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The European Union's role as a conflict mediator: the cases of the Russo-Georgian War and the Ukrainian Crisis

Supervisor

Ch. Prof. Stéphanie Novak

Assistant supervisor

Ch. Prof. Stefano Petrunaro

Graduand

Francesca Pia Nista
Matriculation number 870245

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A Giulio Regeni

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Abstract

In questa tesi è stato preso in esame il ruolo che l'Unione Europea ha nella mediazione dei conflitti internazionali, partendo dalla definizione di cosa sia la mediazione dei conflitti, definendo il quadro istituzionale in cui l'Unione Europea opera in qualità di mediatore, e infine, analizzando nel particolare i casi del conflitto Russo-Georgiano del 2008 e della crisi Ucraina post-Maidan del 2014.

I due conflitti hanno rappresentato una questione importante negli equilibri geopolitici all'interno del continente europeo, e in particolare in relazione diretta con gli obiettivi della politica estera europea, che si basa sui principi del mantenimento della pace, della prevenzione dei conflitti e del rafforzamento della sicurezza internazionale.

La Georgia e l'Ucraina fanno parte del Partenariato orientale, l'iniziativa di cooperazione multilaterale nell'ambito della politica europea di vicinato, il cui obiettivo è quello di costruire una cooperazione efficace tra l'UE e i suoi vicini orientali in termini politici, socioeconomici e di sicurezza. Il caso georgiano rappresenta il "primo grande caso in cui l'UE ha dovuto sviluppare una vera e propria politica estera, utilizzando strumenti diversi da quelli dell'allargamento" (Lynch, 2008, citato in Whitmann & Wolff, 2009). Il caso dell'Ucraina è da considerare perché il processo di pace non è stato ancora completato e la guerra infuria ancora nel Sud-Est dell'Ucraina nonostante la negoziazione degli accordi di Minsk I e II.

La scelta di questi due casi è stata fatta sulla base di diversi fattori: prima di tutto, l'Ucraina e la Georgia sono entrambi ex Stati sovietici e ora, come già detto, fanno parte della politica di vicinato dell'Unione Europea. Essi rappresentano inevitabilmente una questione geopolitica sia per la Russia che per l'UE. Inoltre, entrambi i Paesi hanno attraversato diverse rivoluzioni, rispettivamente la Rivoluzione delle Rose in Georgia e la Rivoluzione arancione in Ucraina all'inizio degli anni 2000, e la Rivoluzione Maidan nel 2014, guidate da forze indipendenti o filooccidentali, che li hanno guidati nel cammino di "occidentalizzazione" e di maggiore vicinanza all'Unione Europea.

Questo ha inevitabilmente innescato la reazione della Russia, che ha reagito con l'intervento militare in difesa delle minoranze russe in Ossezia del Sud e poi in Crimea. Sia la Georgia che l'Ucraina costituiscono quindi oggi "conflitti congelati" ai confini dell'Europa, vedendo entrambe l'intervento dell'Unione Europea come mediatore.

Entrambe le crisi belliche si sono concluse con negoziati di pace che hanno coinvolto l'Unione Europea e la sua azione diplomatica. In che modo l'UE ha esercitato la sua influenza nel processo negoziale? L'azione dell'UE è risultata efficace? Dove hanno portato gli accordi di pace finali?

Per rispondere a queste domande, il lavoro di tesi e di ricerca è stato diviso secondo la seguente struttura: nel primo capitolo è stato delineato il quadro teorico, volto a creare un background metodologico per l'esame dei due casi, in particolare riguardo la teorizzazione del concetto di mediazione dei conflitti. Seguendo gli approcci classici della teoria (Bercovitch, Diehl e Greig, Zartman, ecc.) si è cercato di dare una definizione di mediazione internazionale, descrivendo prima di tutto i diversi tipi di attori che possono condurre la mediazione, i loro interessi, la questione della neutralità, le strategie utilizzate nel processo. Infine, sono stati presi in esame i diversi criteri di valutazione elaborati da alcuni studiosi della materia, in particolare Sheppard, Bergmann e Niemann, e Böhmelt, per stabilire come il processo di mediazione dei conflitti internazionali può essere valutato.

Per perseguire l'obiettivo di questo lavoro, relativo alle azioni di mediazione di un attore specifico, ovvero l'Unione Europea, nel secondo capitolo è stato delineato il quadro istituzionale dell'Unione Europea, per individuare quali strumenti l'UE ha a disposizione per la mediazione dei conflitti. L'UE ha sviluppato un complesso sistema di strumenti all'interno della propria politica estera: un breve excursus storico tratterà l'evoluzione di questi strumenti attraverso i diversi trattati adottati dall'Unione. L'UE ha infatti visto un'accelerazione nello sviluppo della propria politica estera negli anni successivi alla fine della guerra fredda, quando ha iniziato ad assumere un ruolo più consistente nella politica internazionale e nella risoluzione dei conflitti. È stato infatti negli anni Novanta che l'UE ha effettuato il suo primo tentativo di mediazione internazionale nel contesto delle guerre nei Balcani. I risultati

ottenuti da questa esperienza preliminare non sono stati però dei migliori, tanto che negli anni successivi, a seguito anche dell'allargamento ad Est del 2004, l'UE ha dovuto necessariamente rivedere la propria politica estera, sviluppando dapprima una Strategia di sicurezza globale e, successivamente, rivoluzionando il suo trattato istitutivo attraverso l'adozione del Trattato di Lisbona.

Il lavoro di ricerca prova quindi a dare una risposta alla seguente domanda: dove si inserisce la mediazione nell'agenda della politica estera dell'UE? Al momento, l'Unione Europea non dispone di un quadro specifico e definito per la mediazione internazionale. L'unico documento esplicito incentrato su questo è il "*Concept on Strengthening Mediation and Dialogue Capacities*" del 2009, sviluppato dopo il primo periodo di coinvolgimento dell'Unione Europea nella mediazione dei conflitti all'inizio degli anni 2000. Con la creazione della figura dell'Alto Rappresentante per la Politica estera e del Servizio di Azione esterna Europeo con il Trattato di Lisbona, l'Unione Europea si è quindi dotata di ulteriori strumenti da utilizzare nella propria politica estera; per dare un esempio pratico dell'uso degli strumenti di mediazione e di risoluzione dei conflitti, il dialogo Belgrado-Pristina servirà come tale nell'analisi, insieme al metodo di valutazione dell'efficacia del mediatore elaborato da Bergmann e Niemann. Il dialogo costituisce l'esempio più famoso e conosciuto di mediazione internazionale da parte dell'UE, portato avanti dal 2011 tra il Kosovo e la Serbia dall'Alto Rappresentante per la Politica estera e dal Servizio Europeo per l'Azione Esterna. La strategia principale dell'UE è consistita nel collegare il processo di pace alla prospettiva di adesione all'UE per entrambi gli Stati. L'UE ha sfruttato il suo potenziale e la sua influenza per condurre le parti dell'accordo di Bruxelles, firmato nell'aprile 2013.

Una volta stabilite le basi teoriche per analizzare i processi di mediazione e, in particolare, il background istituzionale attraverso il quale l'UE può esercitare il suo ruolo di mediazione, si è proseguito con l'analisi dei due casi pratici scelti ai fini di perseguire gli obiettivi della tesi: il conflitto Russo-Georgiano dell'agosto del 2008 e la crisi Ucraina iniziata nel 2014. L'Unione Europea considera entrambi i Paesi come appartenenti alla Politica Europea di Vicinato, un programma sviluppato con l'aumento del ruolo e della presenza dell'UE nel continente europeo, volto a stabilire sicurezza, prosperità e democrazia ai suoi

confini. Il sostegno dell'UE ad entrambi i Paesi è iniziato subito dopo la dichiarazione di indipendenza dei Paesi dopo la caduta dell'Unione Sovietica ed è aumentato nel tempo, parallelamente all'aumento del potere normativo dell'UE.

I conflitti hanno visto l'intervento dell'Unione Europea come mediatore internazionale in diverse fasi del suo sviluppo istituzionale. Il conflitto georgiano è scoppiato nel 2008, prima della firma del Trattato di Lisbona, che ha portato diversi cambiamenti nel sistema della politica estera europea. La crisi ucraina ha avuto luogo sei anni dopo. Oltre a questo, l'azione dell'UE nei confronti di entrambe le crisi ha seguito strade diverse, ma è risultata in esiti simili. Sia in Georgia che in Ucraina, l'UE ha dispiegato strumenti diplomatici, civili, politici ed economici per fermare le ostilità e stabilire un dialogo tra le parti.

Gli strumenti della Politica Europea di Sicurezza Comune dell'UE nella mediazione dei conflitti hanno previsto il dispiegamento di rappresentanti speciali dell'UE, missioni civili di monitoraggio, delegazioni dell'UE, ecc. e soprattutto, le azioni diplomatiche dei singoli Stati membri (Francia e Germania in primis),

Gli strumenti politici ed economici fanno invece parte di una politica più ampia che appartiene all'uso del *soft power* da parte dell'UE attraverso la condizionalità. Sia l'Ucraina che la Georgia aspirano a diventare membri dell'Unione e godono del sostegno di quest'ultima nel processo di riforme atto ad allinearsi il più possibile agli standard europei; di fatti entrambe hanno sottoscritto l'Accordo di Associazione, che comprende anche l'accordo di associazione di libero scambio a un piano di azione per la liberalizzazione dei visti.

L'UE esercita di fatti la sua influenza nell'ambito del suo ruolo di potere normativo nei confronti di questi paesi per ottenere un miglior grado di adesione ai valori dell'UE, raggiungendo una "normalizzazione" in termini di stabilità e sicurezza del suo vicinato. Tra le diverse strategie e i diversi approcci, un'attenzione particolare è stata posta sul ruolo dei singoli Stati membri dell'UE nella mediazione dei conflitti; infatti, a volte non è chiaro se sia l'UE nel suo insieme ad agire, o i singoli Stati membri, e se questi agiscano per conto dell'UE o solo sulla base dei propri interessi nazionali.

Entrambi i conflitti sono stati seguiti da conferenze di pace in cui l'UE ha presieduto in qualità di mediatore, ed entrambe le conferenze hanno prodotto accordi di cessate il fuoco e accordi di pace con obiettivi a lungo termine. Gli accordi sono stati analizzati con l'intenzione di comprendere quali azioni da parte dell'UE sono risultate di successo e quali invece no, e in che modo la volontà politica dei singoli stati dell'Unione ha influito sul risultato del processo di mediazione.

Partendo dunque dall'analisi finale degli aspetti dell'azione di mediazione dell'Unione Europea, risultati essere in comune ad entrambi i casi presi in analisi, si è tentato di delineare un quadro più generico, globale e comprensivo della politica di mediazione europea nei conflitti internazionali.

Introduction

The aim of this research is to analyse the role of the European Union as a conflict mediator, in relations to the two conflicts of Georgia in 2008 and in Ukraine in 2014.

The two conflicts represented a major issue in the geopolitical balances within the European Continent, and in particular in direct relation with the scopes of the European foreign policy, which is based on the principles of peacekeeping, conflict prevention and strengthening of the international security. Georgia and Ukraine are part of the Eastern Partnership, the multilateral cooperation initiative within the European Neighbourhood Policy, whose aim is to build effective cooperation between the EU and its Eastern neighbours in political, socio-economic and security terms. The Georgian case represents the “first major instance in which the EU had to develop genuine foreign policy, using tools different from those of enlargement.” (Lynch, 2008, as cited in Whitmann & Wolff, 2009). The Ukraine case is to be considered because the peace process has not been yet completed and war still rages on in south-eastern Ukraine despite the Minsk Agreements have been negotiated.

The choice of these two cases was made on the basis of different factors: first of all, Ukraine and Georgia are both former Soviet State and now, as mentioned before, part of the Neighbourhood Policy of the European Union. They unavoidably represent a geopolitical matter to both Russia and the EU. Moreover, both of the countries went through different revolutions, respectively the Rose Revolution in Georgia and the Orange Revolution in Ukraine in the early 2000s, and the Maidan Revolution in 2014, which were led by independent or pro-Western forces, which guided them through the path of “westernisation” and more closeness to the European Union. This inevitably triggered Russia’s reaction, which reacted quite strongly with military intervention in defense of Russian minorities in South Ossetia and then in Crimea. Both Georgia and Ukraine thus constitute now ‘frozen conflicts’ at the border of Europe, both seeing the intervention of the European Union as a mediator.

Both of the war crisis eventually ended up with peace talks, the Geneva Talks and the Minsk Group, which involved the European Union and its diplomatic action. How did the EU exert influence in the negotiation process? Was the EU action successful? Where did the final Peace Agreements lead to?

To answer these questions, I will conduct my analysis along the following structure: in the first chapter, I will delineate the theoretical framework that will serve create a methodological background for the examination of the two case studies, focusing on the theorisation of the concept of conflict mediation. Following classical approaches to the theory (Bercovitch, Diehl and Greig, Zartman, etc.) I will try to give a definition to mediation, describing first the types of different actors that can conduct mediation, their interests, the question of neutrality, mediator's sources of leverage and the strategies used in the process. Multiparty mediation will be also analysed, as it has become a recent trend in conflict resolution and mediation. Finally, I will gather distinctive evaluation criteria elaborated by different scholars, to establish how the mediation process can be assessed.

To pursue the objective of this work, concerning mediation actions of a specific actor, namely the European Union, an analysis of the EU institutional framework will be drafted in the second chapter to detect which instruments does the EU have at its disposal for conflict mediation. The EU has developed a complex system of foreign policy instruments: a brief historical excursus will trace the evolution of these tools along the different treaties implemented by the Union.

A specific focus will be kept on conflict mediation: where does mediation fit in the EU foreign policy agenda? At the moment, the European Union does not have a specific and defined framework for mediation. The only explicit document focused on this is the "Concept on Strengthening Mediation and Dialogue Capacities" of 2009, developed after the first period of conflict mediation involvement of the European Union in the early 2000s. To give a practical example of the use of mediation and conflict resolution instruments, the Belgrade-Pristina dialogue will serve as such in the analysis, together with the mediator effectiveness evaluation method elaborated by Bergmann and Niemann (2013).

Once I will have established the theoretical basis to analyse mediation processes and, in particular, the institutional background through which the EU can exert its mediation role, I will go on applying this knowledge to the cases chosen for the purpose of this research: the Russo-Georgian War of August 2008, and the Ukrainian Conflict of 2014. From a European point of view, both countries belong to the European Neighbourhood Policy, a programme developed with the increase of EU role and presence in the European Continent, aimed at establishing security, prosperity and democracy at its borders. EU support for both countries started right after the countries declaration of independence after the fall of the Soviet Union and increased with the time in parallel to the increase of the EU role as a normative power. I will analyse how the EU makes use of its Common and Security Foreign Policy and conditionality instruments also in conflict resolution, in relations to the above-mentioned case studies, to achieve a description of a comprehensive framework of the EU approach towards conflict resolution, assessing its strengths and shortcomings.

Among different strategies and approaches, a special attention will be posed on the role of single EU member states in conflict mediation; in fact, sometimes it is not clear whether it is the EU 'as a whole' acting, or single states members, and if these act on behalf of the EU or only on the basis of their own national interests.

At the end of the analysis of the two cases, I will conclude with a brief comparative study highlighting the differences and the similarities in both conflicts, with references to other examples mentioned in the thesis, to finally try to give an assessment of the EU mediator role in the conflicts of Georgia and Ukraine.

Chapter 1: Theoretical Framework

1.1 Introduction

This chapter's aim is to delineate a preliminary theoretical framework that will serve as background for the analysis carried out in the rest of the thesis. The topic of this first part is conflict mediation. The literature in this field is quite vast, and it has developed mostly in the 1980s and 1990s, when conflict mediation became a very common practice, especially after the end of the Cold War (Diehl & Greig, 2012, p. 30). Almost all recent conflicts saw the use of mediation practices to reach an agreement to stop hostilities and to achieve a common position on issues that have generated the conflict. In the following paragraph, I will try to give a definition of mediation, identifying the main actors and their characteristics. It is commonly believed that mediation should be associated with neutrality; however, some authors believe that mediators carry their own interests, not necessarily meaning that their mediation will result as failing. Interests are not sufficient to achieve a successful mediation; to do so, mediators should pursue specific strategies, based on one's leverage, or power. What kind of leverage does a mediator have at its own disposal? What strategies are available? A section on this will follow, taking into consideration additional factors such as conflict context and bargaining structure, essential to understanding the different roles that a mediator can play. Besides the one carried by single third parties, mediation can happen also among multiple third parties, in what is called multiparty meditation. What are the characteristics of it? What advantages or disadvantages does it bring to the mediation process? These questions will be answered in the last part of the chapter. Finally, different types of evaluation of conflict mediation will be analysed, to delineate the major tendencies in this field, in order to pave the way for the next chapters studies.

