this time already was the state language of the republic, with some of the minority languages having equal status in minority areas, this was a tightening stressing that Georgian should be used in all public spheres of society. This program not only provided for increased use of the Georgian language, but also, for example, a Georgian language test for entry into higher education, programs for the promotion of Georgian history, the institutionalization of previously unofficial Georgian national holidays, creation of republican military units comprising only

⁵⁵ International Crisis Group, Europe Report No. 159, *Georgia: Avoiding war in South Ossetia*, 2004, see: <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019224.pdf>

⁵⁶ Jack Snyder, *Nationalism and the Crisis of the Post-Soviet State* (Routledge 1993).

⁵⁷ Julian Birch, “Ossetia: A Caucasian Bosnia in Microcosm”, 14(1) *Central Asian Survey* (1995), 43-74.

Georgians, and the resettlement of Georgians in areas dominated by minorities.⁵⁸ This chain of escalations led at the grassroots level to violence, and open hostilities as well as riots between Ossetes and Georgians began to occur more often. One of these incidents happened in November 1989, when thousands of Georgians were brought in buses to Tskhinvali (the transportation was supplied by Zviad Gamsakhurdia) in order to hold nationalistic street rallies there.⁵⁹ This highly dangerous move, which could have caused severe riots or even an earlier outbreak of war, was only avoided due to a quick and robust intervention of the Soviet Ministry Interior troops.

The leadership of “Ademon Nykhas” and its counterpart, which it found in the Gamsakhurdia regime, were a significant factor in the further escalation: As a reaction to the Ossetian move to declare South Ossetia independent, Georgia in a storm of bitterness and anger suspended the Georgian autonomy, and also officially, South Ossetia was renamed into “region Tskhinvali”. Having imposed a state of emergency, Georgia went to war in South Ossetia and started to block food as well as gas supplies and began to occasionally shell Tskhinvali and its population. A major turning point was the withdrawal of Russian forces from South Ossetia immediately after the attempted coup d’etat in Moscow in the autumn of 1991. It left the Ossetian population even more defenseless and in a security limbo, fully vulnerable to new Georgian assaults. After Shevardnadze came to power in 1992, the Georgian forces used this situation and strengthened their activities in the region. Georgians began to disconnect the electricity supply to Tskhinvali and put the South Ossetian capital under permanent siege.⁶⁰

The reduction of existing forms of cultural autonomy together with increasingly aggressive tendencies of assimilation can trigger spirals of violence. This has happened very often in nation-building processes.

Like in Abkhazia, the role of Russia and its dispatched forces was less than clear, to a certain extent even contradictory. On the one hand, North Ossetian volunteers began to join South Ossetian forces, and Russian authorities stood by and did not intervene. On the other hand, the Kremlin showed (at least until Yeltsin came to power) no interest in intervening, since Russia was - as in Abkhazia - preoccupied with other, not less important issues in the collapse of the Soviet Union such as social decline and political rivalries. But also with regard to South Ossetia, one has to concede justified security concerns to Russia since the numberless Ossetian refugees who arrived in North Ossetia were directly pulled into the already ongoing domestic Ossetian-Ingush conflict over the Prigorodny rayon. Nevertheless, the nature of the military mission to South Ossetia was at best confused and anarchic, but in the end, Georgia had to change its attitude out of vital self-interest with regards to Moscow, and a fragile ceasefire was brokered whose fragility became obvious quite often, especially in August 2008.

To sum up, both wars plunged the former Soviet Republic of Georgia into political chaos, and although having enjoyed independence for only a short time, the future prospects of an independent Georgia was in shambles. It is not an exaggeration to say that already by 1994, Georgia’s independence had been a complete disaster, and a story of war and all

⁵⁸ Robert Conquest, Ian Bremmer and Ray Taras (Eds.): *Nations and Politics in the Soviet Successor States* (Cambridge University Press 1993), 294-295.

⁵⁹ Stuart J. Kaufmann, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Cornell University Press, 2001), 108.

⁶⁰ Dissertation by Nikola Cvetkovski, *The Georgian-South Ossetian conflict*, see: <http://www.caucasus.dk/chapter4.htm>

possible forms of war crimes, human rights violations and atrocities. One should in this regard mention a Human Rights Watch Report, according to which “Georgian paramilitary groups committed acts of violence against Ossetian civilians within South Ossetia that were motivated both by the desire to expel Ossetians and reclaim villages for Georgia, and by sheer revenge against the Ossetian people. As a consequence of this violence, between 60 and 100 villages in South Ossetia are reported to have been burned down, destroyed or otherwise abandoned.”⁶¹ The very same report also documents how Georgians became targets for Ossetian paramilitary formations and how both sides carried out decapitation of infants, executions in front of family members and rape. And obviously, history repeats itself: The years of 2003 when Mikhail Saakashvili came to power, as well as 2008, mark again crucial turning points, and Georgians will have to pay a huge price for years to come to recover economically as well as morally.

3.3 Conflict settlement in Abkhazia

The fact that the Russian-brokered Sochi Agreement of 1993 was breached by the Abkhaz forces demonstrates clearly how little Russia was able to influence the Abkhazian conflict. Abkhazian forces overran Sukhumi and began to displace Georgian residents. It is noteworthy in this regard that the big wave of displacements only started in the follow-up of the violation of the Sochi truce, and subsequently the Georgian army was required to withdraw to Tbilisi. The violation of the Sochi agreement also changed the Russian stance with regard to this issue considerably. The agreement had called for the establishment of a Russian-Georgian-Abkhaz control group to monitor the ceasefire and a general memorandum was reached that allowed the Abkhazian Supreme Soviet to return to Sukhumi. However, it can be assumed that the Abkhaz side deliberately delayed the refugee question in order to create an accomplished fact for the sake of independence. And the ethnic cleansing, beyond personal tragedies also created a heavy blow for the Georgian society: Although some estimated 60,000 refugees returned to Abkhazia since 1998,⁶² Georgian refugees from Abkhazia are living in inhuman conditions, occupying until today hotels, dormitories and old Soviet military barracks throughout Georgia. According to some sources, the Georgian government does not even encourage these refugees to integrate into the Georgian society since it would lose its argument for re-establishing hegemony over Abkhazia.⁶³ Sadly, both sides play a cynical game on the shoulders of thousands of refugees and paradoxically, this particular issue strongly resembles the present situation in and around Israel, and Abkhazian

Once a conflict has led to waves of refugees, the latter run the risk of becoming instrumentalised in future political discourse between the territory they fled from and the territory they fled to. Both sides tend to use the maintenance of the status quo of the refugees as arguments for their maximalist positions.

⁶¹ Human Rights Watch - Europe and Central Asia Division, *Bloodshed in the Caucasus: Violation of Humanitarian Law and Human Rights in the Georgia-South Ossetia conflict*, 1998, 17.

⁶² Some ten thousands were upon arrival again displaced. See: UN High Commissioner for Refugees, *Background note on the Protection of Asylum Seekers and Refugees in Georgia*, 2005, 2.

⁶³ Nora Dudwick, “No Guests at our table: Social Fragmentation in Georgia” in Nora Dudwick, Elizabeth Gomart and Alexandre Marc (Eds.), *When Things Fall Apart - Qualitative Studies of Poverty in the Former Soviet Union* (World Bank edition 2002), 213-258, at 245.

politician frequently point in their statements to the Israeli blockade towards the return of refugees in the quest for legitimacy for their actions.⁶⁴

Although the Sochi agreement, which also called for the deployment of international observers under the auspices of the UN, looked to be a very promising first step towards peace, it became hence irrelevant when Abkhaz forces retook the whole territory. Efforts to settle the conflict were renewed in late 1993 and early 1994 and were compounded by the UN Security Council Resolution 858 (1993) in August⁶⁵ which established the United Nations Observer Mission in Georgia (UNOMIG), dispatching 88 observers to the region in order to verify the compliance of the Sochi agreement in both South Ossetia and Abkhazia. Despite all the huge diplomatic efforts in which Russia actively participated, the only progress seemed to be the absence of new hostilities, but not even this was always achieved. In sum, 32 Security Council resolutions were issued on the Abkhazian conflict since 1993, but none of them brought a fundamentally new approach to peace. A new attempt by Georgia and Abkhazia to come to terms was reached in April 1994, when both sides signed the “Declaration on Measures for a Political Settlement of the Georgian-Abkhaz Conflict”.⁶⁶ It included approaches to power-sharing models and constitutional arrangements, but unfortunately, this document was not a break-through rather than a new obstacle. The document stipulated that Abkhazia would have its own constitution and legislation as well as coat of arms and flag, leaving only the realms of foreign policy, foreign trade and customs to the pillar of “common activity” of both entities. And such a formulation of course opened the floor for heavy discussions and far-reaching interpretations, since it strengthened the view of the Abkhazians that both sides were to be recognized as equal and sovereign subjects delegating powers to each other.

De facto until today, the peace process was nothing other than a period of deadlock; this was especially true for the return of IDPs. The diplomatic efforts, including the Geneva process under the aegis of the UN of 1997, the UN-brokered document of Basic Principles for the Distribution of Responsibilities between Tbilisi and Sukhumi in 2001,⁶⁷ and other initiatives felt short of giving answers to the three most pressing questions: 1) security and non-resumption of violence, 2) IDPs and refugee return and finally 3) Social and economic issues.

Moreover, the Rose Revolution which was carried on a wave of Georgian nationalism and which installed Mikhail Saakashvili as president made things even worse. Violating the 1992 agreement according to which the Kodori gorge⁶⁸ shall be a demilitarized region, to be observed only by CIS peacekeepers and the UNOMIG, Georgian police and military forces entered the valley and used this region as an ideal area for attack and retreat during a resumption of violence. The situation on the ground remained until 2008 in a fragile stalemate and until then, the demands of Abkhazians and Georgians had little in common: While Tbilisi desired to solve the issue of refugees first before a serious discussion on the future status was started, the Abkhazian view was diametrically opposed. In fear that a mass

⁶⁴ Uwe Klußmann, „Kosovo auf dem Kaukasus“, in *Der Spiegel*, 11 May 2008, see: <http://www.spiegel.de/politik/ausland/0,1518,552109,00.html>

⁶⁵ UN Security Council Resolution 858 (1993), 24 August 1993, see: [http://www.undemocracy.com/S-RES-858\(1993\).pdf](http://www.undemocracy.com/S-RES-858(1993).pdf)

⁶⁶ “Declaration on Measures for a Political Settlement of the Georgian/Abkhaz conflict”, see under Department of Peace and Conflict Research, University of Uppsala: <http://www.pcr.uu.se/gpdatabase/peace/Geo%2019940404.pdf>

⁶⁷ The UN Secretary General issued this document as a possible starting point for new attempts to solve the crisis, however it is still refused by the Abkhazian conflict party since it emphasizes Georgia’s territorial integrity.

⁶⁸ The Kodori Gorge represents a strategically important river valley in Abkhazia.

return of mostly Georgian IDPs would change the ethnic balance in disfavor of the Abkhazians, Sukhumi insisted that the legal status be defined first.

But since August 2008, the situation changed dramatically. With the Georgian assault on South Ossetia, the shelling of Tskhinvali and the killing of defenseless Russian peacekeepers, Abkhazia used the window of opportunity to finalize its total secession from Georgia. The war in South Ossetia spread to Abkhazia, but this time, Russia openly fought on the side of the Abkhazians. Faced with an ultimatum to leave the upper Kodori Gorge, all Georgian forces were driven out of Abkhazia. The unnecessary and reckless escalation that had only been in the interest of Georgia set the final end to any possibilities for re-unification in Abkhazia as well, at least for the time being.

When comparing, for instance, the Dayton Peace Agreement with the various peace plans and proposals that were put forward in Abkhazia, several conclusions can be drawn. First, the diplomatic efforts in both cases preserved by and large⁶⁹ the territorial integrity of the respective state. And with regard to the outcomes, it is beyond question that the Dayton accord, although much diplomatic power and creativity had been used to force the conflict parties to an agreement, contributed to the consolidation of the ethnic division in the country. The very same ethnic division and separation was produced in Abkhazia due to the absence of a robust and efficiently orchestrated diplomatic mission, led by the International community and joined by the European Union. It is indeed very hard to find any usable material on the view and actions of Europe at the outset of the Caucasian crisis. Yet, what can be found is that from the very beginning of the conflicts, when the unexpected and brutal attack of Georgian troops on Abkhazia was carried out, and when ethnic cleansing was committed, blind and deaf to the numerous appeals of the Abkhazians, the international community including major EC (EU) states continuously declared that the conflict was an exclusively internal Georgian affair.⁷⁰ The same blind eyes and deaf ears were until recently displayed by many EU states to the Russian wars in Chechnya. Though in the case of Chechnya, at least human rights were made an issue, and that, too, happened only because of numerous statements and exposures by Russia's human rights activists and through the considerable efforts of the Russian and international media and brave journalists.