1.2 Definition of Mediation

To understand what mediation in international conflict is, I will take into consideration definitions given by leading scholars in the context of conflict

resolution and in the intermediary intervention. Mediation is a process of conflict management, implemented by a third party (for instance an individual, a state, an organization, etc.), which is not a direct party to the negotiations of the parties in conflict (Bercovitch, 2009, 343, Princen, 1992, 7). The aim of the third party, or intermediary, is to provide assistance to settle the conflict by finding a solution that the parties cannot find by themselves. Furthermore, Zartman includes in one of his definitions the fact that the settlement must be “consistent with the third-party’s interests” (Zartman, 2008, 155), implying and anticipating that the third party has its own interests¹ in finding a solution to the conflict. According to Diehl and Greig, the key element to mediation is its voluntary nature; in fact, the parties in conflict either seek assistance from a third, or they accept an offer from an outsider (Diehl and Greig, 2012, 2). By accepting third party intervention, the two parties believe that they might gain more by mediation than by acting on their own. Ultimately, mediation differs from other means of conflict settlement, such as peacekeeping, which involves deployment of military forces, or arbitration, which at the contrary is judicial and whose final decision is binding for the parties (Beber, 2012, 400).

1.3 Individuals, states, organizations

The main actors of mediation are third parties who attempt to find a settlement to the conflict. According to Bercovitch, what mediators can do in their efforts depend on who they are, and on their resources and competencies they can carry (Bercovitch, 1992, 10). These parties can be either individual, states or international organizations.

1.3.1 Individuals

Kofi Annan, Nelson Mandela, Desmond Tutu are well-known for their role of mediators in different conflicts. They belong to the category of individual

¹ There may be humanitarian, national, direct, indirect interest behind the choice of becoming a mediator; this will be taken into consideration later.

mediators, that is individuals which do not fulfil an official, representative function. Contrary to the media and popular representation in fact, individuals act on their own behalf, and differ for their capabilities, skills, resources, knowledge, experience. However, there is a distinction that has to be made: formal and informal mediation. Within the former, the individual acts as a private citizen, whose competence, credibility and experience aim at facilitating communication and gaining more understanding of a conflict; within the latter, the mediator is a government representative or a high-level decision-maker, and mediation is a combination of his role and other individuals variables, affecting political outcomes more directly than informal mediation (Bercovitch, 2009, 346). According to Diehl and Greig, individual mediation represents only 3% of all mediation activity during the post-World War II period, with this share remaining unchanged over time (Diehl and Greig, 2012, 70).

1.3.2 States

Most of the mediation activity is carried out by national states, which are largely recognized to be the most significant actors in international politics. In fact, the system of diplomacy and of international law in general has evolved around sovereign states, as some norms and traditions pertain states only. Between various distinctions that can be made to categorize states, here it is relevant the one between small-power states and large-power states, based on their weight and resources available to conduct mediation. According to Bercovitch, these differences are fundamental to mediation success (Bercovitch, 1992, 12).

1.2.1 International Organizations

Besides the traditional division of governmental and non-governmental international organisations, these can be divided according to Bercovitch (1992) into three categories: regional organizations, international organizations, and transnational organizations (Bercovitch, 1992, p. 14). Regional and international organizations are constituted by local or international groups of states and are

‘governmental’ in origin, while transnational ones operate independently of governments, and they experience more flexibility and less inhibition in their policy positions (Bercovitch, 1992, 14). Mediation activity by international organization has peaked after World War II, resulting as 60% of all mediators’ efforts, but recently dropped to 38% during the 1990s. In particular, the United Nations followed the same trend. Besides the UN, both governmental and non-governmental organizations provided conflict mediation: The Organization for African Unity (OAU), the Organization for Security and Cooperation in Europe (OSCE), the Catholic Church, the International Red Cross, and so on. Large regional organizations are successful thanks to their familiarity with the regions in which they are active and when consensus for diplomatic intervention exists among members (Diehl and Greig, 2012, 69).

1.4 The question of neutrality

After identifying the subjects of mediation, it is fundamental to tackle a question regarding the mostly common assumed characteristic of a third-party mediator: neutrality. Do third parties act exclusively as unbiased subjects? Do they carry their own interests in the mediation process? And if so, are biased mediators more effective than unbiased ones? The debate is still open between scholars, but it is an issue that has to be examined in order to analyse the success or the failure of third-party’s intervention.

1.4.1 Definition of neutrality

According to Beber, mediator’s bias is the third party’s interest in conferring an advantage on one side in a dispute; this is the contrary of impartiality, namely an unbiased stance of the mediator toward the disputants during the mediation process. Neutrality refers instead to the relationship between the mediator and the disputants before the starting of mediation itself, implying that there is not any positive or negative relationship between third party and the disputants (Kleiboer, 1996, 369). Additionally, according to Rifkin and Cobb (1991, 152) impartiality is considered a quality of neutrality.

1.4.2 Mediators' interests

Early studies of mediation, which emerged from domestic mediation, were supportive of the idea that the mediator must be neutral in order to succeed in the mediation process. For some scholars (Burton and Dukes, 1980, Miall 1992, Hume, 1994) mediation can be effective if confidence is transmitted to the parties of the conflict; this can happen only if the mediator results as impartial. According to Moore (1986), as cited by Vuković (2015, 11), mediation should be carried by “acceptable, impartial and neutral third party”. Traits like not being tied to any conflict parties or not having stakes in the negotiated outcome can increase the mediator’s credibility (Maoz and Terris 2006, as cited in Elgström, Chaban, Knodt, Müller and Pardo, 2017).

Contrary to this common belief of disinterested mediators, Princen assumes that mediators do carry their own interests and that their relationship with the disputants is crucial for understanding their impact on the dispute. He distinguishes between two kinds of mediators: “principal mediators” and “neutral mediators”. When entering into one dispute, in which the two opposed parties have already showed their own interests within the negotiation process, the third party can choose to enter the dispute for pursuing its direct interests (for example, to claim a territory), becoming thus a “principal party”, or a disputant. In alternative, it may also decide to enter without direct interests in disputed issues, but only because of “indirect interests”, which could be to facilitate or to influence the settlement in order to obtain international security and stability. This is what Princen (1992, 20) calls “principal mediator”. Moreover, principal mediators have means and resources to bring to bargaining. That is the case of the United States in the Falklands/Malvinas islands, in which the US as an intermediary has not interests in the territory of the islands itself but has some concern about stability in the region.

When the third party has no interests at all, either direct or indirect, but simply wants to arrange an agreement between the parts, it becomes a “neutral mediator”. In the Middle East conflict, the Anglican Church acted according to Princen as a neutral mediator, since it had no resources to bargain with Palestine

and Israel and its only interest was the one of peace establishment. At the contrary, the United States had no direct interests in the territory, too, but had strategic interests in the region and in the commitment to the survival of the Jewish state, thus resulting as a “principal mediator”. Princen further suggests that the Anglican Church, acting as a neutral, was well positioned to facilitate communication between the parties thanks to its limited ability to pressure disputants, although it was not in the position of making inducements or threats (Princen, 1992, p. 22). The US’s capacity of communication instead was constrained by the relationship that was established between them and the parties, that is a primary strategic relationship: each party’s action influences the other’s decision to act. In the end, Princen does not consider the former or the latter as the “right” kind of international mediator, because each has its own advantages and disadvantages; both, in their own way can lead to an agreement (Princen, 1992, 23).

While Princen does not consider the aim of “peace establishment” or “conflict resolution” as personal interests of the mediators, thus giving these kinds of mediators the status of “neutrals”, Zartman (2008, 156) affirms that the humanitarian goal of peace is only a legitimization of the mediator’s personal interests; in fact, mediators often try to avoid terms of the accord if they do not fit their interests. Even international organizations, whose *raison d’être* is peace-making, share motives of self-interests, for instance establishing a reputation and appearing as good and successful mediators (Zartman, 2008, 160). This view is also shared by Diehl and Greig, according to which mediators have such important interests at stake, that “without them they would be unlikely to offer mediation in the first place” (Diehl and Greig, 2012, 62). Bercovitch acknowledges that humanitarian interests represent only a small number of cases of mediation, believing that they are normally intertwined with other “lesser altruistic interests” (Bercovitch, 1992, 8).

An even more extreme “alternative view” is represented by the one of Saadia Touval (2003), who believes that mediation is exclusively part of the states’ foreign policy, thus meaning that states are not primarily concerned about the effectiveness of conflict management, but that they subordinate it mainly to their foreign policy objectives. For example, the United States’ intervention in the

Yugoslavian conflict in 1995 was not dictated by a choice of “perfect timing” or “ripeness”² of the conflict, but it derived firstly from the need of the US to impact U.S.-European relations in the framework of a broader foreign policy, and secondly from domestic political needs, being that the time of the U.S. presidential campaign. Two issues arise if we assume this type of view: discrepancy between power of mediators and their goals in their foreign policy, and flexibility. Great powers have a very broad foreign policy with a multitude of interests, which are difficult to coordinate, especially if one considers the large amount of power that bigger states own. This sometimes generates a lack of pursuing a coherent foreign policy and ineffectiveness of great powers states’ mediation. Moreover, if neutral mediators have normally a wide flexibility in accepting possible agreements, with their activity of mediation constrained by their national interests not all the conditions would result acceptable to them. The issues that derives from this situation is that states could eventually decide not to put an end to a conflict only because the agreement does not fit their personal interests (Touval, 2003, p. 94). This concept is related to Vuković’s *bias of outcome*, that refers to third party’s assumptions and agendas about the conflict and which may shape their preferences for the type of outcome. One example is the case of the negotiations after the Bosnian civil war, conducted by U.S. Diplomat Richard Holbrooke: his plan was to create a unified country within existing borders, composed of two entities – this was used as a foundation for successive negotiations, eliminating other options such as partitions, integrations of some regions in other countries, or a complete redrawing of borders (Vuković, 2015, 12). Outcomes that happen to be already set, could be the results of a strong imposed foreign policy.

Mediators can of course be biased also towards one party of the conflict, becoming thus “non impartial” according to the initial Beber’s definition. Third parties can in fact have close personal, political or economic relations with one of the disputants; this might bring several benefits to the conflict. In particular, third party biased towards the less powerful party could erase the power

² Conflict ripeness is a concept expressed by Zartman, according to which mediators decide to enter a conflict to mediate when some conditions are present. The concept will be further elaborated later.

asymmetry between the disputants and obtain a more equitable settlement; mediators biased towards strong parties are still acceptable by weaker parties, because they might influence the favoured party to move towards an agreement that would be unattainable through negotiations without mediation. For instance, the U.S. was largely considered being biased towards Israel in the Arab-Israeli conflict; nevertheless, the Arabs accepted mediation believing that these relations could be used to obtain concessions from Israel. (Touval, 1975, as cited in Vuković, 2015, 13).

This last cost-benefit approach to mediation is the key to understand why in fact disputants accept mediation by biased parties. Why mediators should be accepted as such by disputant parties, if they carry their own interests or are perceived as biased towards one side? Acceptance of mediation is not automatic. According to Zartman, to be acceptable, mediators must be perceived as capable of obtaining an outcome favorable to both sides (Zartman, 2008, 163). This characteristic is defined by Vuković as credibility. Disputants agree to mediation when the prospective of involving a third party in the conflict provides more benefits than continuing hostilities or to remain stuck in a stalemate. This is reflected in Zartman's ripeness theory (Zartman, 2008, 232), which identifies indicators of costs rising of the conflict (such as increasing number of casualties, refugees and internally displaced persons, increasing of financial cost of war, material damage etc.), that lead the parts to recognize that they are in such a painful situation that they urgently need mediation.

In this context, outside parties can employ different measures to reframe the conflict and accentuate the attractiveness of mediation (Vuković, 2015, 16). Besides these basic reasons, generally adversaries in conflict may also prefer third-party intervention in order to deflect the blame if the agreement fails, or because they see mediation as a public expression of their commitment to peaceful means of conflict resolution (Bercovitch, 2009, 346). Understanding neutrality, impartiality and bias it is fundamental to understand also mediation strategies.

1.5 Strategies

Interests are not sufficient for the parties to pursue effective mediation. The abilities of a mediator are based on its strategies and leverage. In the recent literature, Zartman's roles categorization for mediators has been appreciated and shared by many other scholars (Vuković, 2015, Grieg and Diehl 2012, Bercovitch 2009). These models describe the levels of involvement of mediators in the dispute, from lowest to the highest. Before analysing these roles, it is necessary to describe first the "playfield" on which mediation takes action, namely what Princen (1992, 32) calls the bargaining structure.

1.5.1 Bargaining Structure

The notion of bargaining structure incorporates the concepts of bargaining range, reservation value and outcome indeterminacy. First, bargaining range is defined by Princen (1992, 32) as "the set of agreement points that both sides prefer over their no-agreement alternatives", which Fisher and Ury called Best Alternative To Negotiated Agreement (BATNA) (Fisher & Ury, 1981). The no-agreement alternative is called "reservation value", and parties seek to improve it in order to increase their bargaining power. In fact, one part can claim that its alternative to no-agreement is way more favourable than the agreement proposed by its opponent, thus trying to convince the other party in making concession and to shrink the bargaining value in its favour. BATNAs thus help to protect one side from "terms that are too unfavourable and from rejecting terms it would be in your interest to accept." (Fisher & Ury, 1981, p. 51).

Secondly, in bargaining dynamics there is no single solution, and the agreement must be reached through a joint decision between the parties. Since parties do not know each other's preferences, it is difficult to choose which point must be preferred to others, because every move influences the other party's choices and behaviour. This is the second feature of bargaining range, what Princen calls indeterminacy of outcome. Of course, a gap of information is produced between disputants, and this creates a situation of uncertainty. The bargaining structure makes strategic behaviour unavoidable; sometimes it may lead to an agreement

and sometimes it fails. Strategic play with clear moves can help find a common solution, while with persistence of conflicting standards of fairness, will of commitment on different points, emotional reactions to the conflict, a stalemate is highly probable. (Princen, 1992, 34).

1.5.2 Context

How does context affect mediation? What are then the factors that affect the choice of mediators' strategies? According to Bercovitch, the first factor is the intensity of conflict. Indicators of conflict intensity include the level of hostilities, the number of fatalities, the level of anger and intensity of feeling, the type of issue at stakes, etc. When conflict intensity is low, parties prefer not to involve a third party. When the conflict is dangerous and the first goal is to reduce further violence escalation, then mediators may adopt more active forms of intervention (Bercovitch, 2009, 348). The second factor is the type of issue in conflict. Conflicts can be internal or interstate; when in the former case, then issues such as identity, autonomy, and ethnicity require communication strategies to build confidence and trust between the parties. When in the latter, security, resources, and defence require more concrete solutions; a mediator may ask and persuade to concessions on tangible issues. Also, internal characteristics of the parties (political systems, social structures) influence the choice of strategies. Different social systems may be perceived as a threat, while at the contrary parties similar to mediators are more receptive of active mediation. Other factors are previous relationship and experience of the parties, mediator's identity and rank, initiation and timing of mediation intervention, and finally, mediation environment (Bercovitch, 2009, 349).

1.5.3 Mediator's roles

When parties are reluctant to make concessions or even to talk to each other, the mediator can fill the communication gap by acting as a communicator. In this situation, the role is procedural and completely passive: the mediator opens contacts or carries messages between the parties. According to Carnevale (2002,

564), the most common technique of controlling communication in mediation is the caucus, where the third party meet disputants in private to discuss in absence of the other, with the mediator taking subtly the other party's perspective.

The second role is the one of formulator; within the dispute, parties may be not able not only to communicate, but also to elaborate a way out of the conflict. Formulators provide common understanding of the issue or shared notion of justice to obtain an agreement. To do so, mediators as formulators need power (or leverage), thus a greater level of involvement is required. Princen explain better this technique, elaborating the concept of reconfiguration of the bargain structure (Princen, 1992, 37). By rearranging the issue, Princen hints at changing the bargaining type, namely from "distributive" to "integrative" bargaining. Within distributive bargaining resources are limited and therefore there is a zero-sum game, in which one point lost by one side is gained by the other. In integrative bargaining, absolute gains are reached by both sides, through creative exchanges between different issues (Da Conceição-Heldt, 2006, Princen, 1992). The mediator can turn the main issue on which bargaining is stuck into "sub-issues", so that it becomes easier for the parts to identify new, unexpected solutions. (Princen, 1992, 37). Facilitation and formulation result thus as forms of integrative bargaining and problem-solving approaches that third parties can use to solve the impasse of the agreement settlement (Vuković, 2015, 27).

The maximum level of involvement is when the mediator acts a manipulator. It must persuade the parties into believing in the attractiveness of its resolution, adding benefits to the outcome and removing obstacles that may prevent the parties to accept it. This kind of mediation is also defined as "power mediation" (Berdsley, 2009, as cited in Vuković, 2015, 27). Manipulation occurs when creating pressure either by threats or coercive action (sanctions, military deployment) or by providing incentives of different natures (financial or humanitarian aid, development assistance, security guarantees or implementation monitoring) (Zartman, 2008, 166).

Some observation must be made in relations to this classification: first of all, these models are not fixed. Mediators adopt one or more roles, and they can change them during the course of mediation. Secondly, one must not analyse mediation in simple terms of cause and effect model, and it is not to be considered

an exogenous input that can be applied indiscriminately to all disputes (Bercovitch, 1992, 18). In fact, strategies and behaviours of mediators are different not only because actors can change, but because of differences in the context, in the nature of the dispute and in resources available to mediators.

1.5.4 Leverage

The more the mediator is involved in the conflict dispute, the more it needs leverage (or power) to fulfil its commitments. Leverage is based on one's available resources, which, according to Bercovitch (1992, 20, 21), can be divided in six types: reward and coercion ("hard power"), referent, legitimacy, expertise and information resources ("soft power"). Coercion resources are the most discussed and commonly studied, as they include threats and incentives, also known as "carrots and sticks". Coercive power is often associated to powerful mediators and manipulative strategies, and linked with short term success; nevertheless, their long-term effectiveness depends on the mediator's "credibility" to maintain their presence in the implementation period. Examples of carrots and sticks are third party's offer of foreign aid to "sweeten" the terms of potential settlement, or threats of punishment through economic sanctions or military strikes to push parties towards an agreement. During Camp David Accords, the US offered both to Israel and Egypt massive amounts of foreign aid, while also offering security guarantees to Israel. In the Dayton Accords, when reaching a stalemate during negotiations, the US through Holbrooke's figure threatened Serbia to shut down the peace talks and to renew NATO bombing on Serbian forces (Diehl and Greig, 2012, 9).

In addition to "hard power" mediation, which not all international actors are able to perform, third parties may consider softer types of mediation, such as creating a sense of mutual identity with the parties (referent resources). Leverage is also generated by disputant parties' perception of the mediator, according to which the mediator might have a right and an obligation to influence the settlement, or it can be perceived as "superior" in knowledge and ability, thus knowing what the best options for the conflict are (legitimacy and expertise resource). Finally, mediators' last source of leverage is the ability to manage the

amount of information transmitted by the parties (informational resources). This instrument is called by Princen “pool of information”. When mediators meet the parties in private meetings, they acquire information from both sides, keeping the other party privy to it. This information becomes source of bargaining power for the mediator, as it can use it not only to propose attractive outcomes, but also to extract concession or more information.

Individual mediators possess referent, legitimacy and informational resources, therefore using facilitation for communication tools. Institutions and organizations feature legitimacy and expertise resources, with their role being the one of communicators and formulator. States, potentially having all kinds of resources, might result as communicators, facilitators, and manipulators (Bercovitch, 1992, 20, 21).

1.6 How can mediation be evaluated?

With the increasing trend of conflict mediation practices after the end of Cold War, a better understanding of evaluation of these processes became object of studies of different scholars and practitioners. Bercovitch (1992, 2009) elaborates two criteria to shape mediation evaluation based on subjective and objective perceptions of it. Bergmann and Niemann (2013) take into consideration two perspective to evaluate mediator’s effectiveness: internal – the one of the mediators itself – and external – the one of the parties involved in the conflict. On another level, Bohmelt (2010) analyses different levels at which mediation can take place, making use of the Two Track Diplomacy theory.

1.6.1 Classification of evaluation criteria

International mediation is not a uniformed practice: for example, individual mediators prefer communication strategies and are more concerned about the quality of interaction; states acting as mediators aim at a real change in behaviour, rather than at change of interactions. Bercovitch tries to make a categorization dividing criteria in subjective and objective.

Parties and mediators can express their personal perception of the outcome of the mediation efforts. It is a subjective perception, thus not easily demonstrable, but fundamental to understand if the mediation has been successful or not. Actors of the mediation process can feel or express satisfaction with the outcome or the process, or consider the outcome successful when fair, efficient or effective. Bercovitch defines fairness as an “even-handedness of procedure and equitability of outcome”, and citing Sheppard, identifies indicators of fairness such as level of process neutrality, disputant control, equitability, consistency of results and consistency with accepted norms (Sheppard, 1984, as cited in Bercovitch, 2009, 351). However, “perception of fairness” is even more important than any concrete indicator, because the parties who do not perceive the outcome as such are more likely to refuse it or not to implement it. Successfulness is expressed also through satisfaction. Although satisfaction is also a very personal and subjective quality, mediators do not have to give up the attempt of reaching an agreement which will “satisfying” the parties. For a mediation to be successful, it must be also efficient and effective. Effectiveness is achieved through concrete changes in good in the situation, e.g. moving from a violent to non-violent conflict, or reaching a ceasefire. Efficiency refers to the costs, resources and time devoted to conflict management; an agreement cannot be accepted if it has too many high costs and takes too long to be reached. Even if this last indicator may be perceived as superficial, one must bear in mind that when costs outweigh the benefits, the outcome may result and be perceived as unsuccessful.

On the other hand, objective criteria are the ones that can be demonstrated and measured empirically. Concrete examples are abandonment of violence, reduction of fatalities, the opening of a dialogues between parties, or finally the sign of a settlement agreement. Objective criteria offer a valid way of assessment of effectiveness of international mediation. Nevertheless, objective criteria must be considered together with the subjective ones, because effectiveness is measured based goals and objectives of each party (Bercovitch, 2009, 353).

Another classification of criteria to evaluate mediation is the one of Bergmann and Niemann (2013), which focus in particular on evaluation of the European Union effectiveness as a mediator. They consider internal perspective and

external perspective of mediation. The former refers to the perspective of the mediator, the EU in this case, on its goal-attainment; the latter evaluates, as in the case of Bercovitch's objective criteria, the positive impact of the third party's intervention and conflict settlement. Bergmann and Niemann use six different values for defining conflict settlement: full settlement, settlement of major conflict issues, settlement of minor conflict issues, process agreement (namely an agreement for procedural aspects of the conflict management, but no agreement on the substance), ceasefire and ultimately no agreement at all. Goal-attainment can be high, medium or low, based on the capacity of the EU of achieving the pre-fixed aims at goals. When considering goal-attainment as an evaluation tool, there is the risk of overestimating or undervalue the achievements of third parties who have minimum goals or are highly ambitious (Bergmann & Niemann, 2013, p. 4, 5)

Finally, Böhmelt focuses on interactions between mediators to elaborate on an evaluation theory of conflict management. He makes use of the theory of Two-Track Diplomacy, a term coined by Joseph V. Montville, an official of the U.S. State Department, in 1982 (Davidson & Montville, 1982, p. 154). According to this theory, there are two levels of interactions between mediators and disputants. Track one (T1) includes states and official actors. It is an interstate process where communication takes place between official parties, meaning that it works on behalf of the party's authority and power. Operated by states, T1 has greater power and resources, whereas track two (T2) involves unofficial actors of the adversary's parties, such as local groups or organizations, in a more informal interaction. Its goals are developing strategies, influence the public and organizing resources in order to solve the conflict. It can be more subtle and less constrained than T1, since it involves NGOs and back-channel negotiations.

Nan (2005) developed an additional track, the "track one and a half" (T1.5) which refers to a private interaction between official representatives of the disputant parties and a third party who is not representing any political institution (Nan, 2005, p. 167). Böhmelt researches on these kind of mediation classification to identify which of these three tracks can be considered as the most effective in conflict management. He comes to the conclusion that T1 is more likely to come to stable and effective outcome as it entails more powerful and

enforcing mediators; nevertheless, unofficial third parties who participate to the mediation process facilitate pooling of resources, decrease of uncertainty and support at a grassroots level, thus increasing its effectiveness (Böhmelt, 2011, p. 100).

1.7 Multiparty Mediation

So far, we have discussed in general about mediation activity, considering the third party as a single actor, in order to simplify concepts and to create a comprehensive theoretical framework. However, in order to complete this framework, we must take into consideration also the last trends of conflict resolution. In fact, the traditional notion of mediation is the one conducted by one single actor, allowing in many cases the development of trust-worthy relations with the party. Yet, there has been a change tendency in the recent years, as mediation is conducted also by more than one third party. According to Bohmelt (2010), as cited in Grieg and Diehl (2012),

“in multi-party mediation third parties seek to broker an agreement in the conflict through either several uncoordinated efforts by different third parties, a coalition of third parties working together in a common mediation effort, or sequentially in separate mediation efforts over time” (Diehl & Greig, 2012, p. 71)

This phenomenon is also accompanied by another recently developed tendency, namely the proliferation of new actors willing to intervene in conflict to act as mediators, such as governmental and non-governmental organizations, regional organizations, local and individual actors. One example of this tendency is the fact that within the Balkans war in Yugoslavia in the 1990s, 144 different third parties, one after the another, became involved in the mediation effort to reach a valid settlement (Greig and Diehl 2012, 77).

According to Vuković, multiparty mediation is conducted by multiple third parties and it includes sequential, as the one in Yugoslavia, simultaneous and composite involvement. An example of simultaneous multiparty mediation is

Tajikistan in which local NGOs worked together with official diplomatic actions by neighbour states. Composite multiparty negotiation refers instead to bodies that are composed ad hoc for the conflict, such as “contact groups”, created by Western power states (U.S., France, Germany, Great Britain together with Russia) to mediate conflict in the Balkans and in Caucasus (Vuković, 2015, 39).

1.7.1 Characteristics of multiparty mediation

Multiparty mediation has its own advantages and disadvantages. First of all, more than one actor means more resources, and thus an increased level of leverage compared to one single mediator. Mediators gain benefit from their partners’ insights, relationship, credibility, and political balance (Böhmelt, 2011, 106). The decision to cooperate is conscious and planned, therefore multiparty mediation is not coincidental (Vuković, 2015, 46).

Secondly, the costs and political risks of mediation are split between the parties, in particular practical organizational costs and the risks of taking the “responsibility” to succeed in the agreement settlement. Furthermore, biased mediators that can be rejected by the disputant parties are included in a broader group of mediators, in which other mediators biased towards the other side are present, thus balancing the group (Vuković, 2015, 40). On the other hand, there are some sceptical views on multiparty mediation. As observed by Crocker and Hampson, cited by Böhmelt, multiparty mediation can lead to coordination problems, lack of transparency on the allocation of responsibilities, misunderstandings and conflicting interpretations about implementation (Böhmelt, 2011, 107).

1.7.2 Contact groups

To avoid uncoordinated efforts, international actors have developed various formats of mediation; one example is the mediation groups that work with the United Nations. UN mediation activities are conducted and coordinated by the Secretary General and its Special Representatives (SRSG). Third parties who are likeminded to the UN tend to work together in “Group of Friends”, that are

informal groups of state created to support the peace-making activities of the UN. This format has been used in crisis in Haiti, Guatemala, Western Sahara and Georgia. In addition to the Group of Friends, which are selected directly by the UN secretariat, states can also establish ad hoc groups, detached by the institutional framework of the UN. These “Contact Groups” include states from the Security Council, regional actors and states that are able to contribute to the mediation efforts. The first contact group was created in the peace-making process in Namibia in 1977 when the UN was not being successful in the management of the conflict. France, United Kingdom and the United States, together with Germany and Canada formed the Western Contact Group. Despite lacking a mandate from the UN, the contact group pursued goals in line with the UN guiding principles (Vuković, 2015, 65).

1.7.3 Successful mediation?

Böhmelt identifies three variables for determining successful multiparty mediation. He first presents three hypothesis and then conducts an empirical analysis to either confirm or disconfirm them. The first element taken into account is the size of the coalition of mediators. If mediators are considered successful only when they are capable of settling an agreement, then a larger number of mediators, which has a larger amount of leverage than one single mediator, is likely to result more capable of reaching a positive outcome. In fact, a coalition has converging interests and connecting issues that create trust, and usually, it entails high rate of communication, which avoids uncertainty. Nevertheless, Böhmelt suggests that multiple mediators are successful only to a certain extent, because he states that larger groups providing a public good are more difficult and more costly to organize. (Böhmelt, 2011, 109). In fact, organizational costs increase in two ways: first, the larger the group, the more heterogeneity of interest; lack of consensus would make an agreement difficult to be reached. When mediators lack a coherent and unidirectional strategy towards an agreement, disputant parties perceive confusion, which results in ineffectiveness. The European Community tried to prevent war during the dissolution of the Yugoslavian state in 1990 by means of an economic strategy.

However, the EC failed in addressing as one single and coherent actor, because member states had different views on the future of Yugoslavia; some supported the unity of the nations, other to self-determination of the Balkan states. The ambiguity of Western Statements thus caused only doubts on the credibility of the EC as a mediator (Vuković, 2002, 20-21). Second, some actors may participate to the coalition but not contributing to the efforts at all, only obtaining the reputation of “peaceful broker”. To avoid the “free-riding” phenomenon, monitoring and sanctioning should be enabled within the coalition. Böhmelt’s analysis confirms these postulates, and he concludes that in general multi-party mediation is not always more effective than single third-party mediation and finds that the ideal number of mediators would be around three (Böhmelt, 2011, 126).

The second element is the type of relationship between third parties. States in particular are connected by different kinds of ties, and sometimes these ties can be good, when states share previous successful cooperation, and sometimes they may be bad, when they result from relationship of distrust, hostility and war. Böhmelt suggests that when the latter case subsists, it is unlikely that the mediator’s coalition is able to achieve good communication, coordination, and cooperation. Thus, “the more conflicting interactions between states in a mediating coalition, the less effective the mediation attempt.” (Böhmelt, 2011, 111).

The last element is the type of regime of states that act as mediators. Contrary to the first supposition of Böhmelt, findings show that whether a democracy or an autocratic state, the chances of an effective resolution are not driven by this factor. Nevertheless, Böhmelt insist supporting his thesis according to which democracies, which entitles inclusivity, a higher level of transparency and peaceful resolution of conflicts, are more likely to settle a dispute than largely autocratic coalitions.

Given the great amount of leverage and resources of the mediator group, in order to be successful, mediators must face the problem of coordination. According to Vuković, coordination “prescribes a method of synchronized usage of the different leverage and resources [...] in order to create the necessary incentives that would have been unavailable from a single mediator alone.”

(Vuković, 2015, 59). If third parties employ different but synchronized mediation strategies, the parties would perceive them as reliable and credible, diminishing the possibility of stalemate and procrastination in achieving an agreement. Coordination can be achieved through a regulated exchange of information regarding respective efforts and collaborative planning of individual and collective actions. This creates a shared knowledge of the conflict and thus a “coalition memory” that is fundamental especially in sequential mediation when new-entry mediators can learn from previous efforts.

1.8 Conclusion

In this chapter, mediation has been defined as a process of conflict management put in practice by third parties, with the aim of providing assistance in the settling of the conflict. It happens on a voluntary basis, differently for example from peace enforcement, which is binding for the parties. Every mediator is commonly believed to play a neutral role in the process, meaning that it usually does not have any bindings with the parties. Neutrality is also believed by some authors to be connected directly the effectiveness and positive credibility of the mediators; others, at the contrary, state that every mediator carries its own interests within mediation. However, impartiality does not mean always failure: parties can still exert leverage when biased towards one part, as they can be considered essential in brokering agreements between strong and weak disputants. Abilities of mediators depend on its leverage and strategies. Leverage is based on mediator’s resources, which according to Bercovitch (1992) can be divided into reward and coercion, referent, legitimacy, expertise and information resources. An important aspect of mediation literature is the evaluation of the mediation process and outcomes. Bercovitch (1992, 2009) elaborates a subjective and objective perceptions-based mediation, while Bergmann and Niemann (2013) take into consideration the internal and external perspectives of the process. Bohmelt (2010) analyses different levels at which mediation can take place, making use of the Two Track Diplomacy theory, trying to identify which one of these is the most effective. Finally, mediation can take place also across different third parties, for what is called multiparty mediation.

A late tendency has shown an increase in this type of mediation, which can add leverage to the mediators but can also bring new issues such as incoordination, lack of transparency and conflictual implementation.