On the other hand, preoccupied with its own institutionalization, the commitment vis-à-vis the CEE states, and the wars in the Balkans, the EU had little possibility to engage more intensively in the conflicts. But as in Bosnia, in Abkhazia it is today impossible to reverse the wheel of history, to undo political miscalculations and errors and to encourage the population to (re-)join Georgia. This dilemma is even more pronounced than in Bosnia, because since the stalemate in 1993, a new generation was born, viewing Georgia as a hostile neighbor.⁷¹ However, another, even more important difference is that in contrast to the Republika Srpska, Abkhazia is not the artificial product of a war with subsequent international negotiations: The legal status of Abkhazia, from the founding of the Soviet Union until today, stands under a very bold question mark, which makes a comparison with Kosovo more reasonable. Abkhazia, like Kosovo, failed to secure an internationally recognized independent status or any status at all, including recognition by Russia, with the result that it has been until today impossible to re-build the war-destroyed republic, while Georgia has made little progress with constructing a coherent state machinery and a viable economy. Even Russia reiterated its recognition of Georgia's territorial integrity in 1994, according to the Russian-

⁶⁹ In the case of Abkhazia, this is - as already discussed - also a matter of interpretation

⁷⁰ Liana Kvarchelia, "Georgia-Abkhazia Conflict: View from Abkhazia", in 6(1) *Demokratizatsiya*, (1998), see: <http://www.demokratizatsiya.org/Dem%20Archives/DEM%2006-01%20kvarchelia.pdf>

⁷¹ Conversation with HCNM Knut Vollebaeck in Bolzano/Bozen, 16 June 2008

Georgian Treaty of 3 February 1993. As in Abkhazia, with regard to Kosovo the International Community made a crucial mistake in considering Kosovo as an internal issue of Yugoslavia for a very long time. But to argue that UN SC Resolution 1244, which placed Kosovo under international protection is the main distinguishing point which makes Kosovo unique as some say, leads in a totally wrong direction.⁷² UN SC 1244 only reflects the geopolitical climate of the late 1990s, a time when Abkhazia was too weak to achieve this degree of international attention. Furthermore, the credo of “status before standards” was applied by Georgia, however, with much more devastating consequences:

The Georgian government insists until today that a political settlement, especially on the refugee issue, without touching the thorny question of status, has to precede any other efforts, including efforts aimed at economic reconstruction, such as the restoration of thermic power plants, railways and other facilities of the civilian infrastructure. Georgia even went so far to declare the old Soviet passports as invalid, and by doing so, it de facto abolished the freedom of movement for Abkhazians, in order to deliberately starve out their fellow citizens. Abkhazians found themselves unable to travel abroad in order to flee the impoverished home and to earn a living for their poor families; Abkhazians were trapped. So the fact

Whether or not the thorny status issue of a regional territory fallen into a crisis is clarified and accepted by all parties should not become a condition for a decision by the International Community to take a strong position in that given conflict.

that Russia under Vladimir Putin allowed them to acquire Russian passports⁷³ must not only be seen through the prism of *Realpolitik* (it definitely plays a role, but to concentrate only on this issue is not sufficient); it has also a humanitarian dimension. One can say that what UNMIK did by distributing UNMIK passports was compounded by - in absence of a strong international presence - corresponding Russian actions. The OSCE Bozen/Bolzano Recommendations on National Minorities in inter-State relations state that citizenship should not be distributed *en mass* across the border. At the same time the recommendation concludes that “the state of residence holds *primary responsibility* for the protection of its residents, including persons belonging to minorities”.⁷⁴ At the latest, this summer seriously raised this issue, whether Georgia is able and willing to fulfill the latter commitment. By analyzing the implications of the independence of Kosovo for international law, Wolfgang Benedek rightly reasons that even in the post-Milosevic period, the Serbian state has not undertaken any serious efforts to include Kosovar Albanians in the internal political process.⁷⁵ This holds true for Georgia and its relationship to national minorities as well. But even more than that, to start a reckless attack on South Ossetia in the middle of a fragile peace process proves that Tbilisi has also lost its legitimacy to govern this region. Or put differently: How would the international community have reacted if Serbia had attempted to recapture Kosovo by force after the NATO bombing campaign in 1999?

⁷² See e.g. Islam Lauka, *Kosovo a universal case or sui generis ?*, (Kristalina-KH Tirana, 2007).

⁷³ George Hewitt, “Why Independence for Abkhazia is the best Solution”, in *EurAsia Critic*, June 2008, see: http://www.apsny.ru/special/word/abkhazian_perspective.pdf

⁷⁴ OSCE HCNM, “The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations & Explanatory Note”, June 2008, 20.

⁷⁵ Wolfgang Benedek, “Implications of the independence of Kosovo for International Law”, in Isabelle/Crawford, James/Pellet, Alain/Wittich, Stefan (eds), *International Law between Universalism and Fragmentation, Liber Amicorum* (Gerhard Hafner, The Hague 2008).

The recent effort of the EU to broker a ceasefire in Georgia was a very positive signal with a promising outlook, for future efforts as well. But prior to this initiative, major EU states (Germany, United Kingdom, France) and also the US, Russia and the UN showed how they misunderstood the nature of the conflict when they established an ad-hoc tool entitled “Friends of Georgia”.⁷⁶ Since not only concepts but also names are highly delicate issues in a conflict- and post-conflict period, its very name signaled to the Abkhaz people that the international community clearly favored the side of one party to the conflict.

Today, with the recognition of independence of Abkhazia by Russia, Nicaragua and probably Belarus and some Central Asian countries which are to be expected to follow in a not too distant future, all plans for a settlement have to be re-evaluated and re-assessed, and the stance of the EU will also have to be re-positioned. But to divide de facto existing states into bad and good, pro-Russian or pro-American will not help to redefine our strategy. And since the six-points plan of the UN according to which the EU mission in Kosovo, EULEX, shall be status neutral was issued by the UN SC, we seriously have to ask whether the term “frozen conflict” can be expanded to Kosovo as well. In any case, since 1945 no state emerging from secession outside the classical colonial context has been admitted to the United Nations without the predecessor state’s consent. This has to be kept in mind in Sukhumi as well as in Prishtina.

3.4 Conflict settlement in South Ossetia

The Sochi Agreement and a series of additional protocols which were brokered by Russia from 1992-1993 provided for a ceasefire, a security corridor around the capital Tskhinvali, and they also established the Joint Control Commission (JCC), a quadripartite body with Georgian, Russian, North and South Ossetian participation. Subordinated under the command of the JCC, the trilateral Joint Peacekeeping forces (JPKF), with Georgian, Russian and Ossetian units was installed as well. In addition, the OSCE agreed to monitor the ceasefire, to sponsor the settlement efforts on JCC level and to facilitate future negotiations between Tskhinvali and Tbilisi. While the JCC’s work was focused on military and security matters, economic rehabilitation, and establishing favorable conditions for the return of refugees and IDPs, the JPKF’s main agenda and competence included maintaining law and order in the conflict zone as well as in the security corridor.⁷⁷

But over the past 16 years, the peacekeeping and conflict settlement process has not evolved into a success story. Negotiations have been slow and protracted, one time delayed by Georgia another time by South Ossetia. Besides, some structural deficiencies of the achieved agreements were too obvious to be put aside. Since the preliminary ceasefire, the JPKF has set up security check points only in the conflict zone, but has never really expanded its activities outside South Ossetia. This could have possibly avoided the Georgian assault on South Ossetia in August 2008. Thus, although it had been (with Georgian agreement and in the presence of the Deputy Heads of the EC’s delegation to Georgia) repeatedly emphasized in

⁷⁶ Press Release, Ministry of Foreign Affairs of the Russian Federation, 26 May 2005, see: <http://www.un.int/russia/runews/060406/927-26-05-2006e.pdf>

⁷⁷ International Crisis Group, Europe Report No. 159, *Georgia: Avoiding war in South Ossetia*, 2004, p. 4 see: <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019224.pdf>

joint protocols on the JCC level that a conflict settlement has to be achieved “exceptionally by peaceful means”, including the “inadmissibility of conducting force actions contradicting to the achieved agreements in the zone under the JPKF responsibility, without agreement of the JCC”,⁷⁸ the conflict re-escalated, and this time with devastating consequences for the state unity of Georgia. It is very unlikely, that the people of Tskhinvali who survived rocket and artillery attacks at dawn on 8 August 2008 will ever trust any political promise that comes from Tbilisi.

In the course of the past years, Tbilisi began to view the JCC format as unproductive and inefficient. Georgia made, especially in 2004, unnecessary as well as dangerous moves. The Saakashvili administration closed markets in the outskirts of Tskhinvali. The theory behind was that Tbilisi could re-establish its hegemony over South Ossetia by shutting down the black market trade, in which allegedly the President of South Ossetia, Eduard Kokoity - a champion of the former Soviet Union’s wrestling team - was involved. But this strategy backfired, since many average citizens depended heavily on this trade, and South Ossetia was subsequently very successful in portraying Georgia’s move as aggressive invasion.⁷⁹ And indeed, this move was another violation of JCC agreements in the long list of mutual breaches of trust.

The International Community has to be aware that post-conflict phases turn easily into pre-conflict phases if the political momentum created by brokering a peace-agreement is not upheld and immediately translated in a lasting implementation of that very agreement.

Since 2007, Tbilisi exerted huge pressure to force Russia out of the settlement forums because it perceived Moscow not to be impartial in this conflict. And indeed, for Russia, which gained more self-confidence on the geopolitical scene due to the protracted war in Iraq and Afghanistan and the tools of gas and oil, South Ossetia is of strategic importance because it is located on the border of its volatile Northern Caucasus region. Furthermore, strategic issues like the subsequent NATO enlargements towards the East as well as the planned installation of the Missile Shield in Poland and the Czech Republic are far from being acceptable for Moscow. From this perspective, South Ossetia provided a very helpful tool to oppose NATO enlargement and other projects which are indigestible for the Kremlin, by egging on Georgia’s (so-called) concern with her territorial integrity. But nevertheless, one should not lose sight of the fact that the conflicts in the South Caucasus are in the first place conflicts between Abkhazians and Georgians or Ossetians and Georgians, rather than between Georgians and Russians. Furthermore, until 2007 at least there were expectations that Russia and Georgia would agree on managing their common security problems. Relations between Putin and Saakashvili were reportedly improving in spring 2004, when both agreed to joint patrols of Georgia’s northern border to contain possible terrorist incursions.⁸⁰ During the crisis in Ajara in 2004 as well,⁸¹ Russia showed its ability to contribute positively to solving security problems in Georgia. Significantly, Russia had already closed down its last military bases from

⁷⁸ JCC Protocol No. 25, 3-4 October 2002, Tskhinvali/South Ossetia, see:

<http://smr.gov.ge/uploads/file/2002/2002-10-04%20Protocol%20No%2025%20of%20the%20JCC%20Meeting%20in%20Tskhinvali%20Eng.pdf>

⁷⁹ International Crisis Group, *op. cit.*, note 55, 9.

⁸⁰ *Ibid.*

⁸¹ Vladimir Novikov, “Adzharskoj krizis vystupil v rnuchnuju stadiju”, *Kommersant*, 2 September 2004, see: <http://www.kommersant.ru/doc.aspx?DocsID=502346> .

the Soviet period ahead of time in 2007.⁸² Yet, totally miscalculating the extent of American support, and impatient with a slow settlement process in which Russia was also participating, Georgia invaded South Ossetia and triggered a counter-attack by Russia. Georgian troops began to shell Tskhinvali; they did not spare civilians or civilian targets such as hospitals, schools and libraries.⁸³ Symbolically, in one of the libraries hit by the Georgians was a unique magisterial lexicon of the Ossetian language, compiled over many years but never transferred to a computer: it was destroyed on August 8.⁸⁴ Georgian soldiers even threw grenades into cellars where residents were hiding⁸⁵ and they displaced, according to the UNHCR, 30,000 Ossetians from their homes, almost all of them to Vladikavkaz in North Ossetia. All these actions have destroyed any prospect of Georgia restoring its state unity. Wounds that had not healed in the past 15 years have been reopened again.

Unipolar superpowers such as the US and Russia are expected to follow their own agenda when intervening in a given conflict. The multipolar power of the EU can draw on a more balanced potential to mediate between conflicting parties.

In Kosovo, as well, numerous initiatives were made to bring Serbian and Albanian representatives to negotiate about the political future of Kosovo but they didn't succeed. In fact until 1998 Kosovo was not on the top agenda of the international community, just as South Ossetia was not until August 2008. Before the conflict in Kosovo escalated in 1998, all attempts by international actors to bring Serbian and Albanian representatives to negotiate for a peaceful settlement of the conflict had failed. Serbian authorities didn't agree that international actors should mediate in something that they called "... an internal affair and nobody else's business."⁸⁶ In the conflict around South Ossetia and Abkhazia, superficially considered, Georgia urges for a stronger international mandate. Yet, Georgia only wants to achieve hegemony over these de facto republics and calculates it has better chance to achieve this through a stronger internationalization. So in both cases, in Serbia and Georgia, the strategy to push for more or to refuse any international mandate had the same initial motivation. But by "internationalization", Georgian authorities only understand the disappearance of Russia and an enhanced engagement of Washington or Brussels, possibly through the deployment of an ESDP mission.

⁸² RIA Novosti, "Russia to close last military base in Georgia ahead of time", 7 November 2007, see: <http://en.rian.ru/russia/20071107/87037401.html>

⁸³ Tim Whewell, "Georgia accused of targeting civilians", BBC News, 28 August 2008, see: http://news.bbc.co.uk/2/hi/in_depth/7692751.stm

⁸⁴ Ellen Barry, "Language as a root of strife in Caucasus", *International Herald Tribune*, 25 August 2008.

⁸⁵ International Crisis Group, Europe Report No. 195, *Russia vs. Georgia: The Fallout*, 22 August 2008, 3, see: <http://www.crisisgroup.org/home/index.cfm?id=5636>

⁸⁶ Troebst, *Conflict in Kosovo: Failure of Prevention?: An Analytical Documentation, 1992-1998*, Working Paper #1 (European Centre for Minority Issues (ECMI), Flensburg, 1998), 62.

In this explosive situation, it is hence of utmost importance that the EU does not allow itself to become instrumentalized by Tbilisi. It should act as *neutral and objective* mediator; this is in particular important for a fruitful cooperation with the de facto republics which already perceive the EU and its member states as an “auxiliary actor” of Georgia. The conflict has already reached such a fragile stage that Abkhaz authorities demand the word “Georgia” to be eliminated from the name of the UN observer mission UNOMIG.⁸⁷ The EU can be congratulated with a relatively speedy brokerage of the Sarkozy-Medvedev six-point plan, which brought at least a preliminary ceasefire. But a chance to enhance credibility was wasted when the presidents of Poland, Latvia, Estonia and Lithuania issued a joint declaration, condemning Russian actions as an aggression, portraying Russians as victimizers and showing open solidarity with Mikhail Saakashvili.⁸⁸ All five presidents literally hurried on 11 August 2008 to Tbilisi in order to pose in front of cameras with another president, who, three days before, created a full-scale refugee crisis and brought agony to numberless families. It is very difficult to predict to what extent these pictures created a deterrent effect for South Ossetians or Abkhazians to accept a stronger EU role in the conflict. But also the conclusions of the External Relations Council Meeting of 15 and 16 September 2008 only brought modest results: Aside from the reiteration of Georgia’s (so-called) territorial integrity, the EU did not criticize Georgia.⁸⁹ It would be desirable if the EU could pay more attention to the real background of the war and the war guilt, rather than following banal phrases such as “Russian aggression” or naively imagining connections between the Prague spring in 1968 and summer in South Ossetia in 2008. Even the Czech president Vaclav Klaus, who notably distanced himself from the actions of the Polish and the Baltic states, said that “This cannot be compared. At the time, Czechoslovakia did not attack the Subcarpathian Rus, the invasion was not a reaction to our attack. [Czechoslovak reform communist leader Alexander] Dubcek was no [incumbent Georgian President Mikhail] Saakashvili”⁹⁰

Parties to conflicts which call for a neutral internationalization of the later often tend to follow a hidden agenda. On the ground “internationalization” means for different parties different things - a fact the International Community has to be aware of.