Chapter 2: The Institutional Framework

2.1 Introduction

According to Wagner (2003), as cited in Vanhoonacker and Pomorska (2017), EU institutions in the field of international relations, in the formal sense, are a reflection of the dominant conceptions among member states regarding the scope and the nature of the European Union's international relations and of the division of tasks between local and European level (Pomorska & Vanhoonacker, 2017, p. 99). They reflect the power and the preferences of member states and the outcome of their bargaining process. Thus, EU institutions manifest also changes of political aspects either within the EU and outside the EU. For example, major internal changes in the international relations field happened with the enlargement process of 2004, with the EU shifting its border towards East³. At the same time, the EU institutional framework responds to an external stimulus. Contrary to the classic definition, according to which institutions are just neutral mechanism that implement orders, institutions can shape and affect the way in which policymakers foster their goals, priorities, and challenges of the EU's foreign policy (Pomorska & Vanhoonacker, 2017, p. 100)

Many of the EU mediation functions are not spelt out clearly between institutions, and often it is not even clear how they relate to each other and how they can contribute to EU's objectives coherently. According to Popescu (2011), the numerous actors involved in the mediation efforts have overlapping roles and mandates, resulting sometimes in undermining coherence and effectiveness of the EU's role as a mediator. For example, in the pre-Lisbon framework, the EU had two senior foreign policy figures, the High Representative for CFSP and a Commissioner for External Relations. The rotating Presidency of the EU Council was also entitled of representing the EU abroad and set the foreign policy agenda. Javier Solana stated at the time of being the EU High Representative that one of the reasons of the difficulty of his job was the "internal organisation and the division of hats". (Popescu, 2010, p. 29)

³ See the following chapter

Indeed, dysfunctionalities manifested especially in EU conflict management policies, with different EU institutions having different prerogatives to act at different stages of the whole conflict management process: it was in fact difficult, if not impossible, to determine where conflict prevention, a prerogative of the Commission, ended, and where crisis management, a prerogative of the Council, began. This generated clashes between the EU Council and the EU Commission, creating rivalry, competition and overlap (Popescu, 2010, p. 29). The European Commission even took the EU Council to the European Court of Justice in matters of competencies in the area of small arms proliferation (Office Journal of the EU, 2005).

Other examples of different employment of EU competencies include the following: the High Representative for the EU Foreign and Security Policy (HRVP), together with ad-hoc facilitators were involved in the Serbia-Kosovo EU-facilitated dialogue, while the Council of the European Union has headed conclusions on the Middle East Peace Process; the European External Action Service (EEAS) division on Conflict Prevention, Peace building and Mediation instruments has deployed inter-institutional fact-finding missions and experts in different countries involved in conflicts (Mali, Myanmar, Madagascar), providing general mediation and dialogue support; the EU Delegations are often involved in high-level political dialogues, and the EU Special Representatives (EUSRs), like the one in South Caucasus, have explicit mandates to conduct and support mediation in conflict-affected regions. The Common Security and Defence Policy (CSDP) supports the implementation of peace agreements, ceasefires, and agreements on border issues, through appointed Monitoring Missions, such as the one in Georgia, with the aim of monitoring the implementation of the Six-point agreement between Georgia and Russia (European Peacebuilding Liaison Office, 2017). These are just a few examples to illustrate how diverse and complicated the instruments of mediation, and in general of the Foreign Policy of the European Union are. In this chapter, EU institutions will be described in their evolution in the context of the European foreign policy first, and then in the more specific framework of conflict mediation. Specifically, the example of the

Belgrade-Pristina dialogue will be taken into analysis, together with the mediator effectiveness evaluation method elaborated by Bergmann and Niemann.

2.2 The historical evolution of the European Union's foreign policy in terms of conflict resolution

Commonly, the EU "principle of peace" is rooted back to the very first treaty of the European Coal and Steel Community (ECSC), and, namely, in the essence of the Community itself. In fact, it is believed that the ECSC was a treaty that aimed at avoiding war between France and Germany, historic rivals, combining their coal and steel production. The following European Economic Community (EEC) aimed at reconstructing the European continent through the establishment of a shared market system, which would have worked as an instrument for ensuring peace in the continent (Stivachtis, Price, & Habegger, 2013).

However, Alan Milward has argued that the European Coal and Steel Community, and the following Euratom, European Community, etc., were established in the framework of a broader policy of reconstruction of the international economy to avoid the final collapse of national states, already damaged by the World War II. According to Milward, the then six European states decided to integrate not for ideological reasons, believing that limiting their own powers would be the right or moral thing to do, but only on the base of a cost-benefits analysis. The European integration consisted thus of mechanism that aimed at rebuilding merely the individual countries as nation-states and to provide the European population with a sense of security.

Thus, the need to reconstruct the economies went alongside with the need of establishing a stable and secure external environment, through which the reconstruction would have flourished. Although this function was early assigned to the North Atlantic Treaty Organization (NATO) in 1949, which linked the US military capability to the protection of Europe, the necessity to assure peaceful relations between the states remained. Together with this, the desire for a united European continent able to embody a new international actor in the post-war world started to grow (Vogler, 2002, p. 3).

More concrete cooperation in the field of European foreign policy started during the 1970s (Pomorska & Vanhoonacker, 2017, p. 98), when the ECC was in the process of acquiring more weight in the global economy (Samadashvili, 2016, p. 17), and consequently experiencing more pressure from the international community on intervening in international affairs, such as the Arab-Israeli war, the oil-crisis, the Vietnam war and so on. Previously an attempt to create the European Defence Community was made in 1952, together with a proposal of a fully integrated European Army; however, it failed due to the lack of approval of the French National Assembly (Bindi, 2009, p. 17), and soon after the idea of a supranational organization for a common defence was abandoned. Nevertheless, in 1970 the Luxembourg Report was adopted, which established a system of foreign policy cooperation on an intergovernmental basis, with no institutional base, operating outside the framework of the European Commission. This system was known as the European Political Cooperation.

The EPC envisaged regular consultations and meetings between national foreign ministers and was formally represented by the presidency of the EU. The country holding the Presidency was in charge of administrative support and on the organization of the meeting in its capital. This method created quite a problem because it prevented the creation of collective institutional memory and did not ensure continuity within the meetings. The EPC proved to be an effective instrument in the first meeting of the Conference of Security and Cooperation in Europe (CSCE) in 1973 when the nine Member States acted jointly in the mediation of the dialogue between the West and the East (Vogler, 2002, p. 174, 175). It was not until 1987 that an EPC Secretariat was established in Brussels, with the Single European Act, which institutionalized the EPC and created a first attempt in the intergovernmental dimension to balance the internal market and the foreign policy dimension (Gebhard, *The Problem of Coherence in the European Union's International Relations*, 2017, p. 126).

In December 1973, EEC foreign ministers approved in Copenhagen the “Declaration on European Identity”, whose objective was to state the EEC’s relations and responsibilities to the rest of the world and its role in world affairs (Bindi, 2009, p. 20, 21). The EPC started to express disagreement with the traditional position of the United States on different policy issues. The EPC

became gradually more critical of Israel and defended the rights of the Palestinians, it did not initially support the US sanctions against Iran after the hostage crisis and finally, it implemented only a part of the sanctions against the USSR and Poland after the declaration of martial law, refusing later to boycott the Olympics of 1980, especially France and Germany (Bindi, 2009, p. 22). A further step was made through the previously mentioned Single European Act, which formalized intergovernmental cooperation in the field of foreign policy and provided a definition of common interest and joint actions between the states who were part of the European Community.

However, it was not until the 1990s, after the end of the Cold War, that the European Union began to address the issue of security like never before, progressively becoming an active part in conflict mediation and resolution. (Pomorska & Vanhoonacker, 2017, p. 98). The disengagement of US military troops from Europe and the comeback of insecurity and instability in the EU periphery (in the Balkans, Caucasus, Ukraine, but also North Africa) resulted in new major security challenges for the European Union. In fact, on the one hand, with the fall of the Berlin Wall and the end of Cold War, the “dawn of peace of Europe” relegated the old continent to the margins of international concern for security, with the United States shifting their interests towards Asia, the Gulf, and the Middle East. On the other hand, the European Union was ready to start strengthening its influence on the outside; therefore, with the achievement of peace within the EC/EU borders and with the sped-up enlargement process of the 1980’s, the common policy aims shifted inevitably towards a more autonomous foreign and defence policy (Howorth, 2017, p. 347, 348).

Milward’s aforementioned theory on European integration as a consequence of a need of security and stability for national states has been also applied when explaining the enlargements in the EC/EU. According to Milward’s followers, in fact, countries at Central, Southern and Eastern Europe went also through the national state crisis after the fall of the Berlin Wall, facing lack of confidence by

the side of the population. Hence, European Integration was seen as the only way to reconsider the national state and make it less obsolete⁴.

It is in this context that shortcomings of the EPC emerged and needed to be addressed in order to create a more robust foreign policy system. This happened finally with the creation of the Common Foreign and Security Policy (CFSP) in the framework of the Treaty on European Union (TEU), or more simply, the Treaty of Maastricht, which entered into force on 1 November 1993.

The CFSP differently from its economic counterpart, the Common Commercial Policy, resulted to be highly institutionalized and with a complex process of consultation and cooperation of the Member States. Formally, the EPC was replaced by the CFSP and became the second pillar of the new European Union. Its objectives were “to safeguard the common values, fundamental interests and independence of the European Union, to preserve peace and strengthen international security, [...] to promote international cooperation” (TUE, Title V, J.1). Member states should have also informed and consulted themselves and define common positions ensuring that their national policies were conformed to it. (TUE, Title V, J.2).

In 1992, before the implementation of the Treaty, the Lisbon Report created the so-called Lisbon goals which defined the geographical areas of interest of the EU’s foreign policy: central and eastern Europe, the Balkans, the Maghreb, and the Middle East, and so on. Between 1993 and 1995, under the CFSP were conducted eight joint actions, in the context of elections monitoring mission in Russia and South Africa, and in enhancing peace process in Eastern Europe and the Middle East (Bindi, 2009, p. 28). The TEU openly referred to “the eventual framing of common defence policy, which might in time lead to a common defence” (Vogler, 2002, p. 181). According to Vogler, the CSFP presented two main points of weakness: lack of coordination between policy formulation and implementation, and lack of visibility of the EU as an actor in global politics. He states that the CFSP has proved to be a little more effective and that these

⁴ European Culture and Politics, University of Groningen, Retrieved from: <https://www.futurelearn.com/courses/european-culture/0/steps/23524>

inefficiencies brought to further discussions and negotiation towards a more coordinated approach to foreign policy (Vogler, 2002, p. 182).

The Amsterdam Treaty of 1999 revised substantially some aspects of the CFSP, first of all appointing the new figure of the High Representative for the CSFP, that would have worked as a new “troika” together with the foreign ministry of the country of the EU Presidency and a senior representative from the European Commission. Furthermore, the EU gained access to the so-called “Petersberg Tasks” approved in 1992 by the WEU, which envisaged ‘humanitarian and rescue tasks, peacekeeping, and tasks of combat forces in crisis management’ (Petersberg Declaration, 1992, 6). This is considered to be an important move forward, especially in times of resurgences of regional conflicts threatening the European borders, after the civil war in former Yugoslavia, ended in 1995, and with oncoming conflict in Kosovo in 1999 (Koivula, 2016, p. 54).

2.3 “Europe’s finest hour”: the Balkans experience

According to Rodt and Wolff, the experience of the European Union in the Balkans region is an important aspect to discuss in the context of the EU’s potential global role as a conflict manager. The experience and the attempts of EU mediation strategy in the Balkans after the disintegration of Yugoslavia of 1992 and in the Kosovo war of 1999 resulted being a very little success, and much more of a failure; NATO ultimately ‘rescued’ the EU after it had shown inadequacy in using the tools of conflict management and resolution that it had at its disposal (Wolff & Rodt, *EU conflict management in Bosnia and Herzegovina and Macedonia*, 2012, p. 138). However, the experience in the Balkans guided the EU through a growing process. The EU became a more coherent and effective actor in political and economic stabilization in the region, contributing moreover to humanitarian aid and assistance in post-war reconstruction (Wolff & Rodt, *EU conflict management in Bosnia and Herzegovina and Macedonia*, 2012, p. 140). The Yugoslav civil war consisted of the first test of the CFSP, and it would have determined its potential credibility when the EU would have resulted as an effective conflict manager actor (Dover, 2005).

The conflict fell under the provisions of the CFSP because it was in an area geographically proximate to the EU and which might have political, economic and security implications for it. The first approach of the EU to the conflict was one of neutrality and containment policy. In fact, the Council of Ministers persuaded all the ethnic groups to avoid reciprocal aggressions and, following the principle of state sovereignty, to respect the internal borders of Yugoslavia⁵. However, the public opinion, civil society, and the international community started to put pressure on the EU for intervening, as violence was escalating, and containment strategies failed.

The response of the EU to erupting of violence in Slovenia, Croatia, and Bosnia, consisted of interrupting financial aids to the region and sending the Foreign Minister troika representatives to negotiate⁶. In July 1991, the Troika pressed for a ceasefire, the acceptance of Mesic as a Yugoslav president, and the freezing of the Croatian and Slovenian declarations of independence for the following three months. With the Brioni Agreement, the ceasefire between Belgrade and Slovenia was made possible, but the EU could only send observers to monitor it and report violations (European Community Monitoring Mission, ECMM).

In September 1991, a Peace negotiation table was established in the Hague under the auspices of the European Union⁷. The first objectives of the Conference of Peace to be reached were the establishment of a ceasefire and thus the creation of conditions for continuing the Conferences.

Mediation was based on an approach of persuasion and deterrence, a strategy known as "carrot and stick": the European Community had instruments such as the International Recognition of independent republics, economic sanctions and humanitarian aid. The European Community threatened the People's Army and Serbia with the Recognition of the Republics and the application of sanctions if

⁵ Declaration on Yugoslavia, European Political Cooperation Extraordinary Ministerial Meeting, Brussels, 27 August 1999.

⁶ The "International Conference on the Former Yugoslavia" was held in the Hague by the Dutch Presidency, with the goal of setting a ceasefire. Three working groups were set, on three topics: constitutional future of Yugoslavia, question of minorities, economic relations between the Republics. The legal aspects of the conflict would be settled by an Arbitration Commission (Faucompret, 2001, p. 11)

⁷ Paul L. Montgomery, *Yugoslavs Joust at Peace Meeting*, , The New York Times, Sept. 8, 1991 (Last access 28 June 2020, 9:45: <https://www.nytimes.com/1991/09/08/world/yugoslavs-joust-at-peace-meeting.html>)

⁸ UN Security Council, Debate, S/PV.3009, 25 September 1991

they did not seriously cooperate in the negotiations for the ceasefire and the political agreement: if the mediation was successful, the Community offered instead to unblock in the immediate future a huge flow of humanitarian aid.

Lord Carrington took the initiative on 18 October to present a European Plan for the peaceful settlement of disputes: faced with the persistence of hostilities, the European Community could not only mediate but had to try to impose a comprehensive settlement. However, the plan was not accepted by the Serbian President, and when Milošević tried to negotiate and obtained favourable conditions in the plan, the other republics drew back. The EC reached thus a *stalemate* in the negotiation process.

With the Peace negotiation's rounds failing, the events took an unexpected turn when in December 1991 the EU recognized Slovenian and Croatian independence (with specific conditions to be provided). This move was taken contrary to the advice of the EU chief negotiator Lord Carrington itself, and it was dictated by the internal political interests and foreign policies of the member states.

France, holding a historical alliance with Serbia, was in favour of the Yugoslavian state's integrity; Italy supported this view, while Germany, traditionally close to Croatia, because of the presence of many Croatian in the country, supported movements towards independence of states⁹.

This created naturally a problem of consensus and coherence within the European Union, and consequently, a problem of credibility. The Serbian side of the conflict, headed by Milošević, questioned the EU's credibility when the embargoes were lifted on Slovenia, Croatia, and Macedonia, but not on Serbia; as a consequence, the Serbian delegation left the negotiations table. The effectiveness of the CSFP was "hindered by the prevalence and salience of member governments' core interests." (Dover, 2005, p. 310). France was in favour of the WEU intervention (Gow, 1997), while the Netherlands, holding the Presidency, strongly believed in the power of peace conferences; other states supported the intervention of the UN in sight of a ceasefire, and finally, the UK

⁹ European Community, Foreign Affairs Council of 15/16 December 1991

was completely against the use of force, following the experience of Ireland (Faucompret, 2001, p. 10).

Unable to reach agreement on sending a European intervention force, the EEC Member States called on the UN Security Council to intervene in November 1991. Germany and France called for the Resolution 721 after overcoming the opposition of the Soviet Union and China, they did not intend until then to involve the United Nations because they considered the current crisis in Croatia to be an internal affair of a sovereign state.

The Resolution instructed Cyrus Vance, former US Secretary of State, who was appointed Special Representative of the UN Secretary-General for Yugoslavia at the beginning of October, to mediate between the parties with a view to achieving a cease-fire allowing the immediate deployment of a peace-keeping mission.

Although the EU's inconsistency was a cause of its structural deficiencies, what the EU was lacking at the time was political will to act (Glaurdić, 2011, p. 312). German Chancellor Helmut Kohl wanted to act quickly on Slovenia and Croatia given the affinity between these countries and German-speaking Europe, whilst France, fearing the extension of German influence and better disposed towards the Serbs, preferred to maintain some degree of Yugoslav unity; this view was shared by Spain, dealing with Basque and Catalan insurrections, and the UK, concerned on Northern Ireland (Gerbet, 2016, p. 2).

The actions undertaken by the EU were mainly economic, consisting of sanctions and embargo imposed and lifted to the Balkans country¹⁰. The EU sent through the United Nations (UN) troops to Croatia, Bosnia and Macedonia, assuming that the international military presence would mitigate the aggressive nationalists attack; however, the troops were entitled only of "self-defence" actions, thus not providing them the possibilities of reaching "the conditions for peace and security required for the negotiation", as it was stated in the Security Council Resolution 374 of February 1992 (Wolff & Rodt, EU conflict management in Bosnia and Herzegovina and Macedonia, 2012, p. 139).

According to Dover, the EU was unable to formulate a military response because of three main reasons: first, the member states did not manage to

¹⁰ European Council of Luxembourg, June 1991

overcome their respective historical bonds to Yugoslavian countries; second, they had difficulties in implementing the operational details of the CFSP; and thirdly, the US resulted as a more experienced actor in the settling of conflicts (Dover, 2005, p. 314).

The principal foreign policy tools at EU's disposal were economic incentives and penalties. EU lacked concrete military power and the details of the CFSP were still being negotiated, and in Yugoslavia there was no other competent foreign policy actor who was able to deploy such resources. The member states were more cohesive when making decisions in the field of economic foreign policy, presumably because of the long European Economic Community tradition. Governments and institutions had high expectations on the EU economic intervention in Bosnia, believing that it would have had a strong impact on the crisis. Nevertheless, analysis from Bellamy and Herring, as cited in Dover, suggest that the EU's attempt to solve the crisis only by economic means was already a precursor of the failing strategy of diplomatic engagements (Dover, 2005, p. 306, 307).

After a change of the US Presidency (Bill Clinton succeeded H. W. Bush in January 1993), the new US President supported the creation of the Contact Group of Five (US, UK, France, Germany and Russia), in order to replace the EU in the conflict mediation. However, neither the Contact Group was able to reach a univocal view and decision over the conflict. First of all, Russia was defending Serbia on the account of the fight against the West and NATO; the rest of the countries had different opinions on the kind of intervention – militarily or not – that the situation required. When the violence of the Serbian military forces escalated, culminating in the Srebrenica massacre in July 1995, in which 7000 Muslim men and boys were brutally executed, all NATO countries (but Greece) voted the bombing of Bosnian Serb military positions (Faucompret, 2001, p. 15).

On 21 November 1995 the Dayton Peace Agreement was signed. Bosnia and Herzegovina, Croatia and Serbia engaged “fully respect the sovereign equality of one another, settle disputes by peaceful means, and refrain from any action, by threat or use of force or otherwise, against the territorial integrity or political independence of Bosnia and Herzegovina or any other State.” (Article 1, The

General Framework Agreement for Peace in Bosnia and Herzegovina, OSCE, 1995).

According to Bindi (2009), Dover (2005), Wivel (2005) and others, EU's strategy was a failure, because it did not manage to put an end to the conflict or to de-escalate the violence, failing in its role as a security actor even in the EU region. As stated by Wolff and Rodt though, the EU 'grew up' after this experience, gradually becoming more coherent and responsive in the framework of post-war assistance in the Balkans (Wolff & Rodt, EU conflict management in Bosnia and Herzegovina and Macedonia, 2012, p. 140).

The Kosovo war did not go substantially differently. The involvement of the EU in the region began in September 1992, with the establishment of monitoring missions in collaboration with the OSCE, in order to report violations of human rights standard and escalation of ethnic tension. The European Community Monitoring Mission (ECMM) continued pursuing this objective, and in 1998, after that the situation in Kosovo had been declared "unacceptable" and sanctions had been imposed on investments in Serbia, a new mission, the Kosovo Diplomatic Observer Mission, was set up on behalf of the Contact Group, the OSCE and the EU (Bátora, Osland, & Peter, 2017). Until that moment the EU acted principally as a civilian actor. According to Javier Solana, first High Representative of CFSP, Kosovo crisis "played a fundamental role in the creation of the European Security and Defence Policy"¹¹. The conflict acted as a catalyst in the development of EU's international security role, although at the same time it confirmed the EU incapability in acting as a conflict manager (Shepherd, 2009, p. 513).

The continuing concern on EU's lack of military power intensified during the conflict in Kosovo in December 1998 brought the French and the British leaderships to meet in St. Malo on the 3rd and 4th December 1998, to agree on the need of the European Union for a more autonomous decision making in terms of international security, which could be achieved only through the use of "credible

¹¹ Javier Solana at the conference on "National interests and European Foreign policy", Berlin, 7 Oct., 2008, as cited in Shepherd (2009)

military forces”¹². Tony Blair, Britain’s prime minister, joined France’s President Jacques Chirac in agreeing on saying that:

“The European Union needs to be in a position to play its full role on the international stage. This means making a reality of the Treaty of Amsterdam, which will provide the essential basis for action by the Union. It will be important to achieve full and rapid implementation of the Amsterdam provisions on CFSP. This includes the responsibility of the European Council to decide on the progressive framing of a common defense policy in the framework of CFSP. The Council must be able to take decisions on an intergovernmental basis, covering the whole range of activity set out in Title V of the Treaty of European Union.¹³”

Given the intergovernmental nature of the decisions to be made in the field of military and defence policy, the St Malo Summit resulted of course as an initiative started by the French and the British Prime Ministers, in the framework of the European Union policy.

Later, in June 1999, at the Cologne European Council, the EU replaced the WEU implementing the Petersberg Tasks. The European Security and Defence Policy (ESDP) was born (Shepherd, 2009, p. 519).

However, the problem of consensus reoccurred in this occasion, as the French, the German and the British leaderships did not share a uniform view on the possible solution to the conflict. The French leadership was in favour first of diplomatic intervention and then, paradoxically, in favour of military intervention¹⁴; the British leadership was oriented towards a conflictual approach while the German leadership wished to pursue a political solution (Debiel, 1999). Despite the brokered ceasefire of October 1998, atrocities were committed on both sides, 350 000 people fled their homes, the Rambouillet peace talks failed; it was in this context that NATO launched the operation through which, in 78 days of bombing, managed to force the agreement between Milošević and the

¹² Franco–British St. Malo Declaration (4 December 1998)

¹³ Ibid., Article 1

¹⁴ *Unpredictable French back NATO war*, The Irish Times, May 20, 1999 (Last access on 28 June 2020 10:50 <https://www.irishtimes.com/opinion/unpredictable-french-back-nato-war-1.186797>)

special envoys Martti Ahtisaari, Finnish President, and Victor Tjernomyrdin, Russian special envoy (Malici, 2008).

The Kosovo crisis emphasised the fact that the EU was missing the element of credible threat in the framework of conflict management (Shepherd, 2009, p. 516). Nonetheless, it ensured the implementation of civilian crisis management actions, outlining four priority areas to be covered: police, rule of law, civilian administration and civil protection.

At the Helsinki European Council in December 1999, it was agreed on a new mechanism within the Helsinki Headline Goal, which envisaged that by 2003 the EU would have been able to deploy 60 000 troops in sixty days and for a minimum of one year. With the Helsinki Headline Goal, non-military crisis management mechanisms were established, in parallel with the military ones (Petrov, 2011, p. 61). The Goal is an illustration of how conflict management was the principal rationale for CSDP (Shepherd, 2012, p. 38).

To ensure that the EU would have effectively administrated the new security and defence tasks, the Council Secretariat General was expanded, and interim politico-military structures were created. The new structures, the re-formed directorates, the high representative, the Committee for Civilian Aspects of Crisis Management, the Crisis Response Coordination Team were at the base of the new conflict prevention and crisis management mechanism of the EU (Petrov, 2011, p. 62).

In the earlies 2000s, the EU deployed civil protection experts, and this improved the ESDP conflict management role. This role was confirmed with the following EULEX mission of 2008, after the Kosovo declaration of independence. The EULEX mission envisaged the strengthening of local institutions through advice, training, monitoring and performing substitution missions (Shepherd, 'A milestone in the history of the EU': Kosovo and the ELTs international role, 2009, p. 520) and it fell under the scope of the ESDP in the context of civilian crisis management operations.

2.3 The Lisbon Treaty

An important step in the institutional evolution of the European Union Foreign Policy has been the signing of the Treaty of Lisbon. On 1 December 2009, the Treaty of Lisbon entered into force, conferring legal personality to the European Union, appointing a new High Representative of the Union for Foreign Affairs and Security Policy and creating the European External Action Service, changing the ESDP into the Common Security Defence Policy (CSDP). The main consequence of the new legal status of the EU lies in the fact that the EU has now the ability to conclude international agreements in the field of CFSP and in the CSDP without any legal uncertainty. Moreover, CFSP and CSDP remain separated from other areas of EU external relations; they are included in the TEU, while the others are governed by the TFEU. However, the nature of the decision-making process in these areas remains intergovernmental. (Wouters, Bijlmakers, & Meuwissen, 2012, p. 7).

The Lisbon treaty inaugurates the new position of a permanent President of the European Council, avoiding the lack of continuity generated by a rotating six-months system. He/she plays a very important role in the formulation and implementation of aspects of CFSP, as the Council represents the highest and the central decision-making body in CFSP. Nevertheless, the role of the President of the Council might have overlapping tasks with one of the HR and the President of the Commission in terms of external representation of the EU. Thanks to good relations between these actors, that imply a clear internal definition of responsibilities, the problem of tensions is avoided; what might be a concerning issue is the one of creating an efficient and credible military actorness of the EU (Wouters, Bijlmakers, & Meuwissen, 2012, p. 16).

Another important position renewed in the Lisbon Treaty is the office of the High Representative of the Union for Foreign Affairs and Security Policy, who becomes also vice president of the European Commission (HRVP), a sign of the acceptance that with the enlarged EU, the rotating system in which each state providing different directions had become no longer possible (Pomorska & Vanhoonacker, 2017, p. 111). The HR acts in accordance with the mandate of the EU Council and is responsible for the harmonization of EU's external action between the Commission and the Council itself. With this mandate, the Lisbon Treaty incorporates the former 'troika', consisting of the High Representative of

the CFSP, the Commissioner for External Relations and the Foreign Minister of the country of the Presidency, into one position. Critics were raised against this three-hatted nature, as the HRVP sometimes is in an 'impossible position' serving the Commission and the Council and heading the EEAS (Pomorska & Vanhoonacker, 2017).

To support the work of the HRVP, the European External Actions service was established with the entry into force of the TEU in 2010. It serves as the 'diplomatic service' of the European Union and consists of officials from the Council, Commission and diplomatic services of member states. Under its direct authority lies the Crisis Management and Planning Directorate (CMPD), the Civilian Planning and Conduct Capability (CPCC) and the Military Staff (EUMS). An important part of the EEAS consists of the EU Delegations, operating in 130 countries around the world, representing the European Union abroad and providing information to the central headquarters. Additionally, another legal tool in the area of security and defence is the Permanent and Structured Cooperation (PESCO), whose aim is to develop defence capabilities at disposal for EU military operations.

The objective of the CSDP remains to provide the Union with civilian and military capabilities for conflict prevention and crisis management, thus contributing to the maintenance of international peace and security, in accordance with the United Nations Charter (Article 42 TEU).

To facilitate the achievement of these objectives, the Treaty introduces a set of rules that should facilitate cooperation between Member States and the European institutions in the field of security and defence. The first novelty concerns the extension of the so-called "Petersberg tasks", i.e. a series of actions that the EU is called upon to carry out outside its borders through the use of civil and military capabilities. Developed by the Western European Union (WEU) in 1992 and attributed to the EU for the first time by the Treaty of Amsterdam, they originally comprised humanitarian and rescue missions, peacekeeping activities, missions of combat units in crisis management, including peace-enforcement missions (Petersberg Declaration, WEU, 1992). The Treaty of Lisbon adds joint disarmament actions, military advice and assistance missions, conflict prevention missions, stabilisation operations at the end of conflicts

(peacebuilding). According to Herrberg, this was the first milestone in the field of crisis management of the EU (Herrberg, 2012, p. 15).

By analysing the range of tasks introduced by the Treaty, it is possible to outline some indications on the change in the perception of security threats in Europe and the evolution of the EU crisis management methods (Blanke & Mangiameli, 2006, p. 876). The EU started paying more attention to security threats from weak states and non-state actors, with an emphasis on disarmament, military advice and assistance, and support to third countries in the fight against terrorism. This has already resulted at the operational level in a growing readiness for disarmament, demobilisation and reintegration of ex-combatants, security sector reform, monitoring and advice to crisis or conflict-affected states. The shift from traditional peacekeeping and peace-enforcement tasks to conflict prevention and post-conflict stabilisation is also another important point to take into account for the analysis of mediation actions of the EU (Pomorska & Vanhoonacker, 2017, p. 109-111).

In June 2001, the European Council endorsed the EU programme for the Prevention of Violent Conflicts, called the Gothenburg Programme, developing the concept of civilian crisis management raised in the Feira Council in 2000, making ample reference to the importance of mediation and dialogue activities. In the programme, conflict prevention is defined as it follows:

“Conflict prevention calls for a co-operative approach to facilitate peaceful solutions to disputes and implies addressing the root-causes of conflicts. It is an important element of all aspects of the external relations of the European Union. The development of ESDP has, since the outset, been intended to strengthen the EU's capacity for action in the crucial field of conflict prevention.” (EU Council, 2001)

This concept referred to all non-military instruments or policies dedicated to crisis management. Since 2003 until 2016, the EU was involved in no fewer than 36 crisis management missions. Civilian crisis management has become the dominant focus of CSDP, and this combination of military and civilian operations has also brought to the shift of character of the CSDP itself (Howorth, 2017, p.

349). The first CSDP operation, following the 1999 Declaration of Intent, was launched on 18 March 2003, in the then former Yugoslav Republic of Macedonia (now North Macedonia) taking over from the NATO operation "Allied Harmony". Operation "Concordia" disposed of NATO resources and was successfully completed in a short time so that a few months later it was replaced by a smaller police mission: EUPOL Proxima. In addition to North Macedonia, the EU launched the EUFOR Althea mission, which took over from NATO's SFOR mission in December 2004, to help maintain a safe and secure environment in Bosnia and Herzegovina, which is still ongoing as of November 2007. Between May and September 2003, Operation Artemis began in the Democratic Republic of Congo following UN Security Council Resolution 1484. This defined the "framework nation" system that would be used in future deployments. The EU returned to Congo in 2006 with EUFOR RD Congo in support of the UN mission in the Democratic Republic of Congo during elections in the country. It ended in 2006. EU missions outside the Balkans and beyond the Democratic Republic of Congo took place in Georgia, Indonesia, Sudan, Palestine and Ukraine-Moldova. The Integrated Rule of Law Strengthening Mission in Iraq (EUJUST Lex) is currently underway and a police mission to Afghanistan (EUPOL Afghanistan) was launched in June 2007. Missions to Chad and the Central African Republic together with the UN were also planned for 2008 (EU websites).

The first case of mediation *stricto sensu* was the one between the Albanian and Macedonian factions in the FYROM in 2001. The EU, represented by the HR Javier Solana and former Defence Minister of France, François Léotard, together with the US and with the help of NATO and OSCE, managed to settle the Ohrid Agreement through power mediation, thanks to EU financial support and the possibility of using NATO forces.

A second case is represented by the settlement that was reached thanks to the actions of former President of Poland, Alexander Kwasiewski together with Javier Solana. The EU played a major role also in the Middle East Process, the Ache Peace Process in Indonesia, and in the Georgian Russian Peace Plan negotiations after the war with Russia in August 2008, which will be analysed later as a case study.

2.4 Legal Basis of EU Peace Mediation

The EU has no official policy for peace mediation. Nevertheless, the Lisbon Treaty encompasses, according to Blockmans (2014), the legal obligation of the EU for contributing to peace and security, and in this framework, we can try to individuate a sort of legal basis of mediation *per se*.

The first reference is Article 3(5) TEU:

“The EU [...] shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.” (TEU, 3,5)

The second is Article 21(1) TEU, that develops the scopes and the methodology, linking them also to the United Nations' principles:

“The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.” (TEU, 21(1))

And the third, Article 21(2)c TEU states that the EU should seek a ‘high degree of cooperation in international relations in order to:

“...preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;” (TEU, 21(2)c)

These legal references are considered to be provisions that encourage the Union to act as a global peacemaker (Blockmans, Peacemaking: can the EU meet expectations?, 2014, p. 13,14).

Finally, The Lisbon Treaty clarified the values on which the EU and its foreign policy must operate. The European Union passed to have a larger set of tools and instruments in the field of external affairs, foreign and security policy. This could have provided for a new start for European involvement in international peace-making. (Padskocimaite, 2010). The EU created also the EEAS' Division for Conflict Prevention, Peacebuilding and Mediation Instruments (SECPOL2), consist of 13 to 15 staff members since its creation in 2009, many with specialist knowledge of peacebuilding and/or experience in conflict-affected regions.