⁸⁷ International Crisis Group, Europe Briefing No. 51, *Georgia: The risks of winter*, 26 November 2008, 4, see: <http://www.crisisgroup.org/home/index.cfm?id=5787>

⁸⁸ Joint Declaration of Estonian, Latvian, Lithuanian and Polish Presidents on the Situation in Georgia, taken from website of the President of Lithuania, see: <http://www.president.lt/en/news.full/9475>

⁸⁹ Conclusions of the External Relations Council Meeting, see: http://www.ue2008.fr/webdav/site/PFUE/shared/import/09/0915_CAGRE/Georgia%20EN.pdf

⁹⁰ Ceske Noviny, “Czech President condemns both parties in Caucasian clash”, 15 August 2008, see: http://www.ceskenoviny.cz/news/index_view.php?id=328282

And indeed, in contrast to Saakashvili's declarations about a Russian aggression, independent military observers of the OSCE reported that on August 7 and August 8, Georgian artillery rounds and rockets were falling throughout the capital of South Ossetia at intervals of 15-20 seconds between explosions, and around 50 rounds landed in civilian area. In addition, the observers were unable to verify that ethnic Georgian villages were under heavy bombardment, seriously calling in question one of Saakashvili's justifications for the reckless assault.⁹¹ But even within the corridors of power in Georgia, some officials are obviously leaving the sinking ship. At a parliamentary hearing on the origins of the war in November 2008, Erosi Kitsmarishvili, Georgia's former ambassador to Moscow, testified that Georgian authorities were responsible for starting the war before he was shouted down by a mob of government members and parliamentarians.⁹²

There has been always reliable data that showed that the possibility of a new war over the frozen conflicts was not merely a theoretical specter raised by researchers who always imagine the worst. In 2005, military expenditures grew more than 137% in Georgia.⁹³ These warning signals were totally neglected, and it seems that the EU has in this regard especially to remind the US of its duties to ensure that the military training and the weapons which are provided by Washington are not be used to re-capture breakaway region.

In Kosovo as well, the EU is challenging increasing incomprehension from the local population and politicians as a result of its appeasement policy with Serbia and the continuing presence of UNMIK. The EU should use in Prishtina the lessons from Abkhazia and South Ossetia, that credibility is the first precondition for an acceptance.

Strong and thereby convincing international mediation requires a listening process followed by a unanimous, reliable and consequent position of the mediator. The institutional structure of EU-reopen foreign policy makes such a position difficult. At this background it is all the more important that European foreign behavior does not lead to an "externalization" of internal divides.

⁹¹ Ellen Barry and C. J. Chivers, "Georgia claims on Russia war called into question", *New York Times*, 6 November 2008, see: <http://www.nytimes.com/2008/11/07/world/europe/07georgia.html>

⁹² Olesya Vartanyan and Ellen Berry, "Ex-Diplomat says Georgia started war with Russia", 25 November 2008, see: http://www.nytimes.com/2008/11/26/world/europe/26georgia.html?_r=1

⁹³ In 2005, Georgia spent 3,5% of its Gross Domestic Product on military expenditures. For comparison only, Germany spent in 2005 only 1,4% of its GDP on the military sector. See for further information: http://first.sipri.org/non_first/milex.php

4. Post-Conflict Phase

EU interests in Georgia are primarily driven by the geostrategic location of the country, coupled with its proximity to the Caspian basin as a transit hub for oil and gas from Azerbaijan and Central Asia. Georgia lies at the very centre of interlocking gas and oil pipelines such as the Baku-Tbilisi-Ceyhan oil pipeline and the Baku-Erzurum gas pipeline and moreover, the planned construction of the giant Nabucco pipeline, pumping gas from Azerbaijan to Austria in order to tap into one of the few energy reserves outside OPEC and Russia, is yet another strong argument for the EU to not neglect this country. Hence, energy interests have generated a set of EU policies aimed at spreading the rule of law and democracy across the border of the EU, and it is also energy interests which are first and foremost at risk when war breaks out in this region: The BTC pipeline is a key to West European energy security with British Petrol, having 30 % stake in the company.⁹⁴ And in August 2008, BP had to close temporarily the main important pipelines in Georgia due to security reasons, leaving only Russia's Black Sea port of Novorossiisk as the only available export option for gas and oil from the Caspian Sea.⁹⁵



The BTC-Pipeline (http://zeus.zeit.de/bilder/2003/46/wirtschaft/kaukasus_500.gif)

⁹⁴ Jen Alic, *Kosovo vs. South Ossetia*, ISN ETH Zurich, 15 November 2006, see: <http://www.isn.ethz.ch/isn/layout/set/print/content/view/full/73?id=52669&lng=en&ots591=4888CAA0-B3DB-1461-98B9-E20E7B9C13D4>

⁹⁵ Upstream Online, *BP shuts in Georgia links*, 12 August 2008, see: <http://www.upstreamonline.com/live/article160951.ece>

The EU - in sharp contrast to the early 1990s - reacted very quickly to the recent war in South Ossetia. The French Presidency can be congratulated with the speed of its mediation efforts to broker a six-point ceasefire document on 12 August. It was agreed to first by the Russian President Medvedev, then by Georgia and signed by both sides on 15-16 August 2008. It gave proof to a very well-orchestrated communication strategy between the French Presidency, the OSCE and Germany,⁹⁶ which underlines again that the Franco-German tandem is still the backbone of the EU's foreign policy realm. The agreement reads:⁹⁷

1. No recourse to use violence between the protagonists. *Side-letter:*⁹⁸ *This applies to everyone: Ossetians, Abkhazians, Georgia in its entirety and Russians.*
2. The cessation of hostilities.
3. The granting of access to humanitarian aid.
4. The return of Georgian armed forces to their usual quarters.
5. Russian armed forces to withdraw to the positions held before hostilities began in South Ossetia. Russian peacekeepers to implement additional security measures until an international monitoring mechanism is in place. *Side-letter:*⁹⁹ *These measures affect only the immediate vicinity of South Ossetia and in no instance the entire territory of Georgia.*
6. The opening of international discussions on the modalities of security and stability of South Ossetia and Abkhazia.

Two very important direct consequences from this agreement are, first of all, that South Ossetia and Abkhazia are described as 'protagonists' and, hence, cannot be excluded from the upcoming Geneva talks as direct participants of the further settlement process. And secondly, Abkhazia and South Ossetia are now dealt with together in one pot, while in the past distinctions were made between them. This of course will weaken the position of the metropolitan state Georgia in many respects. After the military defeat, Georgia also lost at the negotiating table. Saakashvili tried desperately to add to point 3 "and to allow the return of refugees" and to point 5 "only for six months", which was immediately rejected by Moscow. But with the Russian troops advancing and capturing buffer zones around South Ossetia and Abkhazia, Sarkozy successfully persuaded the Georgian President to sign this agreement.¹⁰⁰

Post conflict missions are not likely to be perceived as neutral operations equally by *all* the conflicting parties. It is therefore important to create multilateral trust by *de facto* making aggression less likely.

Furthermore, on 15 September 2008, the EU

⁹⁶ International Crisis Group, *op. cit.*, note 85.

⁹⁷ Protocole d'accord, see: http://www.euractiv.com/29/images/cf_text_w_sig_tcm29-174978.pdf (French version)

⁹⁸ NATO Parliamentary Assembly, *The conflict between Georgia and Russia*, 27 October 2008, see: <http://www.folketinget.dk/samling/20081/almdel/NPA/Bilag/6/603930.PDF>

⁹⁹ *Ibid.*

¹⁰⁰ Andrew Kramer, "Peace plan offers Russia a rationale to advance", *New York Times*, 13 August 2008, see: http://www.nytimes.com/2008/08/14/world/europe/14document.html?_r=1

decided to deploy an unarmed monitoring mission to Georgia in order to monitor the implementation of the Sarkozy-Medvedev agreement. This mission entitled “European Union Monitoring Mission” (EUMM)¹⁰¹, is a endeavor of ESDP and a very positive contribution to the normalization and stabilization of Georgia, Abkhazia and South Ossetia. Working in close coordination with the UNOMIG and the OSCE, the EUMM’s strategy is four-fold:¹⁰² *Stabilization, Normalization, Confidence Building and Information*. Especially the last point will be very important in order to provide the EU and its member states with impartial information about the events on the ground. But for the time being, the strategy of the EU is being criticized by both sides, Georgia and the breakaway republics. The latter are complaining that EU monitors were not doing enough to investigate incidents around South Ossetia and Abkhazia after the official cessation of hostilities.¹⁰³ And on the other hand, the Georgians claim that the peace agreement is too vague and that especially point 5 is in this regard a rubber paragraph as it gives Russia the sole right to interpret the duration and the extent of its military engagement in South Ossetia and Abkhazia. It is hence of utmost important for the EUMM to gain trust by really contributing to demilitarization efforts in the buffer zones around South Ossetia and Abkhazia in order to avoid the emergence of future clashes.

Also symbolically, the Mission would be well advised to emphasize more its role as a civilian protection force, as a *Guarantor of the non-use of force against Abkhazia and South Ossetia*. Paradoxically, the EU already sent its ESDP rule of law mission to Georgia in 2004 in order to help Georgia implement reforms of its criminal judicial system.¹⁰⁴ It is regrettable that this ESDP mission did not sufficiently monitor the constitutional developments with regard to ethnic minorities. Many dangerous indicators were simply neglected. For instance, the changes of Ajara’s status of autonomy were most worrying given the precedent they set for the future status of Abkhazia and South Ossetia. The new constitutional law on Ajara adopted in 2004, theoretically promising autonomy, has in practice established Tbilisi’s full control over the region.¹⁰⁵ The Georgian president may now personally appoint the local executive chairman, and the powers of local governments have been limited by central prerogatives.¹⁰⁶ This law has left Ajara with little more than symbolic powers, and was heavily criticized by the Parliamentary Assembly of the Council of Europe as well by as the Venice Commission.¹⁰⁷ From this perspective, it is understandable that separatist authorities have little faith in the rule of law of the Georgian state as a means of guaranteeing their security.¹⁰⁸ The Ajaran precedent has destroyed the credibility of the federal offers made by the Georgian metropolitan state to its breakaway regions.

Once more, independence and more probably reunification with Ossetia and incorporation into the Russian Federation are seen as non-negotiable by Sukhumi and

¹⁰¹ It does interestingly not include the letter „G“ for Georgia.

¹⁰² Mandate for the EUMM, see: http://www.eumm.eu/en/about_eumm/eumms_mandate

¹⁰³ “EUMM Observers involved in dangerous game”, *New Europe*, 27 October 2008, see: <http://www.neurope.eu/articles/90322.php>

¹⁰⁴ International Crisis Group, *EU Crisis Response Capability Revisited*, Europe Report No. 160, January 2005,30., see: <http://www.crisisgroup.org/home/index.cfm?id=3220>

¹⁰⁵ Nathalie Tocci, “The EU and Conflict Resolution: Promoting Peace in the Backyard”, *Contemporary European Studies* (2007), 137.

¹⁰⁶ Dov Lynch, “Why Georgia matters”, *Chaillot Paper No. 86* (Paris 2006), 32.

¹⁰⁷ Tocci, *op. cit.*, note 105, 137.. For an overview on the amendment with regard to Ajara, see “Europe Briefing”, International Crisis Group: at <<http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN018787.pdf>>.

¹⁰⁸ Lynch, *op. cit.*, note 106, 38.

Tskhinvali.¹⁰⁹ Hence, the EUMM must not allow itself to become involved in a dangerous game of the Georgian Presidency on the shoulders of the civilians and should hence not prejudge the future status of Abkhazia and South Ossetia, although - again identical to Kosovo - populations have suffered too much to make a return to the status quo ante possible immediately, if at all.

Much as one can appreciate the unexpected actionability of the EU and the various instruments at its disposal, the internal divergences about how to strategically define these instruments create a serious dilemma. The same is true for NATO, where Germany, France and many other states are showing skepticism about the start of membership negotiations with Georgia. In other words, it is very questionable whether the EU can offer a forum for dialogue and settlement that is perceived by all sides as neutral and fair. And paradoxically, these dilemmas are an opportunity for the OSCE. The OSCE is at present the only multilateral framework for cooperative discussions. Indeed, the recognition of Kosovo by many EU states and the recognition of Abkhazia and South Ossetia are considerably limiting the room for diplomatic maneuver, but the OSCE could build upon its (partly successful) experiences in another troubled spot, Nagorno-Karabakh. Although having much less of geopolitical dimension than the conflicts in Georgia, the OSCE Minsk Group installed since 1992 as guarantor of the peace process, managed at least to force the conflicting parties to agree on a set of *basic principles*¹¹⁰, still a desideratum in Abkhazia and South Ossetia. The OSCE Summit in 2009 would be a good opportunity to create such a fruitful framework since it is the only platform in which Russia is participating. Yet, the only doubtful issue is the state-centric bias of the OSCE; The OSCE, representing a community of states, is inherently critical of secession. This has made it automatically more supportive of Georgia.¹¹¹

In a given conflict not all international fora are equally adapted as being perceived as neutral. In the case of the Caucasus the OSCE does not suffer structural problems like the EU (special relationships) and the NATO (issue of NATO enlargement) do.

To call for sanctions against Moscow such as suspending Russia from the G8 or reviewing the decision to award the 2014 Winter Olympic Games to Sochi, as some overheated voices have demanded, will not *settle* anything. Quite the contrary, it will further cement the present stalemate and will not help the EU to make use of its various instruments. For Russia, the conflicts in and around Georgia are also a matter of Russian security at one of its most vulnerable parts. The logic of playing the dangerous (and partly hypocritical) game of sanctions is that once the Kremlin is made aware of the economic and political costs of his allegedly unacceptable behavior, it will be deterred in the future. The dilemma is only that the Medvedev-Putin tandem is not only aware of the potential costs of their actions, it is also willing to pay them if need be.¹¹² It is an illusion to think that Russia would sacrifice strategic security because of sanctions. Hence, the decision of the General Affairs and External

¹⁰⁹ See interview with Abkhaz "President" Sergei Bagapsh, *Russland-Aktuell*, 4 June 2008, at <http://www.aktuell.ru/russland/politik/abchasien_%E2%80%9Ekein_zusammenleben_mit_den_georgiern%E2%80%9C_3586.html>.