Among the other instruments, the EC's Directorate-General for International Cooperation and Development (DG DEVCO), the EU's development agency, also has specialists on security, crisis management and fragility in various units. Finally, the EP has established a new service working on mediation to channel the efforts of MEPs and to help ensure that it works within the overall comprehensive approach (Coppieters, 2016).

2.4.1 The Concept on Strengthening EU Mediation and Dialogue Capabilities

Previous to the Lisbon Treaty, the first and most consistent attempt to promote a proper EU mediation instrument can be dated in 2009, at the time of the European Council under the Swedish Presidency, which proposed the *Concept on Strengthening EU Mediation and Dialogue Capabilities*. Within the follow-up actions taken on the behalf of the project, a task office within the EEAS was later established in 2011 to enhance the use of mediation. The team's goal was to make mediation instruments the first response tool for external conflicts. The Concept fell under the European Security Strategy¹⁵ (Brandenburg, 2017, p. 1000) and it is

¹⁵ In December 2003, the European Security Strategy (ESS) was approved in Brussels, affirming that multilateral cooperation within Europe and abroad must be imperative, in order to counter new dangers and exploit new opportunities; it further identified Europe's key threats, such as terrorism, proliferation of weapons of mass destruction, regional conflict, failed states, and organized crime (Bindi, 2009). It

the first EU document that officially deals with the EU's role as a mediator in international conflicts; it does not make any reference to a specific policy field of the CFSP or external relations policies, ensuring its cross-sectoral nature (Bergmann, Haastrup, Niemann, & Whitman, 2018, p. 163, 164).

The *Concept* is a useful instrument to analyse the European Union's approach to mediation, as it recalls the EU role of global promoter of peace, democracy, human rights and sustainable development, and as a supporter and facilitator of dialogue processes (European Council, 2009, p. 1). It includes also a definition of mediation:

“Mediation is a way of assisting negotiations between conflict parties and transforming conflicts with the support of an acceptable third party. The general goal of mediation is to enable parties in conflict to reach agreements they find satisfactory and are willing to implement. The specific goals depend on the nature of the conflict and the expectations of the parties and the mediator.” (European Council, 2009, p. 2-3)

According to Brandenburg (2017), this definition presents three elements that differentiate it from the traditional definition of mediation already examined in the previous chapter (Bercovitch, Touval and Zartman's definitions). First of all, the EU takes into account the mediator's expectations as a factor determining the achievement of the goal of the mediation actions. It thus recognizes the interests' dimension of the mediator, in this case of itself, the EU, considering mediation as part of the whole foreign policy dimension. Second, instead of identifying mediation strategies, it distinguishes between three tools - mediation, facilitation and dialogue - even though it affirms that the lines between them are often not well defined, as conflict prevention and peace processes may be used at different steps and in a different order. Thirdly, the *Concept* considers within the practices

sought to achieve a more capable and credible role for the European Union. Regional conflicts represent one of the key issues, as they can have a strong impact on European interests and security both by destroying human lives, infrastructures, by threatening minorities, fundamental freedoms and human rights. Spreading good governance, rule of law, supporting reforms in economic and political system, dealing with corruption are considered to be by the EU as the best way to increase European security: “the best protection for the EU's security is a world of well-governed democratic states” (Stivachtis, Price, & Habegger, 2013, p. 10).

of mediation also the ones that support other mediators, broadening even more the field of the subject in question (Brandenburg, 2017, p. 995).

Davis (2014) defines EU mediation in relations to the outside world as it follows:

“Intervention(s) in the multi-layered environment in a process of peacebuilding or crisis management by an intermediary representing the EU, or intermediaries supported by the EU, who actively support the conflict parties in settling their conflict or resolving their differences without resorting to physical force or invoking arbitration; by negotiating an agreement which is mutually acceptable to the parties and in line with relevant national or international law, standards or norms.” (Davis, 2014, p. 38)

First of all, the word “multi-layered” envisages all the levels in which the EU acts as a mediator; secondly, the EU can be represented by an intermediary (one or more member states) and thus does not need to appear ‘physically’ as a whole as a mediator (namely this was the case of France Presidency for the negotiation rounds for the ceasefire between Georgia and Russia in 2008); and thirdly, the EU can act as a mediator simply by supporting the intermediary. The support action is clearly envisaged also in the Concept:

“Supporting mediation: The EU can facilitate effective mediation processes led by other actors through capacity building, training, logistical support and the provision of expertise to mediators and conflict parties. This support needs to be well co-ordinated with all actors involved in order to avoid duplication of efforts and fully draw on EU comparative advantages.” (European Council, 2009, p. 6)

Besides support actions, the EU plays an active role in mediation through promotion, leverage and funding. The EU paints itself as a ‘credible promoter’ of dialogue and mediation, strong of its experience as a peace project and its engagement for human rights and the rule of law. Leveraging is possible through EU’s political weight and financial resources; in addition, it can support follow-

up of mediation processes' outcomes through 'the full range of civilian and military crisis management instruments' together with policies in the field of trade, development and crisis response. Finally, the EU can finance formal, informal and grassroots mediation (European Council, 2009, p. 6). The two most relevant instruments for financing are the Instrument for Stability (IfS) and the African Peace Facility (APF). Within the IfS, the Policy Advice and Mediation Facility enable the funding of activities of a specific crisis.

The Concept conceives the EU engagement in mediation as driven by altruistic matters, i.e. 'its commitments to peace, democracy, human rights and sustainable developments', depriving the EU of any interest in undertaking mediation in general or in specific outcomes (Davis, p. 69). However, the concept contains also references to risk assessment of engaging in certain kind of mediation processes that could threaten EU credibility: 'Mediation between conflict parties carries political risks. In order to safeguard its credibility, the EU needs to assess these risks carefully.' (EU Council, 2009, p.7). This confirms the theory that mediators indeed carry their interests in the process of mediation, and the EU is not an exception. Despite being committed to the international principle of peace, the EU will have to safeguard its 'credibility': what is the definition of credibility here, however, is not specified in the Concept for mediation. (Davis, 2014, p. 69, 70)

Unfortunately, the Concept, despite being the main and only official instrument for framing mediation, it is still not well known among the EU officials themselves, therefore there is still much confusion about the EU mediation policies even within the EEAS (ECDPM, 2012). Yet, the EU has developed diverse mediation and dialogue activities within the framework of the five mentioned areas of the Concept. It is legitimate thus to put into questions the quality and the impact of the engagement of the EU and whether the potential added value is being sufficiently exploited.

2.4.2 Other mediation instruments

EU mediation actors encompass the High Representative of the Union for Foreign Affairs and Security Policy, the European Commission, the European Union Special Representatives, ESDP missions and European Commission

delegations. Within the EEAS' Directorate for Security and Policy and Conflict Prevention there is the Division for Conflict Prevention, Peace-building and Mediation Instruments, which could provide a valid support to the actions of the main actors such as the HR and the EUSRs in the preparation of negotiations, training on conflict and peaceful resolutions, using the IfS. The Division collaborates with the Commission's Foreign Policy Instruments DG and DG Development Cooperation' security policy unit, but at the same time competencies and responsibilities are not yet well defined (Blockmans, 2014, p. 424, 425). The EUSRs are entrusted by the Commission in acting as mediators, "empowered to adopt a firm position in the situation covered by their mandate" (European Commission, 2001, p. 24).

According to Davis (2014), the EUSRs are key actors in EU diplomacy actions and have strengthened noticeably EU's coherence and coordination in engaging in conflicts (Davis, 2014, p. 98). EUSRs are financed by the CSFP budget line of the European Commission but are appointed by the EU council; they are considered to be a 'source of contention' between the HRVP and the Member States (Fouéré, 2013, p. 1). Within their mandates from 2007 to 2013, the term "mediate" appears only once in relation to the mandate in support of the African Union, despite the EU, at the time of their adoption, did not have any unit, task force, or support team dedicated to mediation (Davis, 2014, p. 99). In the 2016 EU Global Strategy for Foreign and Security Policy, the EUSRs are named in relations to expanding the EU's capacities in 'preventive diplomacy and mediation', and are considered to be integral part of the goal of deepening EU efforts to strengthening the EU's peace-building role (Fouéré, 2016, p. 8). In their mandate, European Special Representatives cover countries with specific situations, such as ongoing conflicts, post-conflict environments, and last but not least, *frozen conflicts*, in which the conflict is not yet resolved but it is not violent. The mandates vary from 'contributing to the settlement of conflicts' to 'confidence-building measures between parties', to 'advising, facilitating political processes'; despite being appointed after the 2009 Concept on Mediation, it is clear that the EU uses different languages for describing mediation activities, especially in the case of EU Special Representatives (Davis, 2014, p. 103). Of course, European Union Special Representatives can be accompanied in their

mandate by other actors, such as the High Representative for Foreign Policy and Vice President (HRVP), e.g. in the case Kosovo in which the High Representative for Foreign Policy and Robert Cooper have facilitated the dialogue and the European Union Special Representative was deployed to assist its implementation; or together with the EU Presidency, as in the case of the Georgia-Russia conflict in which President Sarkozy mediated the ceasefire, and successively a European Union Special Representative, Peter Semneby, was appointed to support confidence building initiatives with Armenia, Azerbaijan and Georgia, but not to work on the conflict with Russia (Davis, 2014, p. 105). At the moment, the European Special Representative for Georgia¹⁶ and South Caucasus, Toivo Klaar, has been appointed with the mandate to “prevent conflicts in the region, to contribute to a peaceful settlement of conflicts in the region, including the crisis in Georgia and the Nagorno-Karabakh conflict [...]” (European External Action Service, 2019).

CSDP missions can also play active roles in mediation. They usually are deployed with mediation mandates when they are accompanying European Union Special Representatives, such as in Congo (“EUPOL RD Congo”) and in Georgia (European Union Monitoring Mission, EUMM). The European Union Monitoring Mission in Georgia includes in its mandate the monitoring activity in regard to the implementation of the Six-point Agreement and the support to formal dispute-resolution mechanisms related to security issues. In addition, mediation was included in the mandate of the head of the Aceh Monitoring Mission in Indonesia; analogously, the leadership of EU Police Mission in Bosnia and Herzegovina was often engaged in informal, high-level dispute resolution (Gourlay, 2013, p. 2). However, the nature of many EU deployments has been the one of capacity-building, rather than conflict management and mediation itself (Shelest, 2016, p. 476).

Conflict Mediation is finally also mentioned in the 2016 European Global Strategy. In the European Global Strategy, presented by the High Representative for Foreign Policy Federica Mogherini, the EU emphasizes its engagement in

¹⁶ The function of the EUSR for Georgia and South Caucasus will be further examined in the next chapters.

peacebuilding across different dimensions: security, economy, governance, gender, etc. To do so, it would engage in a multi-dimensional, multi-phased, multi-lateral approach towards conflicts, through the implementation of different conflict prevention, management and resolution instruments. Mediation is included among the 'preventive measures' to avoid breaking out of conflicts, 'by mobilising EU Delegations and Special Representatives, and deepening partnership with civil society', and to 'foster inclusive governance' at all levels (EEAS, European Global Strategy, 2016, p. 30).

2.5 The Belgrade-Pristina Dialogue

The first case of 'consolidated involvement in resolving regional conflicts' (Visoka & Doyle, *Neo-Functional Peace: The European Union Way of Resolving Conflicts*, 2016) and for some the 'single most resounding success for EU diplomacy' (Blockmans, *Peacemaking: can the EU meet expectations?*, 2014) is the Belgrade-Pristina Dialogue, a high-level round of talks conducted between the state authorities of Serbia and Kosovo and mediated by the European Union, initially through the figure of Sir Robert Cooper as special advisor to HR Catherine Ashton, and later, by Catherine Ashton herself. On the Kosovar side, the delegation was headed by Deputy Prime Minister Edita Tahiri, while the Serbian delegation was led by the Political Director of the Ministry of Foreign Affairs, Boris Stefanovic (Bergmann & Niemann, *The European Union as an Effective Mediator in Peace Negotiations? Conceptual Framework and Plausibility Probe*, 2013, p. 11).

According to Bergmann and Niemann, the negotiation process of the Belgrade-Pristina dialogue can be divided into two major phases: the first, from March 2011 to February 2012 and the second from October 2012 until the signing of the Brussels Agreement in April 2013 (Bergmann & Niemann, *The European Union as an Effective Mediator in Peace Negotiations? Conceptual Framework and Plausibility Probe*, 2013, p. 11). Between the two phases, the dialogue process stalled for eight months, in which the Serbian general, local and presidential elections took place. The dialogue was based on informal dining meetings, a format that helped to ease the strong tension between the two sides. In addition,

the pressure was released also thanks to the gradual and slower approach of Catherine Ashton, made of written agreements drafted only after a round of dinners (Bátora, Osland, & Peter, 2017, p. 24).

At the end of the first rounds, the EU managed to achieve two principal accords, namely the “Integrated border management agreement” and the “Asterisk Agreement”. The former established management points along the Kosovar-Serbian border, with the EU committing for implementation by funding the facilities; the latter, retires the UNMIK from the official position of representation for Kosovo, leaving space to the new-born set of institutions. Essentially, the first phase revolved around technical issues in the area of regional cooperation, freedom of movement and the rule of law, that the EU considered as preconditions to access EU integration (Visoka, 2017, p. 191). The second part of the negotiations rounds focused mainly on the status and situation of Northern Kosovo, assuming a more political character compared to the first phase. The less sensitive matters were mostly implemented, but the controversial parts of the agreement were stalling. Northern Kosovo was the most important; Serbia claimed an autonomous region in northern Kosovo, as it was mostly inhabited by Serbians (Bieber, 2015, p. 305). In December 2012, the joint border management agreement was implemented, and the respective liaison officers were sent to the other’s side capital; however, while Kosovo assigned a former ambassador, Serbia appointed a junior official without a diplomatic background. In January, a fund aimed at promoting the development of Northern Kosovo municipalities was created, financed by customs paid at administrative crossroads a multi-ethnic police unit for protecting cultural heritage was established.

In April 2013, a final agreement was signed by the parties: the “First Agreement of Principles Governing the Normalisation of Relations”. It comprised fifteen points, the majority of which referred to settling issues in Northern Kosovo. In brief, the agreement recognizes and establishes the four Serb municipalities and the presence of the Serb-controlled North Kosovo police within the legal police framework of Kosovo.

2.5.1 Assessment

Bergmann and Niemann (2015) have redesigned the established framework for conceptualising EU effectiveness in mediation, elaborated by Ginsberg (2001), Laatikainen and Smith (2006), Groenleer and van Schaik (2007), Thomasw (2012). They set two criteria: internal and external. The former is the goal-attainment, which identifies how successfully the EU has achieved its prefixed goals. The latter is conflict-settlement, i.e. the observable change in the behaviours of the conflict parts, either during or at the end of the mediation process. Bergmann and Niemann propose six different values to practically assess these two dimensions. On the level of the dependent variable of conflict settlement: full settlement, settlement of major conflict issues, settlement of minor conflict issues process agreement (that establishes procedural matters), ceasefire, and no agreement. On the level of independent variable of goal attainment, the distinction is between high, medium or low degree of effectiveness.

Following traditional definitions of leverage already mentioned in the first chapter, Bergmann and Niemann state that a minimum level of leverage is necessary for mediator effectiveness, because “without the possession of any resources/instruments, the exertion of influence on the conflicting parties is very unlikely” (Bergmann & Niemann, 2015, p. 692) and that thus the more resources, the more the leverage, the more the EU would result successfully. Referring to different kinds of strategies, manipulation is assumed to be the most effective approach to mediation, based on existing literature (Bercovitch, 2009). Coherence, in the context of EU, it is defined as the degree of coordination and agreement between member states’ policies and EU institutions, in particular the ones involved in mediation, namely the European Commission, EU Council, HRVP, EUSRs. The ability of the EU in mediating conflict is defined hence by the degree of coherence, generated by the support of member states to common policy towards the conflict. The last criteria mentioned by the authors is the conflict context. Within this notion fall the internal cohesiveness of conflict parties, namely their internal power structure; spoilers, i.e. other actors that are

against the achievement of an agreement of peace; and timing (or “conflict ripeness”).

2.5.2 Leverage

Leverage can be defined as resources and instruments carried by the mediator (the EU in this case) into the negotiations to reach an agreement between the parties. Bergmann and Niemann analysed the resources that the EU had at its disposal during the dialogue process. In the context of the Belgrade-Pristina dialogue, the major source of leverage for the EU was the offer of the prospect of EU membership to both countries. Serbia and Kosovo’s aspiration is to enter the EU; this justifies the strong political will of both sides to stay committed to the dialogue process (Bergmann & Niemann, *The European Union as an Effective Mediator in Peace Negotiations? Conceptual Framework and Plausibility Probe*, 2013, p. 18). While Serbia was offered the status of candidate to the EU, Kosovo’s path towards EU membership was hindered by the problem of Kosovo status, is not officially recognized by all member states. Nevertheless, the green light for starting negotiations for the Stabilisation and Association Agreement was given in 2012 by a study made by the European Commission, which leads finally in the signing and implementation of it in October 2015 (EU Council, 2015)¹⁷.

2.5.3 Mediation Strategies

Following Bercovich’s classification of mediation strategies, facilitation, formulation and manipulation, Bergmann and Niemann (2013) argue that EU main strategy in the Belgrade-Pristina Dialogue consisted in a mix of formulation and manipulation. As stated in the previous paragraph, the most important source of leverage for EU was conditionality for EU membership. Thus, by linking the dialogue to this, the EU created an important incentive structure for the parties to make concessions. Right after the IBM and Kosovo regional cooperation agreements in December 2011 in fact, the EU granted Serbia the

¹⁷ EU Council, Press-Release of 27 June 2015, Retrieved from: <https://www.consilium.europa.eu/it/press/press-releases/2015/10/27/kosovo-eu-stabilisation-association-agreement/>

status of EU membership candidacy. The feasibility for the SAA negotiations with Kosovo was stated the same day when the negotiation dialogue started again in October 2012. Furthermore, conditionality was possible also thanks to the inter-institutional work within the EU: the HRVP asked the parties for compromises in exchange for lobbying to the Council and the Commission (Visoka, 2017, p. 189). Visoka (2017) argues that the EU has considered the first rounds of talk as “technical” to hide their actual political nature, in order to avoid protests from civil society and facilitate the process of negotiations (Visoka, 2017, p. 191); this too, can be categorized as a “manipulation strategy”. Within their interviews, Bergmann and Niemann concluded that the EU was “purposely drawing on its leverage to move parties to compromise’ (Bergmann & Niemann, *The European Union as an Effective Mediator in Peace Negotiations? Conceptual Framework and Plausibility Probe*, 2013, p. 20).

In addition, the EU played an important role as a formulator for the structure of the talks: it set the negotiation agenda and stated the neutral status of it. Parties could flexibly shape the content of discussions, without derailing the process towards the risk of stalemate (Visoka, 2017, p. 188). Also, Catherine Ashton presented a list of topics to discuss during her ‘mandate’ of the mediator. Besides the structuring role, the EU offered financial assistance for implementation and its expertise in the agreement recognizing university diplomas (Bergmann & Niemann, *The European Union as an Effective Mediator in Peace Negotiations? Conceptual Framework and Plausibility Probe*, 2013, p. 20). According to Visoka (2017), the EU acted in its interests: to resolve one of the most sensitive conflict of the decade and to remove obstacles to advance EU influence and integration in the region; to be internationally recognised as capable to solve external affairs. (Visoka, 2017, p. 190, 191).

It is worth noticing the ambiguity of the word “normalisation”. In fact, contrary to EU tradition of using meticulous definition within its policy agreements, the word “normalisation” in this context has to be defined by the local actors themselves, based thus on their perceptions of “normal state” (Bátora, Osland, & Peter, 2017, p. 25). This can be considered, to some extent, being a strategy of the EU, in order not to threaten the achievement of other broader goals, namely improving lives of people, bringing the parties closer to the EU and move them

forward in their relations (Bergmann & Niemann, *The European Union as an Effective Mediator in Peace Negotiations? Conceptual Framework and Plausibility Probe*, 2013). More broadly, Bieber referred to this strategy as 'creative ambiguity'. In fact, the Agreement does not specify Kosovo legal status, the parties are always named simply as 'sides' and there is no specification on the management of the Association/Community of Serb municipalities.

In addition, the process maintained for all the duration of negotiations its nature of secrecy. Only the final Brussels Agreement was published; the whole process was not publicised by the EU, and it was carried out by a small team within the EEAS, with no involvement of EU diplomats in Kosovo. The top-down approach was preferred, leaving outside the negotiation process local actors and public opinion. Although providing information about the content, the process and the outcomes of peace processes can sometimes harm the negotiation process, it is essential to keep a certain level of transparency to ensure the preservation of the general interest and public support of the agreement, which is vital for an effective implementation. Civil society, local actors, affected communities (especially the Kosovo Serbs) were not included nor consulted during the negotiations aimed at reaching an agreement whose primary intention was 'normalisation of everyday life'. Paradoxically, the interested parties, thus Kosovo citizens, remained excluded, with their need, interests, and perspectives; this indeed influenced the popularity of the process, causing lack of awareness, mistrust, local legitimacy and finally lack of support for implementation (Visoka, 2017, p. 204, 205, 206).

Although these strategies served as a facilitation for the acceptance of the agreements by both parties, they weakened the effect in the implementation. The parties accepted fictional decisions, interpreted in a different and personal way, which made the implementation of the agreements slow and irregular (Bieber, 2015, p. 308). Additional causes of the weak implementation process can be found in the design of the negotiation process, built on ambiguity and lack of coherence and consistency in EU policies towards the dialogue, and in context features, such as the political (un)willingness of the parties (Bieber, 2015, p. 313).

2.5.4 Coherence

Bergmann and Niemann claimed that the EU showed a medium level of coherence in the mediation efforts towards Serbia and Kosovo. After the declaration of independence of Kosovo in 2008, 23 EU member states recognised the new-born state, while five did not. Thus, the EU itself resulted in not being coherent towards the question; the EU members declared to be supportive of the Belgrade-Pristina dialogue process but at the same time were not univocal on the official recognition of one of the parties' legitimacy. This inevitably threatened the process of negotiations concerning conditionality, as the EU was not perceived as credible, and hence, the credibility and effectiveness of the mediator. However, internally the dialogue process received support by the EU Council and EU Foreign ministers, that regularly visited the region to encourage commit of both parties; EU members state managed to find a common European position for the region's stabilization, despite different opinions on Kosovo's independence (Plänitz, 2018, p. 86).

2.5.5 Context

The two main elements of external context which have contributed to mediation effectiveness are timing and the United States support. First of all, according to Bergmann and Niemann, the EU intervened at the right time for mediation, after the parliamentary elections in Kosovo in December 2010, to avoid the 'politicization' of the dialogue process during the electoral campaign. Nevertheless, politicization came later after Serbia's elections in spring 2012. More broadly, according to Plänitz (2018), the EU came after that other attempts of mediation had been taken place between Kosovo and Serbia. The Athisaari Plan, the result of the negotiations led by the UN, brought to a Constitution for Kosovo, but it was rejected by the Serbian parliament in 2007. Soon after, Kosovo declared its independence in 2008. Serbia opposed the declaration and sought legal advice from the International Court of Justice, which stated that Kosovo independence declaration was not against international law. Excluding violence and having exhausted all the juridical avenues, it seemed that both of the

countries reached a Mutual Hurting Stalemate¹⁸ (Plänitz, 2018, p. 80, 81) in the context of an 'uneasy status quo' (Bieber, 2015, p. 290). The second element regarding the context is U.S. intervention. The US Secretary of state Hillary Clinton supported Catherine Ashton's actions in the dialogue and put pressure for restarting the negotiations. Indeed, US intention was to transfer responsibility for fixing the Balkans' situation to Europe, but at the same time, they aimed at consolidating Kosovo's statehood.

Nationalist parties' opposition and spoilers¹⁹ at the contrary did not make the things easy. Problems arose when nationalist parties of both countries disapproved the dialogue process and questioned its utility for national interests. Opposition parties and civil society in Kosovo criticised the already mentioned lack of transparency of their government during the process; Serbian argued that negotiating with Kosovo would have undermined its policy of non-recognition. Moreover, the rising level of disappointment and uncertainty of Serbs in Northern Kosovo brought to violence escalations alongside the borders. Kosovo Serbians were in fact excluded from the dialogue because they were politically affiliated to the opposition party in the parliament. The tense situation in this region constituted a threat for EU mediation effectiveness.

In conclusion, according to Bergmann and Niemann, the EU has been partially successful in terms of conflict settlement managing to agree on some minor conflict issues (such as mutual recognition of university diplomas, custom stamps, etc.) and one major issue (the governance of Northern Kosovo). In terms of goal-attainment, the EU has been 'relatively effective' in finding an agreement for the situation of Northern Kosovo in the context of its 'narrowly defined goal'; whereas it has been 'moderately effective' in achieving long-term goals, meaning

¹⁸ A Mutually Hurting Stalemate (MHS) refers to the moment of a conflict in which both of the parties find themselves in a painful deadlock; according to Zartman, this is the moment in which the conflict becomes 'ripe' for conflict mediation. MHS has to be perceived by the parties as such, and if not, it is not happening. (Zartman, *The Timing of Peace Initiatives*, 2001, John Hopkins University)

¹⁹ According to Stedman, spoilers are "leaders and parties who believe the emerging peace threatens their power, world view, and interests and who use violence to undermine attempts to achieve it." A peace process foresees winners and losers, thus not all the parties are willing to accept it. Spoilers can differ based on their position (inside or outside an agreement); the number of spoilers; the type of spoiler (limited, greedy, or total); and the locus of the spoiler problem (leader, followers, or both). (*International Conflict Resolution after the Cold War, Spoiler problems in peace processes*, The National Academic Press, 2000)

that the living conditions of the affected populations were improved, but the “full normalisation” of relations was achieved only limitedly. Bieber argues that a more ambitious approach would have not changed the results; instead, broadening the basis, thus involving citizens in the dialogue, would have brought more constituency to the Agreement. Despite these important shortcomings, it is true that the process would have not taken place without EU intervention and incentives, externalising motivation of the parties to moving the agreements and its implementation ahead. The EU ‘made itself an indispensable part of the agreement for better or for worse’ (Bieber, 2015, p. 318).

2.6 Conclusion

In this chapter, I have examined briefly the EU structure and the main institutions involved in conflict mediation operations. Historically, the EU has based its *raison d’être* on conflict resolution, as the core objective of the European Coal and Steel Community was regulating markets of the two primary sources between France and Germany, former historical rivals. After some hesitation, the EU started to develop its own foreign policy, especially in the years that followed the end of Cold War, when it started assuming a more consistent role in international politics and in conflict resolution. It was in fact in the 1990s that the EU experienced its first attempt to mediation in the Balkans conflict. The attempt did not result in success; nevertheless, it represented the chance to work on EU institutional reform, from the Treaty of Maastricht, through which the Common Foreign and Security Policy became one of the three pillars of the European Union, to the Treaty of Amsterdam, which created the figure of the High Representative for the Common Foreign and Security Policy. With the Treaty of Lisbon, this figure was merged with the European Commissioner for External Relations and European Neighbourhood Policy, becoming head of the European External Action Service in 2011. The instruments that the EU has at its disposal for conflict mediation are diverse, starting from the HRVP, to the EU Special Representatives, to the Common Defense and Security Policy operations. Each of them has a specific mandate, but often there are some overlaps. In fact, the EU does not have an ad-hoc policy for mediation *per se*. The *Concept on*

Strengthening EU Mediation and Dialogue Capabilities could be considered as the first policy document addressing mediation specifically, as it recalls the EU role of global promoter of peace, democracy, human rights and sustainable development, and as a supporter and facilitator of dialogue processes; however, it is not well-known among EEAS officials. Mediation is finally mentioned also in the European Global Strategy of 2016. The most famous example of mediation practices and lesson-learnt for the EU is the Belgrade-Pristina dialogue, which has been carried since 2011 between Kosovo and Serbia by the HRVP and the EEAS. The main strategy of the EU consisted of the linkage of the peace process to the EU membership perspective for both states. The EU has exploited its potential and leverage to conduct the parties to the Brussels agreement, signed in April 2013. The path towards it was not smooth, as clashes and slowdowns took place during and after the negotiations. Effective implementation is still a problem, especially regarding the situation of Kosovar Serbs, in the territory of North Kosovo. EU mediation success could be assessed as *partial*, as Bergmann and Niemann have stated, because although short-term and minor issues have been solved (at least on the Agreement), long-term and more consistent questions still remain open. It is true however that the Belgrade-Pristina Dialogue consolidated EU role in conflict mediation.

3. Case studies: the Russo-Georgian War of 2008 and the Ukrainian conflict of 2014

3.1 Introduction

This chapter will analyse two case studies taken into consideration to examine EU mediation and its related strategies in two of the most significant conflicts that threatened the European Continent in the last 15 years: the Russo-Georgian War of August 2008, and the Ukrainian Conflict of 2014. Both crises took place in the neighbourhood of the EU, with Ukraine even sharing direct borders with several EU member states (Poland, Hungary, Romania, and Slovakia). Furthermore, both Georgia and Ukraine fall into the sphere of influence of Russia, as former Soviet Republics. Ukraine in particular is culturally, linguistically, historically and economically bounded to Russia, tightened to Russia due to gas and energy geopolitics. (Giusti & Penkova, 2009, p. 137). Ukraine and Georgia represent a key instrument in ensuring Russia regional power and security within Europe; for this reason, both countries' aspirations to European Union and NATO membership are considered as a major threat to Russia's sphere of interests. Georgia and Ukraine present in addition internal divisions: Georgia saw the insurgence of the autonomous regions of Abkhazia and South Ossetia, whose population felt culturally bounded with Russia rather than Georgia, while Ukraine has always been split into a more Western-influenced West Ukraine and a more Russophile Eastern Ukraine. Russia therefore took advantage of these internal divisions to exacerbate relations between governments and local communities, allowing itself to join the conflicts either officially or unofficially. From the point of view of the European Union, both countries belong to the European Neighbourhood Policy, a programme developed with the increase of EU role and presence in the European Continent, aimed at establishing security, prosperity and democracy at its borders. EU support for both countries started right after the countries declaration of independence after the fall of the Soviet Union, and increased with the time in parallel to the increase of the EU role as a normative power.

The conflicts saw the intervention of the European Union as a conflict mediator. First of all, they happened at different stages of EU institutional development. The Georgian conflict broke out in 2008, before the signing of the Lisbon Treaty, which brought several changes in the European Foreign Policy system. The Ukrainian crisis took place six years later. Besides this, EU actions towards the crises followed different paths but similar outcomes. In both Georgia and Ukraine, the EU deployed diplomatic, civilian, and political and economic instruments to stop the hostilities and to establish a dialogue between the parties. EU CSFP instruments in conflict mediation envisaged the diplomatic actions of single member states (France and Germany above all), the deployment of EU Special Representatives, Civilian Monitoring Missions, EU delegations, etc.

Political and economic instruments instead are part of a wider policy that belongs to the EU use of “soft power” through conditionality. Both Ukraine and Georgia aspire to EU membership and enjoy EU support to confidence-building and political reforms in the framework of the ENP. The EU exerts its leverage within its normative power role towards these countries to achieve a better grade of adherence to EU values, achieving ‘normalisation’ in terms of stability and security of its neighbourhood.

In this chapter, I will analyse how the EU makes use of CSFP and conditionality instruments also in conflict resolution, in relations to the above-mentioned case studies, to achieve a description of a comprehensive framework of the EU approach towards conflict resolution, assessing its strengths and shortcomings.

3.2 The European Neighbourhood Policy and the Eastern Partnership

To proceed with the examination of the EU’s response to the Georgia and Ukraine crisis it is fundamental to understand first the process of how the EU handled relationships with Eastern Europe right after the Berlin wall fall. Therefore, the following paragraphs will sum up the most relevant aspects of the European Neighbourhood Policy (ENP), and in particular the Eastern Partnership (EaP).

The European Neighbourhood Policy was elaborated in relations to the upcoming EU Enlargement of 2004, when ten new countries²⁰, mostly from the Eastern Bloc, entered the EU, reshaping its borders. The risks that derived from the enlargement of 2004 were the creation of ‘new dividing lines’, leaving other countries belonging to the post-Soviet sphere of influence out, and the creation of a double-speed Europe, with a more modern and stable Western Europe, and a less stable, poorer and less democratic East (Casier, 2009, p. 99). The ENP objectives were thus developed to avoid the above-mentioned risks, and therefore to strengthen stability, security and well-being of the EU neighbourhood, offering EU neighbours instruments for cooperation in political, security, economic and cultural sectors. (European Commission Strategy Paper, 2004). Works on the ENP started in November 2002 when at the General Affairs and External Relations Council recognised the need to set a new policy in the perspective of the forthcoming enlargement. This need concretised as an objective at the 2002 Copenhagen European Council and was further elaborated in the European Commission communication of March 2003, “*Wider Europe – Neighbourhood: A new Framework for relations with our Eastern and Southern Neighbours*”.

In this first communication, it was made clear that the ENP was destined for countries that did not have a membership perspective, leaving out the ones that at that time were granted with the possibility of it:

“This Communication considers how to strengthen the framework for the Union's relations with those neighbouring countries that do not currently have the perspective of membership of the EU [4] It does not, therefore, apply to the Union's relations with the remaining candidate countries - Turkey, Romania and Bulgaria - or the Western Balkans.”