¹¹⁰ Solveig Richter and Wolfgang Zellner, *Ein neues Helsinki für die OSZE?*, *SWP Aktuell* 2008, 7, see: http://www.swp-berlin.org/produkte/swp_aktuell_detail.php?id=10002

¹¹¹ Tocci, *op. cit.*, note 105, 140.

¹¹² Clifford G. Gaddy, "How not to punish Moscow", *Newsweek*, 1 September 2008, 13.

Relations Council (GAERC) on 10 November 2008 to resume negotiations without conditions for a new partnership and cooperation agreement was a step into the right direction.

The situation in and around Abkhazia and South Ossetia remains unstable. Violent incidents are occurring daily, and the EUMM is being denied access to South Ossetia and Abkhazia and can hence not carry out its activities there.¹¹³ And indeed, South Ossetian and Abkhazian authorities suspect the EU of taking the side of Tbilisi in the conflict. Since the situation remains fragile, one has to be aware that the EU is confronted here with a situation where the post-conflict is at the same time a potential pre-conflict phase. This justifies a return to the initial pre-conflict phase to enquire what went wrong in the last years that contributed to this hostile attitude towards Brussels.

As a matter of fact, although the EU already gained a foothold in 1996 in this region by signing a PCA with Georgia, the EU still lacks visibility and influence in the area of conflict settlement in the Caucasus. This has to do with many factors, one of which is the complexity of the Caucasus region as such. The crowded presence of so many outside forces has intensified the tendency of the South Caucasian states to play international organizations and states against each other and has led to a situation in which external powers are perceived either as “savior” or “enemy”.¹¹⁴ At the same time, a regional sub-state actor like an ethnic group or a breakaway region such as Abkhazia may be able to exploit its relations with an external actor such as Moscow in order to push through its claim. Alternatively, an outside force like the US may be able to exploit a state like Georgia so as to create instability or dependence on the part of the state. Paul Goble describes the situation very well: “This complexity of a matryoshka-doll-like situation in many cases appears to imply that no conflict can be fully resolved unless all conflicts are resolved simultaneously, an eventuality devoutly to be wished, but almost certainly impossible”.¹¹⁵

Additionally, in Georgia, tools such as Action Plans are perceived as “friendship treaties” in which the EU commits to security commitments, with special regard vis-à-vis Russia, the protecting power of Ossetes and Abkhazians. Georgia seeks an enhanced role for the EU in conflict settlement, and understands the added-value of an enhanced EU-presence only as counterweight to Moscow.¹¹⁶ Hence, Georgia is only superficially interested in an enhanced role of the EU that could possibly promote stability and peace, instead trying to instrumentalize the EU to achieve its goal of hegemony over Sukhumi and Tskhinvali. It is

The presence of a plurality of international players augments the risk that the conflict parties monopolize certain players and divide them in “good” and “bad”. Therefore a plurality of players has to be counterbalanced by enhanced coordination leading possibly to a common strategy of the “International Community”.

¹¹³ International Crisis Group, op. cit, note 87, 2.

¹¹⁴ Dov Lynch, “A regional insecurity dynamic”, in Pavel Baev et. al. (eds.), *The South Caucasus: A challenge for the EU* (Chaillot Papers, Institute for Security Studies, Paris, 2003), 9-22, at 19.

¹¹⁵ Paul Goble, “American Reactions to a European Initiative in the Caucasus”, in Reinhardt Rummel and Claude Zullo (eds.), *Rethinking European Union Relations with the Caucasus* (Baden-Baden, 1999), 112-118, at 113.

¹¹⁶ ICG Europe, *Conflict Resolution in the South Caucasus: The EU’s role*, Europe Report No. 173, 20 March 2006, see: <http://www.crisisgroup.org/home/index.cfm?id=4037&l=1>, 10.

also for this reasons that during the drafting period of the Georgian AP, “conflict resolution in the Action Plan was more a Georgian-wanted issue than an EU one”.¹¹⁷

However, especially after the so-called Rose Revolution of 2003, financial allocations from the EU for Georgia increased dramatically: The Commission took the lead in 2004 in organizing a donors conference during which pledges of nearly 1 billion USD were made.¹¹⁸ Apart from the already mentioned ESDP mission and ENP-related activities, the EU became in the past years a very active actor in Georgia. Yet, obviously this enhanced engagement was not sufficiently used to pay more attention to *early warning conflict indicators*, such as the military budget of Georgia, which was continuously going through the roof. After this war, which came for so many EU officials allegedly as a surprise, the EU as such has to tolerate having a finger pointed at it by the Abkhazians and South Ossetians for not having avoided the escalation. This does not mean that the EU was able to avoid it, but with a Conflict Prevention and Crisis Management Unit of DG RELEX, already launched in 2001 and supposed to provide the Council with a watch-list of potential crisis zones and factors, with a permanent communication to the EU Special Representative on the ground, the EU could have possibly made better use of obvious conflict indicators.¹¹⁹ But none of that happened and Georgia invaded South Ossetia. Even more so, after the war when many heads of EU states accused Russia of having carried out a disproportionate action while indirectly coming to Georgia’s defense, the credibility of the EU for Abkhazians and South Ossetians was crushed once and for all into pieces. Indeed, the position of the EU in South Ossetia and Abkhazia will continue to be weak.

What is still missing in the Caucasus region is a special infrastructure for the prevention and settlement of inner conflicts. Such an infrastructure should comprise institutions at the national, regional and global levels. It is beyond doubt that - similar to the conflicts in the Balkans - the competing rather than complementary nature of international mediation has also contributed to the present conflict stalemate. One of the major facts which helps explain the convoluted and obscure situation on the ground is the long-lasting presence of different external actors. Until this very day, the region has been fragmented politically and dominated by various external power-centers. Hence, the Caucasus as such was never able to develop functional regional institutions or a shared political identity.¹²⁰ This assessment is redolent of the pre-war situation in former Yugoslavia, which represents the starting point for further considerations regarding ethnically-motivated conflicts: “Yugoslavia was a weak state, unlikely to have the capabilities to adapt to changing international and technological circumstances”.¹²¹ And since Yugoslavia was for centuries a story of conquest and intervention by the great powers, “its international borders as well as its domestic political and economic systems, may have been constructed primarily for the convenience of outsiders”,¹²² and the “Great Game” among these outsiders triggered to a certain extent the strong desires of groups within the states for secession or revenge.

Although the UN, the OSCE, the US and - albeit very late - the EU have been active in the region for many years, they could not ease any tension on the ground. And with regard to

¹¹⁷ *Ibid.*

¹¹⁸ Newsletter of the Delegation of the European Commission in Georgia, No. 2-5, April-June 2004, see: http://www.delgeo.ec.europa.eu/en/publications/BUK_EUROPEAN.pdf

¹¹⁹ International Crisis Group, *op. cit.*, note 104, 14

¹²⁰ R. Craig Nation, “Russia, the United States, and the Caucasus”, Strategic Studies Institute, (Carlisle 2007), 2.

¹²¹ Karen Ruth Adams, “Structural Realism: The Consequences of Great Power Politics“, in Jennifer Sterling-Folker (ed.), *Making Sense of International Relations Theory* (London, 2006), 18-37, at 19.

¹²² *Ibid.*

the Russian role, which has been criticized for its lack of objectivity, one has to emphasize that Russian predominance is also a direct result of Georgia's radicalism and the obvious unwillingness of the international community to take over Russia's necessary function as a stabilizing force in the highly fragile Caucasus region.¹²³ But even if the EU wanted to replace Russia in some areas, it would face serious obstacles. For instance, if EU member states agree on an ESDP mission, it is extremely questionable which mandate would be provided, especially since - as the case of EULEX in Kosovo shows - member states would certainly insist on a Security Council resolution which demonstrates that even such a modest contribution of the EU needs Russia's backing.¹²⁴ But even if Russia would agree to such a mission (which is indeed quite doubtful since the Kremlin refers back to the consent of South Ossetia and Abkhazia), EU member states would not agree on a mission without having access to the conflict regions since this would cement the picture of a definitively partitioned Georgia. This, however, unveils one of the most substantial errors of the EU's activities in the past: Abkhazians and Ossetians have already complained that the EU's effectiveness is seriously hampered by its excessive caution in avoiding official contact with the de facto authorities. Given that the realization of projects requires coordination with authorities, this has already in the last few years reduced the magnitude of EU activities since they concentrated on reconstruction efforts for regions mainly inhabited by ethnic Georgians.¹²⁵ And it remains a mystery why now, after the Georgian attack, South Ossetia and Abkhazia should agree to the military deployment of an actor who does not recognize any local authority and who has been until now very supportive of the Georgian cause. Moreover, the EU is perceived as an actor with a very selective sense of justice, especially as the European Commission recently allocated 500 million EUR for Georgia's post-war rehabilitation.¹²⁶

The strict exclusion of de facto powers, not recognized structures and quasi-governments leads to a situation where international mediation is perceived as artificial and therefore not committed to taking reality and justice seriously.

But even apart from this, the political dilemma is compounded by a logistic one given that the capacity of member states to employ several thousand well skilled personnel is limited by existing commitments in Kosovo, Chad and Bosnia and Herzegovina.¹²⁷ This does not mean that the EU cannot contribute to the establishment of a settlement forum for the Caucasus in a larger sense, but there are only certain niches where the EU can exert influence and can show its potential of being a normative power.

The EU-Turkey membership negotiations are not yet sufficiently used as tool to promote stability in the Caucasus. Turkey is not only one of the de facto actors in the conflict over Nagorno-Karabakh, but it also is home to the largest part of Abkhazians. It offered already by the end of the 19th century sanctuary and land to Abkhazians who emigrated from the then protectorate Abkhazia under the Russian Tsarist Empire. The immediate reactions at

¹²³ Nathalie Tocci, "The EU and Conflict Resolution: Promoting Peace in the Backyard", *Contemporary European Studies* (2007), 140.

¹²⁴ International Crisis Group, Europe Report No. 195, *Russia vs. Georgia: The Fallout*, 22 August 2008, p. 23, see: <http://www.crisisgroup.org/home/index.cfm?id=5636>

¹²⁵ Tocci, *op. cit.*, note 105, 142.

¹²⁶ „Finanzielle Unterstützung für Georgien übertrifft Erwartungen“, *EURActiv*, 23 October 2008, see: <http://www.euractiv.com/de/erweiterung/finanzielle-unterstutzung-georgien-ubertrifft-erwartungen/article-176619>

¹²⁷ International Crisis Group, *op. cit.*, note 85, 23.

the senior level during the recent war and the very helpful humanitarian assistance by Turkey to the conflict region¹²⁸ as well as the maintenance of smooth communications between Ankara and Moscow demonstrate that Turkey could serve as a reliable partner and mediator in a settlement forum. Although the Armenian Genocide is still straining the relations between Ankara and Yerevan, the recent visit of the Turkish President Abdullah Gül to Armenia was beyond doubt a very positive signal that both sides are willing and able to ease their tensions. And this opens room for a diplomatic maneuver by the EU; conflict resolution in the Caucasus should become a nucleus of the negotiation agenda with Turkey in such a way as to enable the EU to indirectly influence the region. Put differently, an abrupt suspension of the membership negotiations as many politicians in Europe demand would have negative consequences for stability in the Caucasus.

The parallel drafting of Action Plans for Georgia, Armenia and Azerbaijan was another chance to bring all sides into a certain form of dialogue: Yet, the parallel negotiation process with Baku and Yerevan was not sufficiently used as soft leverage to force both states into some level of dialogue and to pressure them to reach at least a preliminary agreement. In attempting to balance the EU interests, the Action Plans with Armenia and Azerbaijan regarding Nagorno-Karabakh contain fundamentally different language. Whereas the Azerbaijan Action Plan is full of strong wording and stipulations of state sovereignty, territorial integrity and inviolability of internationally recognized borders, and refers to the Karabakh conflict resolution as a first priority, the Armenian Action Plan does not contain any particular reference to territorial integrity, and moreover, the issue of Nagorno-Karabakh comes very late in the Action Plan, only as Priority Area 7. Conversely, the principle of self-determination, which is added to the Armenian Action Plan, is not included in the parallel Azerbaijan Action Plan.¹²⁹

Most likely, the Commission wanted to get Baku and Yerevan to agree on the same text with regard to Nagorno-Karabakh, but the ineffective result of this obvious inconsistency is a reliance on the lowest common denominator. Only some specific actions are common to both: Continued support for a peaceful solution; increased diplomatic efforts; people-to-people contacts.¹³⁰ From another perspective one might say that this inconsistent language is the only feasible way to find an arrangement acceptable to both parties as well as an attempt not to interfere with previously agreed upon principles from negotiations brokered by the OSCE.¹³¹ One can consequently argue that the EU clearly does not see itself as having, or wishing to have, a wider, stronger and more robust role in the Nagorno-Karabakh conflict or in any other conflict of the region.

To sum up, a regional organization within the CIS, with the support of the EU and the OSCE, ought to be created as soon as possible. At the same time, people should be able to rest assured that the international community will not remain hesitant when human rights are violated or when a state seeks to settle its conflicts by force. Hence, if directives of the regional organization are violated, the UN Security Council should be authorized to take

Turkey and its process of accession to the EU could be used in a more structured way in the context of conflict management in the Caucasus region.

¹²⁸ “Turkey agrees to supply Georgia electricity”, REUTERS, 8 August 2008, see: <http://www.reuters.com/article/worldNews/idUSIST00224320080808>

¹²⁹ Maria Raquel Freire and Licia Simao, “The Armenian Road to Democracy - Dimensions of a Tortuous Process”, CEPS Working Document No. 267, May 2007, Centre for European Studies, 17.

¹³⁰ International Crisis Group, *op. cit.*, note 16, 12.

¹³¹ Freire and Simao, *op. cit.*, note 129, 17.

measures of compulsion.¹³² This addresses the need to draw international institutions into settling ethnic conflicts stage by stage, so that a link between a regional and global institution can come into play. This of course does not avoid the dilemma of repeating a stalemate on the ground in the Security Council by veto tactics of both the US and Russia. But it has the decisive advantage that states, regions and autonomous provinces can address security dilemmas *before* they culminate. This would also force local governments to take the necessary steps to understand the depth and complexity of the issues they are facing, instead of trying desperately to please an outside actor in order to get financial support. It would probably force them to re-assess their recent history, when their politics were directed against the Soviet Union but followed the same line of confrontation and mobilization against ethnic minorities. Although the creation of a such a forum will take years to achieve and cannot be implemented overnight, it has to be in the Georgian interest as well since confidence building over years and a patient state are probably the last thinkable opportunities to become more attractive to South Ossetia and Abkhazia.

Much attention has to be paid to the formulation of instruments and tools and the right combination of measures. In this respect, the EU can offer a variety of tools, especially regarding financial incentives. But it is of utmost importance to keep in mind that massive ethnic conflicts caused by an all-around crisis of society are conflicts that need to be dealt with in a comprehensive way using a multitude of different control levers. Unfortunately, this principle has not yet been adopted by the current political practice of the EU. The framework of ENP would be one of those tools that definitely has room for improvement.

The perspective of transforming ENP into a conflict management tool depends on whether the EU is both able and willing to implement a conflict management policy despite other international actors being engaged and potentially having conflicting interests in the country in question. Although the Union may have learned valuable lessons with regard to what means are necessary for successful EU conflict management, this does not by any means guarantee that the Union is able or indeed willing to undertake such missions throughout the ENP area, especially where such efforts would conflict with the interests of the other actor engaged or indeed those of the EU itself. Conflict management in the Western Balkans is - also due the geographic proximity - comparatively much more important for the EU. Finally, the EU has relatively few capabilities in terms of intelligence and understanding of the conflicts in these countries, and it lacks the institutional memory and know-how, which has gradually been built up over time in the Western Balkan context, which means that if the EU was indeed willing to commit to the extent necessary for EU conflict management to be successful in the ENP area, it may not necessarily be able to do it with the same relative success as it has had in the Western Balkans since 1999.

Due to a lack of resources the EU's international conflict management agenda will always have to remain selective and asymmetric. A fact which is even true for the area covered by the ENP.

What then are the tangible prospects of ENP conflict management in the EU's "new neighbourhood"? In Moldova and Georgia, its geographical proximity and political leverage presents the Union with a relatively positive prospect in playing a more significant role in the ethnic conflicts concerning Transnistria,

¹³² Emil Payin, "Settlement of ethnic conflicts in post-Soviet society", in Valery Tishkov and Kumar Rupesinghe, *Ethnicity and Power in the Contemporary World* (UN University Press, 1996), 69-82, at 80.

Abkhazia and South Ossetia - all conflicts of relatively similar nature to those of the former Yugoslavia. A positive outcome of any ENP initiative to manage, resolve and prevent further conflict in these countries, however, depends on the cooperation of the respective governments in these countries and the role of Russia. The conflict between Armenia and Azerbaijan over Nagorno-Karabakh presents the EU with an even more complex regional situation involving Russia, Iran and Turkey. Furthermore, the nature of the incumbent regimes and the conflicts themselves represent an even greater challenge to the ENP than those of Moldova and Georgia. The EU here has significant long-term potential in facilitating conflict management through aid, trade, mediation and long-term governance reform assistance, to mention but a few areas, all of which could well be facilitated through multi-faceted ENP country strategies, and it is in the formulation of such strategies that the EU could make the best use of the lessons learned in the Western Balkans. But the formulation of ENP leaves a lot to be desired. Since ENP does not include or refer to Russia nor to the *de facto* existing states, but only concentrates on states in their “internationally recognized borders”, the EU falls short of understanding the Caucasus as one entire subregion and loses sight of three essential lessons for conflict settlement in this region:¹³³

The more distant the neighborhood, the more likely it is that the EU will have to coordinate its interests with the (possibly diverging) interests of other players such as Russia, Iran or Turkey.

- The concept of state sovereignty is being gradually eroded
- The unitary state as a powerful centralizing agency is under challenge by equally powerful sub-state forces
- The use of violence is no longer the sole monopoly of the state, and various transnational forces are able to arm, equip, and deliver lethal weapons of terror.

In addition, not every conflict is about secession in the Caucasus. One example includes the conflict between Ingushes and Ossetes over the fertile Prigorodny region, which was influenced by and influenced the ongoing Ossetian-Georgian conflict across one of these *internationally recognized* borders. Furthermore, it is questionable whether ethnic kinship is assignable to any of the Caucasus peoples. It would be wrong to reason that Russia is the kin state of South Ossetia, since the South Ossetian claim is based on *irredentism* (unification with North Ossetia and subsequently possible independence from Russia) rather than on *independence* in the short-run. And Abkhazia is again a quite different case, especially because a concrete ethnic kinship is impossible to identify. The only kin-like state is Turkey where most Abkhazians are still residing, but this was more a result of the forced emigration of the Muslim sector of Abkhazians under the Tsarist rule. Abkhazians really seek *independence*, and they are very confident about their economic potential especially in the field of tourism and such crops as hazelnut, citrus, tea and tobacco. Other conflicts in the North Caucasus region are produced by a changed ethno-demographic situation and a growing share of non-indigenous settlers rather than being long-standing ethnic conflicts with competing historical narratives.

¹³³ Kumar Rupesinghe, “Governance and conflict resolution in multi-ethnic societies”, in Valery Tishkov and Kumar Rupesinghe, *Ethnicity and Power in the Contemporary World* (UN University Press, 1996), 10-31, at 18.

In other words, one of the main shortcomings of ENP is the fact that the entire region is not included under the umbrella of this policy. Therefore, the question arises whether ENP objectives such as stability and peace can be achieved without involving the breakaway regions of Abkhazia, South Ossetia and Nagorno-Karabakh or administrative regions in Russia's North Caucasus. These de facto subjects of international relations as well as Russian regions remain untouched by the provisions of what Brussels calls "a wider Europe". Hence, it is time for the EU - regardless of technical and political constraints - to think about how these entities can be connected to ENP. The driving force of a re-formatted ENP should be the acknowledgement that the collapse of the Soviet Union set in force a "division of the colonial legacy" where the former colonies, states, regions, ethnic minorities are dividing among themselves the country's territories, its armed forces, its factories and plants and other resources.¹³⁴

Some argue that the EU has so far done little to prevent mistrust and a "siege mentality", and in turn has pushed both Sukhumi and Tskhinvali far away from cooperation with Brussels.¹³⁵ On the one hand, the EU aspires to be the largest donor in Abkhazia, implementing Economic Rehabilitation Programs, which are projects worth some € 25 million.¹³⁶ In South Ossetia, the Commission provided a first € 3,5 million TACIS grant in 1997 and followed up with a second € 1,5 million tranche to reactivate the Gori-Tskhinvali rail link and the Tskhvinali rail station.¹³⁷ The problem, however, has been that the EU has focused mainly on the reconstruction of infrastructure rather than on traditional confidence building. In the eyes of Abkhazia and South Ossetia, this has reduced the effectiveness of the projects mentioned above.¹³⁸ For instance, the trainings of electrical engineers, public health professionals and farmers should be held jointly for Georgians and Abkhazians to avoid unnecessary costs and to build via people-to-people contact more confidence between ethnic groups. However, the EU has not secured a commitment from senior Abkhaz de facto authorities to allow them to participate in a joint training. Most probably, Georgians and Abkhaz will benefit, equally but separately.¹³⁹ The problem remains that the EU has allocated much less resources to traditional conflict resolution fields such as limiting arms proliferation or reintegrating combatants on either side of the ceasefire lines. This does not mean that the EU should enhance its influence in the breakaway regions by seeking to get a seat in the international settlement forums of these conflicts.¹⁴⁰ It would be highly dangerous, as project-related decision-making would easily become hostage to broader Georgian-Abkhaz and Georgian-Ossetian conflicts. Apart from this, to impose conditionality in settlement forums in this region is very questionable; as an international observer asked, "what is the European Union's few millions when Russia is promising the Ossetians a future?"¹⁴¹

Soft factors such as the establishment and maintenance of mutual trust between peoples and their civil societies are areas where the Union has a lot to offer.

¹³⁴ Pavin, *op. cit.*, note 132, 70.

¹³⁵ Nathalie Tocci, "The EU and Conflict Resolution: Promoting Peace in the Backyard", *Contemporary European Studies* (2007), 148.

¹³⁶ International Crisis Group, *op.cit.*, note 170, 17.

¹³⁷ Tocci, *op. cit.*, note 105, 142.

¹³⁸ *Ibid.*

¹³⁹ International Crisis Group, *op.cit.*, note 170, 17.

¹⁴⁰ This is what Georgia urgently wants the EU to do.

¹⁴¹ International Crisis Group, , *op.cit.*, note 116, 20.

Hence, it is also a matter of available funds to open for the EU a specific role in conflict settlement. No matter how much the EU earmarks for the coming years,¹⁴² these financial funds will be dwarfed by Russia's humanitarian engagement, only providing 420 Million USD for the South Ossetian post-war rehabilitation.¹⁴³

What should the EU do in the present situation:

- Reinforce the office of the EUSR on the ground. Expand his competences: He should be given more responsibility to coordinate all EU actors in the field. This should help to achieve a horizontal coherence between EU institutions.
- Organize donors' conferences for the purpose of obtaining funds for the post-war reconstruction in Georgia *as well as* Abkhazia and South Ossetia.
- Together with Russia, agree on measures to coordinate post-war reconstruction efforts.
- Seek contact at the most senior level with the de facto authorities in South Ossetia and Abkhazia, as well as with authorities of North Ossetia. Try to establish via this diplomatic trust-building a fundament for future settlement efforts.
- Subsequently, convince both de facto states to guarantee full freedom of movement on their territories for all individuals. Address the refugee issue as well.
- Investigate the war guilt *objectively*. The purpose of this documentation should be to correctly assess the future possibilities for settlement.
- Advise Georgia and Russia to implement the Sarkozy-Medvedev agreement.
- To the NATO members: Do not nourish hopes for the membership of Ukraine and Georgia. Consider other possibilities for cooperation.
- Do not consider sanctions against Russia.
- Convince Russia and Georgia to reinforce at least preliminarily the JCC process in South Ossetia.
- Convince Georgia not to dispatch any armed formation in the buffer zones around the de facto states.
- Advise Georgia at the most senior level to be prepared that relations with the EU will be adjusted accordingly if it prepares a new attack. In this case, suspend the Action Plan and set up a visa ban and black list for Georgian officials, including the President. (Build upon the experiences vis-à-vis Belarus)
- Open an internal discussion on the future status of both de facto states with the participation of outstanding experts and representatives of the concerned states (sub-state actors) in order to get a clearer picture of the situation.
- Incorporate conflict settlement in the Caucasus into the EU membership negotiation agenda with Turkey.

¹⁴² For an overview on the EU assistance in Abkhazia and South Ossetia, see: <http://www.delgeo.ec.europa.eu/en/programmes/rehabilitation.html>

¹⁴³ International Crisis Group, op. cit., note 85, 24.

5. MIRICO Recommendations: THE EUROPEAN UNION AND CONFLICT MANAGEMENT

5.1 General recommendations:

Given the range of international organisations (IOs) with different roles, mandates and capacities involved in different stages of conflict management processes and with varying records of efficacy and internal constraints on as well as the character of the EU, the EU would do well to direct its attention to building its conflict management capacity and strengthening its contribution in the following domains:

1. Strengthening instruments for arriving at common positions

From its very beginning, the biggest obstacle to the EU's attempts to forge and activate a common foreign and security policy has been the difficulty it has encountered in arriving at common positions given the diverse interests and varying degrees of political will of its member states. This is evidently an even greater challenge for EU27 than it was for EU15 and has been accentuated in the case of the new member states not just in terms of the sheer quantitative problematic of reaching consensus but also as regards the clear divisions that have been highlighted along critical strategic fault-lines such as in the case of Russia (cf: recent events in Georgia) and in terms of support for differing degrees of engagement with the states of Former Soviet Union.

(i) One possible instrument to lessen this problem would be to consider possible changes in voting rules such as 'consensus minus one' or 'consensus minus two' as is the rule for meetings of heads of state or governments of the OSCE on certain issues—though in this case the minus one or minus two rule applies to conflicting parties or countries that have infringed commitments.¹⁴⁴ Of course this might not be feasible given the intergovernmental format of the Council and the already manifest opposition to the extension of qualified majority voting (QMV) in areas of CFSP.

(ii) Procedures for opt-outs on particular issues could be developed (Havermans, 1998) or the possibility opened to member states to sign up to differing degrees of commitment to particular conflict resolution issues. This model has been largely successfully applied to date in the case of Kosovo's unilateral declaration of independence on February 17, 2008. Though seven EU member states have withheld recognition for its unilateral declaration of sovereignty -- Spain, Portugal, Slovakia, Cyprus, Malta, Romania, Greece - they were nonetheless willing to approve the deployment of and participation in EULEX.

(iii) Another alternative would be to create space for the forging of subgroups of key players that share the same interests and/or positions in a particular conflict situation. Such groups could play a range of different roles as the work of Theresa Whitfield (2007) on the subject in the context of the United Nations suggests, with possibilities for issuing common statements,

¹⁴⁴ See

<http://209.85.135.104/search?q=cache:SAhp8HAvtogJ:www.osce.org/item/22286.html%3Fch%3D956+O SCE+consensus+minus+one&hl=en&ct=clnk&cd=1&gl=uk>

passing resolutions, exerting diplomatic pressure, negotiating ceasefires and peace-making arrangements, etc.¹⁴⁵ A unified small sub-group taking the lead in negotiations or as a group of friends to conflicting parties may obviate the extremely difficult problem of achieving agreement among 27 diverse and disparate states. It would also accelerate decision-making and response times.

2. *Focusing on conflict prevention and post-conflict stabilisation*

Given the evident difficulty of achieving consensus among member states on foreign policy issues, a dilemma which has threatened to undermine its position as a credible mediator in peace-making negotiations, not to mention its ability to cast itself as a neutral actor, the EU should continue to enhance its role as a organisation which focuses on conflict prevention and the post-conflict reconstruction, stabilisation and democratisation phases of the conflict cycle. The EU has had some successes and developed some useful experience in these latter areas in the Western Balkans, including in its preventive diplomacy in the case of Macedonia and Montenegro and its contributions to post-conflict rebuilding in Bosnia-Herzegovina and Kosovo (further details above).

3. *Developing a comprehensive conflict management concept and mechanism*

The EU should develop a comprehensive conflict management concept combining and integrating the existing capacities, instruments and approaches that are present in different institutions of the EU. This should be complemented by the development of a central coordination and conflict management mechanism, a so-called “focal point” for conflict prevention and management, which could facilitate the streamlining of different strategic policy actions across EU institutions, the pooling of knowledge and expertise among intra-EU institutions, member states’ ministries of foreign affairs and the broader NGO community and the speeding up of the cumbersome multilateral decision-making processes inside the EU, etc.¹⁴⁶ Francesco Marelli, for example, has proposed an EU Commissariat for Peace and Conflict Transformation.

Both in the context of SAA and ENP the EU has gone some way to incorporating future conflict prevention and peace-building measures into their broader integrationist instruments, but this needs to go further. Conflict management policies cannot simply be bolted on to instruments as in case in particular of ENP countries in Eastern neighbourhood such as Armenia, Azerbaijan and Georgia but must form a truly integral part of such policy instruments. Likewise there is a need for a deeper understanding of post-conflict stabilisation and optimal policies to be implemented and instruments to be deployed. (See Gordon, Sasse and Sebastien, 2008)

¹⁴⁵ See Theresa Whitfield’s work on contact groups and other groups of friends. Whitfield identifies five broad kinds of group structures: (i) contact groups; (ii) groups of friends; (iii) friends of a country; (iv) implementation and monitoring groups; (v) coordination mechanisms for assistance. (Whitfield, 2008)

¹⁴⁶ See http://www.transnational.org/Resource_Index_EU.htm

4. Adopting a graduated approach to conflict management engagement

The EU should conceptualise and put in place a graduated approach to conflict management engagement based on geographical proximity as well as available instruments with accompanying incentive structures and funds. A systematic methodology could be developed as to the degree and nature of EU involvement taking into account (i) the nature of the conflict and the point in the conflict cycle; (ii) the EU's own comparative strengths as well as those of other international organisations and individual states in particular aspects of conflict management and (iii) the geographic proximity of conflict situations (a clear differentiation could be drawn between three levels of engagement - intra-EU, the European neighbourhood and a broader global outreach). Such divisions of labour along both geographic and functional lines have been under discussion among governments, elites and academic communities in recent years.¹⁴⁷ The adoption of a systematic graduated approach to conflict engagement would to an extent reduce the current 'ad-hocery' still associated with the six-monthly presidential rotation system.

(i) For those countries which harbour European aspirations or are in the European neighbourhood (primarily the Eastern neighbourhood), the EU is clearly in a position to bring more pressure to bear by directly linking funding and other incentives to compromises and progress on the part of conflicting parties. This conditionality-based approach combined with an emphasis on long-term socialisation in democratic and rule of law based values lies at the heart of the SAA and ENP instruments (see limitations above).

(ii) For countries further afield, the EU may consider a variegated approach possibly including the following modes of engagement: (a) funding for post-conflict reconstruction, (b) contribution of technical expertise drawing on the EU's experience in other post-conflict situations, particularly the Balkans, in growing civilian police forces for example, (c) progressive trade agreements structured around a package of carefully crafted incentives, (d) participation as an observer or as part of troika or similar in peace negotiations.

5. Enhance internal capacities and increase coordination

Though steps have already been taken in this direction, the EU should seek to enhance internal capacities including increasing the number of staff employed in the PSC, improving training in conflict prevention and management¹⁴⁸ as well as boosting internal coordination among EU institutions involved in different aspects of conflict management -- the Council, the Commission, the Parliament as well as different DGs within the Commission (DG External Relations, DG Enlargement, DG Justice and Home Affairs, DG Trade) - including by furthering

¹⁴⁷ See Theiler 2008 on NATO and the EU. Thus in 2001 NATO proposed a strict regional role for the EU that would be responsible for tasks on its immediate periphery. Others have suggested that the functional roles of international organisations be delineated according to comparative strengths - the EU having proved itself more in the areas of crisis prevention and post-conflict rebuilding, leaving NATO to manage military conflict management.

¹⁴⁸ For a discussion of conflict prevention training in the UN system and the United Nations System Staff College EWPM Project, see Dufresne and Schnabel (2004).

the already existing practices of Commission representatives working in the Council, attendance of officials from other EU institutions at regular internal meetings at different levels, information exchange, and so on. Taking the lead from the UN's Department for Peacekeeping Operations and the OSCE, Catriona Gourlay argues the case for "a cross-pillar integrated planning and mission support service" rather than a split of operational and financial responsibilities between the Commission and the Council which she argues has resulted in fragmentation and inefficiency. (Gourlay, 2004, 416-417). Such institutional splits are further exacerbated in the case of conflict management by division of roles between the Council and the Commission as illustrated, for example, in the case of ENP in Moldova, where a gap is evident between the Council and Commission - between the activities, priorities and funding streams of EUSR and other activities/areas in ENP. Such discrepancies also reflect underlying tensions in approaches between the priorities of facilitating conflict management and policies directed at democratisation, market and trade alignment policies.

6. Improve external coordination

There are by now a large number of international organisations as well as state actors that have interests (not always complementary) as well as mandates for operating in the field of conflict management. For those organisations operating in the European space, the conflicts of the Former Yugoslavia and the evident failures of the international community in the first half of 1990s, at least to develop a credible, coordinated and effective response served as a clarion call and engendered a massive learning curve on the part of the organisations operating in the field - EU, OSCE, NATO, UN and UN agencies and the Council of Europe. These institutions have all taken considerable strides to adjust to the post-Cold War prevalence of intra-state conflict and to build their conflict management capacities accordingly as well as mechanisms for inter-organisational cooperation and coordination. Nonetheless the evolving conflict and post-conflict situation in both BiH and Kosovo underlined the imperative for improved "coordination of military and civilian measures in connection with crisis management and post-conflict reconstruction and nation-building". (Thailer, 2008, 21).

The EU could take the lead in building on existing mechanisms for cooperation among these organisations and their institutional hubs as well as in improving channels of communication, information exchange, burden-sharing, pooling and other forms of bilateral and multilateral coordination among different international organisations and NGOs operating on the ground in conflict situations - in an effort to avoid duplication, clashes in the approaches of different organisations, conflict parties seeking to play one off against the other and ultimately the unnecessary prolongation of conflict -- and instead assure coordinated and matching responses to conflict situations as well as between short-term crisis management and longer-term efforts towards reconstruction and peace-building. (Whitfield, 2008, page and Gourlay, 2004, 417 check)¹⁴⁹ In a recent interview Ion Stavila, deputy minister

¹⁴⁹ Schulte (1997, 28) has highlighted the different institutional approaches of NATO and the UN, NATO tending to stress the application of military power and the UN favouring traditional peacekeeping

of integration in Moldova highlighted the lack of interaction among different international organisations operating in his country.¹⁵⁰

7. *Developing more systematic in-house conflict analysis expertise and capacities*

The EU should take steps to develop its own in-house conflict analysis expertise and capacities, taking greater advantage of the wide range of new information gathering opportunities (internet, computerized databases, greater transparency of intelligence agencies) and drawing on state of the art research in the conflict management field, including examinations of possible power-sharing arrangements, to deepen its knowledge of countries in the European neighbourhood and its ability to provide particularised recommendations on institutional arrangements, which may allay the tensions that lie at the heart of the conflict.¹⁵¹ Increased in-house expertise (for example increasing the number of staff currently working in the Council's Policy Planning and Early Warning Unit) would be important for developing methodologies for risk analysis and assessing conflict potential, putting in place more effective early warning mechanisms as well as for building a viable peace in the wake of violent conflict or in the case of conflict prevention.

The EU has understandably shied away from proscribing particular state structures and governance arrangements out of its reluctance to infringe state sovereignty. At the same time as Houten and Wolff have suggested, it has demonstrated a commitment to "respect for and protection of minority rights", which form an integral part of the 1993 Copenhagen criteria for prospective member states, including on occasion in institutionalised power-sharing solutions. This commitment has been evident in conflict settlements in the Western Balkans and further afield in Aceh and the North-West Sudan settlement. (Houten and Wolff, 2005)

8. *Building more effective channels of interaction between EU officials, NGO community and academic experts in conflict management*

The EU should seek to establish more effective channels of interaction and dialogue between academic experts, the NGO community and Union officials both in terms of communication of needs on the part of the Council and Commission as well as the more effective channeling of specific research findings as well as applied conflict management tools back into the policy-making community, through regular carefully structured seminars and training sessions.

principles. See also Swimelar (2001) comparison of the Council of Europe's legal approach and the OSCE's political approach.

¹⁵⁰ Interview with Deputy Minister Stavila, Chishinau, July 2008.

¹⁵¹ See A. Walter Dorn (2004, 330-331) on new opportunities for information gathering, analysis and dissemination.

9. Upgrading capacity on the ground: Streamlining, optimising information gathering and monitoring processes

The EU could do more to upgrade and build its capacity on the ground. With 128 EU delegations throughout the world, this is a valuable resource that could be developed and drawn on to facilitate conflict prevention. Evidently there is a significant variation among EU delegations in terms of size and personnel capacity, but it would seem to be a worthwhile investment (i) to upgrade the intelligence gathering capacities in these missions particularly in areas with recognised conflict potential and (ii) to conduct more information-gathering in breakaway regions/regions with potential for escalating conflict, such as Transnistria and Nagorno-Karabakh. In this regard, EU delegations could also put in place more formal channels of regular coordination and information exchange among EU member states' embassies in these areas, and by drawing on the expertise of different member states both in terms of knowledge, presence and engagement in different countries as well as in terms of capacities in different aspects of conflict management, introduce a degree of burden-sharing (See discussion in Bierbrauwer and van Tongeren).

Greater knowledge of the specific characteristics of particular countries and regions would enable the EU to develop more nuanced approaches to particular conflict situations and not to fall into trap of taking models that have worked elsewhere in other contexts and applying them in unfavourable contexts. Insufficient knowledge of factors driving conflict situations can lead to inappropriately targeted “carrots and sticks” disincentivising rather than incentivising different warring parties in conflict situations. (Brian Smith, 2008, 90 in Barnes and Griffiths).

10. Improving funding instruments

Though the EU is perennially criticised for the limited levels of funding available for certain conflict situations the basic fact of limited available funds - improved burden-sharing and more careful targeting of funds to particular aspects of conflict management - will remain an overriding constraint. With the streamlining of previous funds in the IPA and ENPI in the Western Balkans and the European neighbourhood, the EU has taken some steps towards improving the problematic organisation and operation of its funding mechanisms though limitations remain. (See Gordon, Sasse and Sebastian, 2008). Even so funds should be more specifically earmarked for conflict management. Though it is a definite move forward, the Rapid Reaction Funding mechanism only funds projects for up to six months, which is extremely limiting given the life cycle of most conflict situations.

More needs to be done (i) to accelerate the still overly slow bureaucratic funding delivery mechanisms, which is particularly critical in the context of conflict situations, (ii) to develop tailored incentive structures and introduce more nuanced targeting of funding disbursements linked to tangible progress in peace process and (iii) to further coordination of EU funding with other international organisations. If the release of tranches of aid is going to be tied to meeting conditions, then the EU must seek to be consistent in the application of the conditionality and not, as has been shown time and again in the case of Serbia and the handing over of suspects to ICTY, resort to politicised decision-making. Anthony Regan has

shown in the case of Bougainville the potential for effective targeting of funding instruments to tie conflicting parties into the peace process as well as to give them a stake in the new post-conflict settlement.

Finally, despite the statement made at the beginning of point 10, it still holds true that if the EU is intent on continuing to upgrade its role as a conflict manager including in the Eastern neighbourhood and also more globally, current budgetary allocations will have to rise.

11. Enhancing the role of EUSRs in the area of conflict management

The EU should take steps to enhance the position and role of its EU special representatives in potential or actual conflict areas. During Boutros Boutros Ghali's and Kofi Annan's time as UN Secretary General, the UN significantly upgraded the function of personal envoys and special representatives in conflict situation; this has been seen to have made a positive contribution to peace processes in a variety of contexts and respects. (See Vance and Hamburg, 1994). The EU's current experience in the Eastern neighbourhood provides an indicative starting point of both the shortcomings and potential of such a role - one need only compare the rather ineffectual involvement of EUSR for the South Caucasus, Peter Semneby, and the more active largely behind-the-scene's engagement of Kalman Mizsei as EUSR for Moldova.

12. Extending the device of inviting partner countries to sign up to CFSP statements and declarations

By encouraging countries to feel part of the European club, this may contribute to broader socialisation into European values and over time perhaps reduce the likelihood of conflict.

13. Furthering support of civil society groups in conflict regions.

By engaging actively with civil society in conflict regions, the EU can contribute to strengthening social capacity for conflict management. This needs to go hand-in-hand with careful monitoring of the impact of civil society activities and an approach that helps civil society organisations to become a fully integrated, accepted and respected part of the social fabric in conflict regions whose contribution to conflict management is recognised but not overestimated.

5.2 The EU and Stabilisation and Association Process (SAP):

The EU's definitions of stabilization and associations are not entirely clear. As the operationalisation of SAP evolved, and the accent gradually shifted from stabilisation to association, the initial top-down focus on peace-building and regional political stabilisation has increasingly been superseded by the top-down drive to meet the requisites of EU membership conditionality. The experience of SAP to date raises critical questions about the appropriateness of a template largely developed for a set of countries in rather different circumstances and then modified -- more considerably in rhetoric than in practice -- to fit the

situation in the countries of the Western Balkans, which on the whole continue to be characterised by weak state institutions, economic backwardness and ethnic tensions.

1. Improving the credibility of conditionality in the SAP

The EU's approach to engagement in the WB region is based on enmeshing formerly conflicting parties in a set of contractual relations built on conditionality based operating principles. Though SAP has been significantly influenced by the CEECs enlargement process, through the introduction of additional stages and interim measures of conditionality the EU has sought to prolong the potential effectiveness of the operation of conditionality as an instrument to induce compliance with political and economic stabilisation and reform programmes. Despite the firmer upfront guarantee of ultimate enlargement, the EU should be wary of drawing out the path to accession through the SAP process. Even though the commitment to membership holds firm, the EU should seek to hold time frames determinate. This would improve the credibility of the SAP.

2. Improved clarity about the Regional Approach of the SAP

Despite the professed primacy of 'good neighbourliness' and the importance of regional integration, the instruments of the SAP have basically been structured around the top-down bilateral country-by-country CEE accession-oriented model and have displayed similar and in some cases even more pronounced shortcomings given the post-conflict situation in the region. The EU has had mixed efficacy in facilitating political and economic regional integration in spite of certain modifications aimed at tackling the needs of stabilisation in the Western Balkans. The overwhelmingly bilateral basis of the SAP - in terms of the SAA agreement negotiations and the annual reporting process, the centralized vertical organisation of the funding instruments, and the drive for EU integration which superseded and in the eyes of the national governments worked against regional cooperation -- have all militated against the furthering of the Regional Approach. If the EU wishes to further the Regional Approach in the Western Balkans, it should take measures to make this more clear and operational in the relations with the SAP governments.

3. Improving attention to minority issues in the SAP

A considerable disparity exists between the understanding of "respect for and protection of minorities" as per the 1993 Copenhagen political criterion and the actual challenges of operationalising this element of EU conditionality in post-conflict settings (in particular the implementation of minority-friendly policies and the building of capacities at the sub-national level). Though the EU's approach to minority rights as one crucial aspect of post-conflict reconciliation has evolved since the inception of SAP in 2000, it still remains rather narrow; policy departures in this area have been markedly focused on refugee return and institutional reconstruction and there has been limited engagement in other important dimensions of minority rights. The application of EU conditionality in the area of minority rights has suffered

from many shortcomings in the CEEC accession process - the inherent fluidity, inconsistency and politicisation of the conditionality and a resulting moving target problem.

The top-down imposition of policies from outside and the primary concentration on preparing for meeting EU-*acquis* related requirements may not be the most appropriate approach to post-war societies where a different set of priorities may deliver more effective outcomes over the long term - including more carefully targeted policies at all levels to develop domestic governance structures, to cultivate conflict management and reconciliation capacities, and to foster domestic and regional ownership. In practice both in terms of policy delivery and implementation mechanisms, the EU has ended up relying on a trickle-down approach to conflict resolution and majority-minority reconciliation based on anticipated peace dividends from economic and social stabilisation with some fragments of more targeted conflict management policies in the area of minority rights protection. A sizeable mismatch persists in the EU between rhetoric, policy instruments and the funding of actual projects facilitating minority protection. Though there is variation among countries, overall less funding has been allocated to the EU's political requirements as compared with that for meeting the Union's socioeconomic criteria, and in the case of reconciliation and minority rights, the main focus has been refugee return and economic reconstruction. In the long term, given the considerable socio-economic and political disparities among different communities in different regions, there is the possibility of future instability and disintegration in certain areas.

The EU should rethink the SAA process in terms of attention to political aspects of post-conflict management in order to encourage regional ownership and facilitate post-conflict reconciliation at the sub-national and local levels.

5.3 The ENP and the Eastern Neighbourhood:

Several tensions have shaped and arguably hindered the operationalisation and efficacy of ENP. These include issues relating to policy fit, internal institutional constraints and the instrument of conditionality per se:

1. Improved policy adaptation

Problematic Fit: A number of the ENP's shortcomings are in part attributable to the fact that as a policy instrument, ENP is an "adaptation of policy from elsewhere", an adjustment of the conditionality-based accession instrument designed for the CEECs and applied to the Eastern neighbourhood without appropriate adaptation of the instrument to the situation on the ground, and also without the ultimate promise of membership.¹⁵² The EU should consider that the situation in the CEECs vis-à-vis the "return to Europe" and the commitment to political and economic transition, as well as the prospect of membership, was fundamentally different than in the countries of the Eastern neighbourhood.

¹⁵² Buscaneanu (2006) has observed the mutual lack of knowledge on the part of the EU and the Moldovan government during the negotiation process over EUMAP - the EU about policy developments in Moldova and the Moldovan government about EU policies, programmes and standards.

2. Greater attention to diversity of ENP countries

The ENP brings together a hugely varied set of countries over a very wide geographical spread in the Middle East, North Africa, Eastern Europe and South Caucasus. These countries have diverse political and economic systems, widely differing interests in terms of their relations with the EU from Ukraine and Moldova, which have clearly expressed their desire for full membership of the European Union, to countries in the Middle East, such as Jordan and Syria, with far from democratic political systems, for which the incentives for partnership through ENP stem on both sides largely from economic and security interests. ENP seeks to contain all these different countries under its overarching umbrella. Even though differentiation is one of the key principles of ENP, the sheer diversity among the countries, which was acknowledged in the initial strategy documents, raises questions about the potential efficacy of the policy instrument.¹⁵³

3. Greater attention to internal institutional factors

The ENP at its conception emerged from two institutional and strategic roots. Though the early initiative to develop such a policy emerged within the institutions of the Council, the first comprehensive proposal of March 2003 was drawn up in the Commission. Its early inception in DG Enlargement was reflected in the replication of many elements of the CEECs' enlargement approach and their intended application to the Eastern neighbourhood. After the appointment of the Barroso Commission, that responsibility for ENP was shifted out of DG Enlargement to DG External Relations. At the same time as the roots of this new policy were emerging in the Commission, work was also advancing in the Council in terms of developing the EU's role as a foreign and security actor. In 2003, the European Security Strategy, drawn up in the offices of the EU's High Representative for the Common Foreign and Security Policy, Javier Solana, was adopted by the Brussels European Council December 2003.¹⁵⁴ Among the key threats facing Europe, the European Security Strategy identified (i) regional conflicts as posing a threat to minorities, fundamental freedoms and human rights and (ii) state failure as contributing to civil conflict and bad governance. Thus, from the outset, there was the potential for tension between the Council-originated security objectives and the Commission-originated transformative economic and political value and institutional alignment ambitions.

The dual origins of the ENP reflect its nature as a potentially contradictory policy instrument - modeled around a policy process which was designed to facilitate the alignment of potential CEE members with EU political and economic institutions and their ultimate accession to full union membership, but then transmogrified into an instrument aimed at fostering stability and security in the broader neighbourhood and even at keeping neighbours at bay. The EU should consider that the lack of attention to institutions dilute the aim of the ENP.

¹⁵³ For example the "Wider Europe – Neighbourhood" strategy document acknowledged "Given these differing starting points and objectives it is clear that a new approach cannot be a one-size fits all policy". Op. cit., 6.

¹⁵⁴ <http://europa.eu/scadplus/leg/en/lvb/r00004.htm> accessed July 26, 2008.

4. The Problematic of ENP Conditionality

Technically, the ENP is organised around a traditional conditionality-based structure - closer integration is conditioned upon clear progress in the implementation of tasks agreed between the Commission and the ENP country, which are enumerated through the individual bilateral Action Plans. The process, as stated above, is modelled on aspects of the CEECs accession process with a benchmarking system as a method for assessing a country's progress in carrying out the actions. However, there is arguably a central difficulty at the heart of ENP and its conditionality-based incentive structure. It may be that the lack of membership prospect on the table undermines from the outset the effective operation of conditionality - the potential rewards for meeting the conditions are simply not attractive enough. The conditionality trade-off is neither attractive enough nor credible enough.

The so-called "constructive ambiguity" of the ENP, which neither rules in nor rules out membership, has been much discussed: debate has focused on whether the at best implicit possibility of membership provides strong enough incentives for the EU's aspirant neighbours such as Ukraine and Moldova to comply with the conditionality, or on the contrary, whether the vague long-term possibility of membership fails to provide a strong enough incentive structure to induce compliance. In other words, whether the trade-off of short-term costs for some long-term broader goals - in the areas of the internal market, free movement of goods, people, services, cooperation in JHA and in post-conflict management without any promise of membership - is enough to induce compliance. Evidence from the Moldovan case itself would suggest that politicians on the whole are not entirely convinced either of the short-term impact of the ENP or of its benefits. As V. Prohntschki stated in a radio interview in 2007 "conditionality light" is "not a sufficient motivational tool for implementation".

Furthermore, the priorities of the Commission and the Eastern neighbours - broadly speaking, internal regulatory and governance reforms, democratization, conflict resolution in exchange for a stake in market internal reform, further integration and liberalisation - may simply not tally with the developmental requisites and political interests of the countries of the Eastern neighbourhood. (Grabbe, 2006) A comparison with the CEECs sheds light on this issue. Broadly speaking, there was reasonably close alignment between the goals of transition and the goals of accession in the case of CEE. This is far from the case in all if but any of the participating ENP countries. Moreover, both because of the lack of membership prospect in certain countries and also irrespective of the lack of membership prospect in others, different countries in the neighbourhood may have a range of different reasons for signing up to the policy which may only be tangentially linked to the priorities and actions laid out in their individual APs. This is where the broader web of domestic, regional and international political, economic and geo-strategic interests comes into play.

Moreover in terms of the actual operationalisation of the conditionality, it is apparent that a number of the problems identified by Hughes, Sasse and Gordon (2004) including power asymmetries, lack of clear benchmarks, lack of clear linkage between progress and rewards, politicised decision-making, shifting targets, etc. have been even more pronounced in the case of the Eastern neighbours. As Barbe and Johannson-Nogues have argued, ENP Action Plans resemble long and chaotic "shopping lists" for reform, containing general priorities and

a long list of “actions”.¹⁵⁵ Despite the rhetoric of partnership and joint ownership, the power asymmetry and dominant position of the EU remains all too apparent. Action plans are replete with commitments for participating countries while EU obligations remain rather few and far between, as in the example of Moldova cited above. Despite the trumpeting of the benchmarking approach as an improvement on the “traditional ‘conditionality’” and the stress placed on the importance of precision and predictability in the Wider Europe Strategy Paper, evidence from the Eastern neighbours casts doubt on its effective application in practice. (Commission, 2003, 16). In the case of Ukraine, for example a report by the Stefan Batory Foundation cites the absence of benchmarking in terms of movement of people as lessening the incentives for Ukraine to “implement Schengen-like migration and border policy”. (Stefan Batory Foundation, date, Enlarged EU and Ukraine, 19). Moreover, Popescu claimed recently there is no clear link between compliance by Moldovan officials and EU rewards. (Popescu, 2007)

Taken together the euphemistically dubbed “constructive ambiguity” over the membership perspective, the institutional tensions within the European Union, and the problems with the actual operationalisation of the conditionality, all militate against compliance. This leads to the following conclusion with regard to the Union’s Eastern neighbourhood partners that where the conditionality structure and its operationalisation is weaker, the domestic context takes on an even greater significance and leads to a rather pessimistic prognosis in terms of the potential efficacy of ENP. In a situation of weak conditionality and overarching importance of the domestic context, compliance will only occur when the costs of such compliance are low - arguably an oxymoron for many aspects of the APs in a region characterised by authoritarian regimes of various hues and relatively low levels of economic development.

5.4 Specific recommendations for each conflict phase

Pre-conflict:

1. Indicators of the process of ethno-mobilization

Ethnic entrepreneurs are likely to (mis)use the history in order to transform cultural diversity in terms of language or religion into ethnic difference. With reference to atrocities committed by the respective “Others” in the past, ethnic entrepreneurs create an us-them dichotomy. In addition, by naming and shaming today’s Others along the lines of past atrocities and former groups, new enemy stereotypes are created. These enemy stereotypes are used then in speeches by party leaders or in the media in order to create a fictitious “security dilemma” which is in reality the manipulation of the people through spreading fear and hate. The political function is to prepare the ground for an appeal to national solidarity which is - by definition - exclusive of all those who are both “Others” in the cultural sense,

¹⁵⁵ Esther Barbe and Elisabeth Johansson-Nogues (2008), “The EU as a modest ‘force for good’: The European Neighbourhood Policy”, 84 *International Affairs*.

but also of those who do not agree with the political program of the ethnic entrepreneurs and are thus branded as “traitors” to the national interest.

Based on such alleged security dilemmas, constitutional and legal claims and reforms may be used to achieve the ethno-nationalist political goals by:

- a. reducing or abolishing instruments of minority protection;
- b. granting too little minority protection too late so that the spiral of conflict escalation could not be stopped;
- c. misusing the kin group in neighboring states for irredentist purposes;
- d. establishing extra-constitutional institutions and territories;
- e. deployment and/or collaboration with para-military forces;
- f. purging of political dissidents against ethno-mobilization from media and state institutions
- g. allowing prominent academics to take the lead in fueling the process of ethnic radicalization in education.
- h. mechanisms of power sharing and constitutional engineering provide useful tools
- i. ancient myths may be instrumentalized in order to legitimize political claims and foster their execution

2. Pay attention to the claim to self-determination

Claims of groups who refuse to be called a “minority” cannot be satisfied with instruments of minority protection in the fields of language rights or religious freedoms or preferential treatment with regard to education or the labor market. At worst, they claim a right to secession, at best they claim to be recognized as a co-nation, i.e. to be granted an equal status in state formation through full and effective equality in all political decision-making processes and/or territorial autonomy if they settle in a territorially concentrated manner.

3. Monitor autonomy arrangements

The degree of autonomy granted to a specific minority group and its given constitutional status is in itself not decisive, whether or not that group develops secessionist desires. The breaking up of a federal system, like for instance the Soviet Union, fuels a new dynamic into the majority-minority relations in the subunits of that system. This phase can create conditions favorable to the outbreak of conflicts. The reduction of \existing forms of cultural autonomy, together with increasingly aggressive tendencies of assimilation, can trigger spirals of violence.

Conflict and Settlement:

1. International mediation needs a clear-cut concept

Following a comparison between BiH and Macedonia, it became obvious that international mediation based on the concept of territorial delimitation along ethnic lines (cantonization, three republics in BiH) proved fatal in BiH. Drawing new boundaries for ethnically defined territories did not resolve the conflict, but rather triggered violence on the ground to achieve a military fait accompli. In stark contrast, international mediation rejected the concept of regional territorial autonomy for Albanians in the Ohrid Agreement and allowed only for the reform of municipal self-government to be streamlined in the implementation phase.

Whether or not the thorny status issue of a regional territory fallen into a crisis is clarified and accepted by all parties should not become a condition for the decision by the International Community to take a strong position in that given conflict.

Parties to conflicts which call for a neutral internationalization of the later tend to follow a hidden agenda. On the ground “internationalization” means for different parties different things - a fact the International Community has to be aware of.

2. Conflict settlement: The need for creative ambiguity

Both the Dayton Agreement and the Ohrid Agreement are drafted in the spirit of “creative ambiguity” combining normative principles and institutions of power-sharing arrangements to give the cease-fire a legal framework for reconstruction on the one hand, and human and minority rights provisions including refugee return and restoration of property on the other. This normative “ambiguity” leaves room for the implementation phase so that parliaments and courts can make use of that ambiguity in balancing individual and group rights according to the specific circumstances of political culture, but also according to the needs of reconstruction and reconciliation in the post-conflict phase.

The International Community has to be aware that post-conflict phases turn easily into pre-conflict phases if the political momentum created by brokering a peace-agreement is not upheld and immediately translated in a lasting implementation of that very agreement.

3. Spill-over effects

The more complex the ethnic map of a given territory, the more it is difficult to predict the development of a conflict once it becomes violent. Various spill-over effects interact and can potentially lead to unexpected shifts of the conflict.

4. The politicization of refugees

Once a conflict has led to waves of refugees, the latter run the risk of becoming instrumentalised in the future political discourse between the territory they fled from and the territory they fled to. Both sides tend to use the maintenance of the status quo of the refugees as arguments for their maximalist positions

5. The 'value added' of EU mediation

Unipolar superpowers such as the US and Russia are expected to follow their own agenda when intervening in a given conflict. The multipolar power of the EU can draw on a more balanced potential to mediate between conflicting parties.

Strong and thereby convincing international mediation requires a listening process followed by a mediator with a unanimous and reliable position. The institutional structure of EU-uropean foreign policy makes such a position difficult. With this background, it is all the more important that European foreign behavior does not lead to an "externalization" of internal divides.

Post-conflict:

1. Free elections and mono-ethnic parties do not guarantee democracy

Early elections after conflict settlement give the warring factions ample room to pursue their conflicting interests and goals and to give them democratic legitimacy. If there is no lustration of institutions and political parties, election campaigns are the perfect playground for renewed ethno-mobilization of the electorate by the old ethnic entrepreneurs. They will mobilize again their clientele with the argument that they are staunch defenders of the respective "vital national interest" instead of focusing on reconstruction and reconciliation in order to create effective institutions. Instead of "representativeness" with regard to socio-economic interests and political accountability through elections, the paradoxical effect of renewed elections with competition for who is the best defender of ethno-national interests will be the democratic legitimation of predatory political elites who enrich themselves in the conditions of a post-war economy. A mono-ethnic party system tends to transform all socio-economic and political interests into a zero-sum game of competing national interests.

2. "Corporate" power sharing arrangements are dysfunctional

Corporate power sharing arrangements with absolute veto power for any of the ethnic groups do not lead to elite co-operation, which is considered an essential prerequisite for functioning institutions in the phase of reconstruction. As MIRICO research has established with regard to the situation in BiH, corporate power sharing mechanisms with the identification of territory and ethnicity in the institutional arrangements and absolute veto powers enable each of the major political parties representing one of the "constituent peoples" to block the political decision-making process and thereby to blackmail all others with regard to necessary political reforms for the creation of functioning institutions or to undertake efforts of reconciliation (in Srebrenica, for example). Instead of a positive consensus for inter-ethnic elite cooperation, a negative elite consensus to divide and rule and to dominate their respective territories cements and re-enforces the ethnic divide.

In contrast, the Ohrid Agreement achieved a balance of individual and group rights based on ethnic representation and a "double majority" requirement instead of absolute veto powers. Combined with strong language rights, this system proved integrative through

effective participation in the central institutions and through administrative decentralisation providing for the necessary “autonomy” of municipal self-government.

3. The centrality of education

With regard to ethnic identity formation and reconciliation, the educational sector remains crucial in order to find the correct balance for the functional complementarity of segregation and integration. Education remains the playground for ongoing ethno-national mobilization so that the post-conflict phase might immediately revert to a pre-conflict phase. It is therefore of utmost importance to stop ethno-mobilization in education and to break the vicious circle of “inter-generational vengeance” (Ignatieff).

4. Breaking the vicious circle through reconciliation

Stability in terms of “governability” cannot simply rest on past injustice without efforts towards reconciliation. Stability or Justice is a false dichotomy. A conceptual approach which reduces reconciliation to co-existence without any efforts to tackle past injustice through mediation, truth commissions or criminal justice, or history teaching based on multi-perspectivity and a positive approach, i.e. focusing on those events where people or groups tried to fight against ethno-mobilization and its effects, will not break the vicious circle of inter-generational vengeance. As long as fear and hatred as consequences of ethno-mobilization and war are not effectively tackled, political stability will remain on feet of clay.

5.5 The EU’s cooperation with international organizations in post-conflict reconstruction

1. Improving the exchange of personnel

The exchange of civilian, military staff and liaison officers between various regional organizations needs to be improved. It is an important aspect of transparency, a practical way to implement cooperation, and should be encouraged at all levels and in a systematic manner. The exchange should be further completed with the possibility to attend “lessons learned” and best practices studies. The practice of exchanging liaison officers should be also extended at Headquarters Level; this would guarantee coherence from the early planning stage to the strategic level during the mission. In addition, the exchange should be followed by increased information sharing and transparency at the working level.

2. Improving communication among the actors

Establishing fundamental communications is the first step in the process of cooperation. Experiences in the Balkans demonstrated how important this aspect is in a conflict-related scenario. In this context, Member States, even before the involvement of international

organizations, should establish a regular process for developing and exchanging measures of effectiveness for the civilian, police and military components.

3. Providing for the effective transition of authority

Issues of liaison officers and information-sharing also concern the transfer of responsibility from one authority to another. The need for an effective operational transition between the forces deployed became extremely important once in the field. In this situation, Member States should encourage international organizations to facilitate the development of guidelines and standard procedures for effective transitions between organizations.

4. Improving training

Training is one of the most important topics that have to be considered in the cooperation. First of all, States are primarily responsible for supplying peace operations with properly trained personnel. Unfortunately, this did not occur in the Balkans. Many times the national military troops or seconded civilian officers were not aware or not interested in understanding what the other actors were doing. Overlapping mandates and uncertain chains of command are elements that affected the whole peace operation.

Soldiers, police, and civilian personnel serve together in complex peace operations, but rarely train together. Training programmes should bring these different actors together to understand each other's tasks and develop necessary skills (such as teamwork and cooperative spirit). In this case, the training should further examine the perspective of all the principal contributors to the peace operation. Multidisciplinary education and training are essential elements in order to achieve this goal. In addition, personnel need to be trained in their skills and in what will be expected of them.

Training must not stop following deployment to a mission. Education and training are areas that can always be improved and require consistent attention and updating. In addition, with a constant stream of new people becoming involved in peace operations and taking on assignments for the first time, education and training are never-ending tasks.

5. Refining the doctrine

An institution's doctrine for peace operations derives from its strategic aims and is highly dependent on the range of tools at its disposal, which vary from organization to organization. To achieve confidence and consistency between contributors to peace operations, a set of guidelines could outline an approach to common activities, laying out the fundamental principles, practices and procedures normally to be followed in meeting the mandates of multifunctional peace operations.

6. Ensuring realistic funding

The actual funding of peace operations is an area where more cooperation and coordination between regional organizations must occur. In fact, as seen in the country-analysis, the establishment of a realistic budget to maintain international missions, operations and institutions set up by international organizations is still a matter of concern.

7. Ensuring a holistic approach of the operation

An international operation must develop a visibly holistic approach; this includes transferring responsibility from the international mission to the local authorities. The transition process must be planned from the very beginning, including rule of law objectives as well.

8. Ensuring partnership with the local population

Partnership with local populations should be developed in parallel with coordination between international actors. Of course, local communities and their leaders need to understand what it is that the international operation is attempting to do. Public media and education strategies could certainly be useful in achieving this goal; however, the media still remains a problematic issue in peace operations. In addition, the local community should have easy access to mechanisms such as an ombudsman in order to allow them to present grievances against the international operation itself in a secure and confidential setting.

5.6 The EU and Minority Rights

Recommendations to member states and EU institutions:

The Member States should

- ⇒ assert more outspokenly the fact that “respect for and protection of minorities” is - as has been underlined by the European Commission and the Council of the Union and as is now prominently laid out in the Treaty of Lisbon - a value common to all the Member States
- ⇒ foresee that all Member States ratify the FCNM which is the most recognised instrument materialising the “respect for and protection of minorities”
- ⇒ recognise that Europe’s diversity is not only about the diversity between the Member States (inter-national diversity) but also about the diversity within single Member States (intra-national diversity) and that the EU as well as the Member States should contribute to the preservation and flowering of both forms of Europe’s cultural, linguistic and ethnic diversity
- ⇒ be aware about and do away with obvious shortcomings in the implementation of the already existing EU-instruments in the area of minority protection, like the Racial Equality Directive
- ⇒ guarantee that special emphasis is given to the protection of minorities in the various reporting activities within the Open Method of Cooperation which is applied in many areas of crucial importance for minorities such as employment, social inclusion, migration and integration
- ⇒ do everything necessary to render the Fundamental Rights Agency - established according to their idea presented at the end of 2003 - a success story which can count on their full support and help. A first step in this context would be to render the “Ad Hoc Working Party on Fundamental rights and citizenship” a permanent working group closely following the Agency’s work

The Council should

- ⇒ make efficient use of the limited constitutional resources allowing the European Union to protect minority identities, cultures and languages thereby contributing to a situation where the European Union builds synergies with the normative work delivered by the Council of Europe in the area of minority protection. The title on culture which (once the Treaty of Lisbon enters into force) will be ruled by qualified majority voting, might be a prime example in this context
- ⇒ be aware that the EU portrays a different interpretation of the principle of equality in the area of governance (OMC, financial programmes, political declarations) than in the

area of government (legislation, case law). This discrepancy could be overcome by agreeing on a more brave use of Article 13 EC which is a “container-provision” providing a valid legislative base also for affirmative action

- ⇒ establish a permanent Council structure dealing with human and minority rights within the Union (COHOM, a Council’s working group, has since 1987 been entrusted with human rights issues in the EU’s foreign relations). Such a step would clearly signal that the Union aims at reducing the internal/external divide in its fundamental rights performance
- ⇒ explore how the installation of the new External Action Service as foreseen by the Treaty of Lisbon could allow for further mainstreaming of the protection of human and minority rights into the EU’s external behaviour. Mainstreaming should, however, not be a substitute for a concentration of know-how; it might prove useful to have in each mission and delegation a civil servant responsible for human and minority rights
- ⇒ realise that the situation of the Roma minority is a challenge for the European Union which requires a solid European reaction. On the basis of the Commission’s staff working document “Community Instruments and Policies for Roma inclusion” (presented in July 2008), the Council should consult together with the Commission as to how to proceed in this respect

The European Commission should

- ⇒ take the proposals of the European Parliament into consideration as to how minority protection can be further promoted with means of EU law (see Moraes resolution, Para. 49). Equally the Commission should reconsider the proposals made in the thematic comment “The protection of minorities in the European Union” as presented by EU Network of Independent Experts on Fundamental Rights (April 2005)
- ⇒ earmark special funds for specific minority related policies such as the promotion of minority languages or the social inclusion of minorities such as the Roma, thereby confirming its appraisal of a substantive reading of equality
- ⇒ initiate an inter-departmental debate on the concepts of affirmative action, positive discrimination and group rights in order to establish a consensus within the Commission on the compatibility and desirability of minority rights regimes within the Common Market, thereby augmenting legal certainty which is currently lacking
- ⇒ make extensive use of the special knowledge of the FRA when dealing with human rights in the context of IAs and brainstorm whether the FRA should be entrusted with a permanent role in this regard

The Fundamental Rights Agency should

- ⇒ underline that it is not only responsible for fighting racism, xenophobia, related intolerance or the integration of migrants but also for fighting any form of discrimination against persons belonging to minorities. This mandate includes providing the EU-institutions and Member States with assistance and expertise relating to the protection of a variety of minorities, including traditional national minorities
- ⇒ emphasise that diversity management belongs as one of its core topics since fundamental rights are crucial for finding a rational balance between the interests of the host society and the interests of immigrants. The Agency has the potential of providing neutral suggestions to the politically-speaking highly sensitive problem of how the integration of immigrants should be managed - an area where neither the Council of Europe nor the OSCE have so far invested major energy
- ⇒ clarify its priorities in a mission statement and therein allocate sufficient emphasis to the protection of new and old minorities alike

6. Appendix

International Instruments for the Protection of National Minorities

The UN-Declaration on the Rights of Persons belonging National or Ethnic, Linguistic and Religious Minorities: http://www.unhchr.ch/html/menu3/b/d_minori.htm

UN-Declaration on the Rights of Indigenous Peoples:
<http://www.iwgia.org/graphics/Synkron-library/Documents/InternationalProcesses/DraftDeclaration/07-09-13ResolutiontextDeclaration.pdf>

The Framework Convention for the Protection of National Minorities (CoE):
<http://conventions.coe.int/Treaty/EN/Treaties/Html/157>

The European Charter for Regional or Minority Languages (CoE):
<http://conventions.coe.int/Treaty/EN/Treaties/Html/148.htm>

Recommendation 43 (1998) on territorial autonomy and national minorities (Congress of Local and Regional Authorities of Europe - Council of Europe):
<http://www.coe.int/congress/>

The Lund Recommendation on the Effective Participation of National Minorities in Public Life:
http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf

Guidelines on the use of Minority Languages in the Broadcast Media
Practical guidance for States in developing policy and law to facilitate minority language use in the broadcast media, in line with internationally agreed standards and drawing on examples of good practice. (Uzbek version is in Cyrillic script.)
http://www.osce.org/documents/hcnm/2003/10/2242_en.pdf

Warsaw guidelines
Recommendations to assist national minority participation in the electoral process, elaborating on the Lund Recommendations.
http://www.osce.org/documents/hcnm/2001/01/240_en.pdf

Oslo Recommendations
Recommendations regarding the linguistic rights of national minorities with explanatory note
http://www.osce.org/documents/hcnm/1998/02/2699_en.pdf

Hague Recommendations
Recommendations on the education rights of national minorities (Uzbek version contains text in both Latin and Cyrillic scripts)
http://www.osce.org/documents/hcnm/1996/10/2700_en.pdf

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http://www.coe.int/T/E/Legal_Affairs/Local_Regional_Democracy/Regional_or_Minority_languages/

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<http://www.unesco.org/most/lnzint.htm#Europe>

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EU-publication: Languages: Europe's asset" on: http://www.europa.eu.int/index_eu.htm

A guide on minority rights advocacy in the EU to empower minority and human rights activists from SEE:

http://www.minorityrights.org/admin/Download/pdf/MRG_Euguide.pdf

The Draft Declaration on Linguistic Rights:

<http://www.unesco.org/most/lnngo11.htm>

All national constitutions (with relevant articles on minority rights):

<http://www.unesco.org/most/>

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