However, the EU always played on the ambiguity originating from the statement on the possibility for every European state that complies with the Copenhagen criteria of applying for membership. This ambiguity could indeed power up EU conditionality over the implementation of reforms in the ENP

²⁰ Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia

region, but at the same time it might generate frustration among the targeted countries, as the concretization of the EU membership would remain a distant finish line (Simão, 2018, p. 64).

The EU essentially offers through the ENP deeper economic integration (free movement of persons, goods, services and capitals) in exchange for implementation of European political, economic and institutional reforms. The countries targeted are sixteen: Morocco, Algeria, Tunisia, Libya, Egypt, Jordan, Israel, Lebanon, the Palestinian Territory, Syria (Southern Neighbourhood); Moldova Ukraine, Belarus, and in 2004, Armenia, Georgia and Azerbaijan (Eastern Neighbourhood).

The principle of ‘conditionality’ of the ENP is expressed in the following paragraph:

“In return for concrete progress demonstrating shared values and effective implementation of political, economic and institutional reforms, including in aligning legislation with the *acquis*, the EU's neighbourhood should benefit from the prospect of closer economic integration with the EU. To this end, Russia, the countries of the Western NIS and the Southern Mediterranean should be offered the prospect of a stake in the EU's Internal Market and further integration and liberalisation to promote the free movement of - persons, goods, services and capital (four freedoms). (EU Commission, 2003)”

In the framework of the ENP and through the use of conditionality, the EU exports its value and norms of peace, democracy and respect for human rights in the immediate neighbourhood, engaging itself in projecting its order beyond its border. According to Huakkala (2011), the EU claims to be an actor that promotes good governance and effective multilateralism, but in reality, it seeks to order the wider political space on the European continent. EU's normative hegemony is an attempt to use ‘economic and normative clout to build a set of highly asymmetrical bilateral relationships that help to facilitate an active transference of its norms and values’ to accession candidates, neighbours and other partners. (Huakkala, *The European Union as a Regional Normative Hegemon: The Case of European Neighbourhood Policy*, 2011)

At the base of “EU hegemony”, the EU is endorsed with material and ideational leverage. The goals of the EU are not so different from the ones of a regional power. Some authors believe that the EU promotion of its values is an instrument to achieve simply greater trade opening and liberalization, which enhance EU’s economic power. EU’s normative hegemony is an attempt to use ‘economic and normative clout to build a set of highly asymmetrical bilateral relationships that help to facilitate an active transference of its norms and values’ to accession candidates, neighbours and other partners (Haukkala, *The European Union as a Regional Normative Hegemon: The Case of European Neighbourhood Policy*, 2011).

Concerning material leverage, the EU is the largest trade partner and source of investments in its neighbourhood. EU economic leverage reflects the concept of market power, but indeed it is reinforced by the fact that the EU can decide who can potentially enter and who can exit this market. It is the largest single market in the world, with an enormous market-power potential. Furthermore, the EU prefers bilateral agreements (e.g.: Association Agreements), not engaging in actual trade negotiations but rather imposing pre-agreed positions on its partners. EU market power entitles also its wider normative power. Granting third parties’ access to the single market requires a large degree of harmonization of legal systems of the parts as well as continuous monitoring.

When speaking of the ideational leverage instead, the EU influence on future members can be exerted in an active or a passive manner. The latter generated the overall generic power of attraction of the EU membership status. The former, by deliberate conditionality exercised by the Union during pre-accession process. Clear material incentives and the concrete prospect of full membership and European identity are the factors that really can affect substantial change in its partners. As mentioned above, the EU hegemonic position is based also on positive desire on the part of neighbours and partners to associate and assimilate themselves into European norms and values.

3.2.1. ENP Instruments

The European Commission first elaborates Country Reports to assess the political, economic, institutional background of the targeted country, and subsequently it elaborates a tailored Action Plan. The Action Plan is further negotiated with the targeted country, then agreed with the Commission; it sets political and economic reforms agendas with short and medium-term priorities, usually lasting three or five years. The Action plan for Ukraine was elaborated in 2005 and the one for Georgia in 2006 (EU Commission, 2004). However, the ENP consistently differs from the Enlargement Policy because it excludes the possibility of membership; furthermore, it is a framework policy, based on common principles but tailored for each country; and finally, it is a dynamic policy, meaning that it develops relationships flexibly and at different speeds (Casier, 2009, p. 102).

The Action Plans are based on two criteria: joint ownership (which could be translated as 'shared responsibility') and differentiation (European Commission, 2004, p. 8). The Action Plans are negotiated and then drawn up jointly by both parties. Everything contained in an Action Plan is therefore the result of mutual understanding, and the responsibility for implementing the decided measures lies equally with the Union as with neighbouring states. The second criteria is differentiation. As the result of an understanding, each Action Plan must reflect the different needs of the partners, compatible with their material needs, economic interests and political will to cooperate. The principle of joint ownership and the principle of differentiation are the most important methodological innovations of the ENP. The first was introduced in an attempt to overcome the difficulties linked to the use of conditionality outside the context of enlargement. When the membership perspective is not possible, the effectiveness of compliance is diminished. There is no reason, or less reason, for a third country to submit itself to the stranglehold of EU structural adjustment if it does not have the prospect of sharing one day all the rights and benefits of EU membership, i.e. of becoming equal to other Member States. With the exception of access, the EU cannot afford to be too rigid in its approach to third countries. Joint ownership offers a valid alternative, because it presupposes a promised commitment, whereas conditionality presupposes obedience.

The principle of differentiation is partly based on the same reasons. It is reasonable to assume that neighbouring countries are more or less willing to agree on common objectives and share responsibility for their pursuit, depending on how far the Union is willing to go to meet their needs. The countries in the neighbourhood are very different from each other in all respects. Adopting a pragmatic approach, modulated on specific issues, seems a reasonable choice. Moreover, it should not be forgotten that the long-term objective of the ENP is a broad convergence of the interests of the Union and the whole of the surrounding area. For this reason, differentiation is practised in any case within a single reference framework, articulated in different areas of political, cultural, economic and security cooperation. The Union is willing to discuss agreements jointly and to take a flexible attitude, but in any case, it offers its standards, in the firm belief that a rapprochement with its legal regimes is an advantage (Dannreuther, 2004, p. 7-9).

The Action Plans also entail priorities that are intended to strengthen the shared European values. The priorities are the following: strengthening democracy and the rule of law, the reform of the judiciary and the fight against corruption and organised crime; respect of human rights and fundamental freedoms, including freedom of media and expression, rights of minorities and children, gender equality, trade union rights and other core labour standards, and fight against the practice of torture and prevention of ill-treatment; support for the development of civil society; and co-operation with the International Criminal Court.

3.2.2. Approaches to conflict resolution in the ENP

The ENP main objective is to ensure security and stability along the EU borders; however, resolution of conflicts at the borders of Europe is explicitly mentioned only to a certain extent. Yet, the ENP region encompasses a number of unsolved conflicts that represent serious concerns for the EU: Western-Sahara, Israel-Palestine, and in the EaP, Abkhazia, South Ossetia, Nagorno Karabakh, Transnistria, and Eastern Ukraine. A 'shared responsibility for stability and security in the region and the need to settle its conflict' is an underlying principle of the ENP; the EU must face the question of unresolved conflicts in order to

achieve its main goals: democratisation and trade liberalization. (Popescu, neighbourhood, *The EU in Moldova – Settling conflicts in the*, 2005, p. 9, 10). To solve these conflicts is a way to establish more stability in the region.

To accomplish this goal, the Action Plans include the implementation of reforms in the realm of EU's external action, i.e. fight against terrorism, the proliferation of weapons of mass destruction, abidance by international law and efforts to achieve conflict resolution (European Commission, 2004, p. 13). Regional and international issues, conflict prevention, crisis management and common security threats are objectives additionally encompassed in the strengthening of political dialogue policy. In this regard, the EU foresees more coordination in the established political dialogue formats, and involvement of partner countries in aspects of CFSP and ESDP, conflict prevention, crisis management, and possible participation in the EU-led crisis management operations (European Commission, 2004, p. 13). In the early years of ENP, the EU has focused more on conflict prevention and post-conflict rehabilitation, rather than direct military or political actions in the settlement of conflicts, given the fact that the policy is mainly an instrument of the European Commission.

3.2.3 The European Security Strategy

Developed together with the ENP and constituting its main security policy framework, the European Security Strategy (ESS) was adopted by the EU council on 12-13 December 2003, drawn up under the authority of the EU's High Representative for the Common Foreign and Security Policy Javier Solana. The ESS represents the first successful attempt to draw a common vision on the foreign policy of the EU (Biscop, 2010), providing a conceptual framework for the CFSP and later, the CSDP. It identifies key threats to the Union: terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failures and organized crime.

In the document, the European Union endorses itself once again with 'the responsibility for global security and in building a better world', especially in regard to the post-Cold War world and after the Balkan Crisis (ESS, 2003). According to Simão, this document marks the moment in which the EU turns

from being oriented towards inner political issues, to external foreign relations, in order to minimise the risks that surrounds it, deriving from globalisation, interdependence and proximity. It is the consolidation of the identity of the EU as a stabilizer of the European Continent itself, that enables the EU to exercise the same power towards the outside (Simão, 2018, p. 53).

The ESS is strictly connected to the ENP, as both policies aim at ensuring security on the border and in the EU neighbourhood, through the building of stability and good governance of the countries of the Eastern and Southern Neighbourhood. Thus, security and development issues are linked together. According to Ghazaryan, the ESS embodies the regional implementation of the ENP (Ghazaryan, 2014). Moreover, the Union explicitly reiterated its intention to take a more active stance in the management of violent conflicts in the ENP area (Wolff & Peen Rodt, 2010, p. 113), recognizing the so-called 'frozen conflicts' in Moldova, Georgia and Azerbaijan as a priority from a political and security viewpoint, and an area where it should and could do more.

Nevertheless, the EU has been reluctant to take on a more proactive role in conflict resolution and in making it a core objective of the ENP, even after the war in Georgia in 2008, because its intervention relies still on the member states' will to operate through CSFP and CSDP. Both these instruments have played only a marginal role in the whole ENP area. (Ivashchenko-Stadnik, Petrov, Rieker, & Russo, 2018, p. 5). The approach to conflict resolution depends on political decision, which most member states are reluctant to take (Simão, 2018, p. 58).

3.2.4 The Eastern Partnership

Lumping together both the Southern and Eastern neighbourhood was not satisfactory for EU member states; for this reason, in 2008, under the proposal of Sweden and Poland, the Eastern Partnership (EaP) was created, partially also to counter-balance the newly-created Union for the Mediterranean (Smith K. E., 2017, p. 337). The EaP includes Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, and it establishes bilateral agreements with each of the countries (Association Agreements, Association Agendas and Partnership Priorities and the EaP 2020 Deliverables). (European Commission, 2019). It also aims at

developing more generous offers on visa liberalisation and trade issues, through the Deep and Comprehensive Free Trade Agreements (DCFTAs).

The EaP is divided into four platforms related to different topics: strengthening institutions and good governance, economic development and market opportunities, connectivity, energy efficiency, environment and climate change, and finally, mobility and people-to-people contacts. Being mostly a capacity-building and development policy, the EaP does not explicitly include conflict resolution; but within the first platform, a panel is dedicated to Security, CSDP and Civil protection, and it encompasses issues related to frozen conflicts of the region. The 13th panel meeting on Security, CSDP and Civil protection took place in November 2019 in Brussels, gathering up over 70 participants from the EaP countries, EU institutions and the Eastern Partnership Civil Society Forum (EEAS, 2019²¹).

Within the latest guidance for the development of the EaP in the future, “*The Eastern Partnership beyond 2020: Reinforcing Resilience – an Eastern Partnership that delivers for all*”, issued by the European Commission in March 2020, conflict resolution *per se* again was not mentioned. Within the EaP geographical area the EU has always been reluctant in engaging in direct conflict resolution, fearing the reaction of Russia, and lacking political unity on acting against it. (Shelest, Secrieru, Simao, 58). However, in the last years this trend changed, seeing the EU more involved in the Eastern region frozen conflicts, namely as it has happened in Georgia and Ukraine.

3.2.5 The Revised ENP

EU’s ENP faced within the years new unprecedented challenges, unthinkable at the time of its creation in 2003, because of the financial and economic crisis and the persistence and re-emerging of authoritarianism. Moreover, the enlargement of 2004 and 2007, Croatia’s accession in 2013, the Lisbon Treaty with the establishment of the EEAS, have altered the EU structure and its foreign policy-

²¹ 13th Eastern Partnership Panel on Security, CSDP and Civil Protection-7 November 2019. Source: https://eeas.europa.eu/headquarters/headquarters-homepage/70171/13th-eastern-partnership-panel-security-csdp-and-civil-protection-7-november-2019_be

making towards its neighbours. In 2011, following the Arab spring and the establishment of the EaP, the EU adopted the “New Response to a Changing Neighbourhood”, which started the process of revising of the ENP. It reflected the EU’s general ambition to play a role as conflict resolution actor in its near abroad (Bouris & Schumacher, 2017, p. 2).

In contrast to the Wider Europe 2003 strategy which spoke of proximity, poverty and prosperity as the three main topic of the challenges of the 16 countries part of the ENP, the ‘New Response’ of the revised ENP does not include the proximity feature. On the contrary, its main focus is on the absence of deep and sustainable democracy and the deriving socio-economic challenges (A New Response to a Changing Neighbourhood, 2011, p. 6-7).

In the revised ENP the EU continues to be at the centre of the bilateral relations, not applying the principle of exchanges of mutual favours. Even though the ENP is supposed to encompass a tailored approach for each country, in reality the partners can only choose the pace of the implementation of the agreements, while the content of those is set only by the Union. This asymmetrical approach remains the same even in the revised version of the ENP, since the EU’s new objective is deep democracy, indeed based on the European model of constitutional liberal democracy, that does not take into account differences among partners. T

he ENP has been adjusted only to the new entering into force of the Lisbon treaty rather than on the actual changes happened in the neighbour countries (Bouris & Schumacher, 2017, p. 12). The focus switch on deep and sustainable democracy represents a break with the previous EU focus on political stability, as until that moment the EU supported and strengthened also autocratic regimes. The revised ENP is considered as an inappropriate tool as it does not face the new geopolitical actors that were not present at the time of the ENP creation in 2003 and that now showed up with a strengthened role: Russia, which in 2014 established the Eurasian Economic Union (EEU), but also Turkey, China, Saudi Arabia and United Arab Emirates (Bouris & Schumacher, 2017, p. 18).

The revised ENP set for the EU a much more ambitious role in conflict resolution (Freizer, 2017, p. 164). The EU aimed at increasing its engagement in crisis management and conflict prevention, as the EU sought to increase its global role after the entrance in force of the Lisbon Treaty. Nevertheless, the same ‘soft

line' as before was kept, with a focus on the promotion of economic integration and sectoral reforms, in order to achieve conflict resolution goals between parties. In the following years, the EU Commission has issued several communications, (Series on conclusion on the South Caucasus in 2010, ENP Annual Reports, the 'Neighbourhood at the Crossroads' in 2014), stressing the benefit of the progress in the political association and economic integration of partner countries in conflict settlement efforts. The EU described itself for the first time as a 'diplomatic actor and provider for security', and after 2014, diplomacy, conflict prevention and mediation were added to the existing conflict management toolbox, in the framework of a 'new comprehensive approach to external conflicts and crisis.' (Freizer, 2017, p. 166)

3.3 The Russo-Georgian Conflict of 2008

The EU involvement in the Russo-Georgian war is the result of different factors. Prior to 2008, the EU involvement in the South Caucasus region was quite weak; with changes in the international system, EU internal dynamics, that enabled its capacity and willingness 'to play a major role in regional and international conflicts', the EU surprisingly managed to 'impose itself as a peacemaker' (Shelest, 2016, p. 479, 480). The EU led the international response through mediation between the parties, humanitarian assistance, a civilian monitoring mission and substantial financial support (Whitman & Wolff, 2010, p. 2).

This role was celebrated happily in Brussels (Noutcheva, 2018), as it proved EU readiness and reactivity to solve the crisis through the brokering of a ceasefire; however, in the long-term, the achievements of EU intervention in conflict resolution resulted limited (Noutcheva, 2018) (Grono, 2010) (Mikhelidze, 2010) (Whitman & Wolff, 2010). Besides the traditional means of conflict mediation, the EU also used contractual relations with disputant parties, e.g. signing association agreements or negotiating EU membership. This is, in fact, the case of the European Neighbourhood Policy and in particular of the Eastern Partnership, with which the EU aims at "building a common area of shared

democracy, prosperity, stability and increased cooperation.” (European Union, European External Action Service)²².

The following section will take into analysis all these factors, tracing back the origins of the Russo-Georgian conflict of 2008, EU relations with Georgia in general and in the field of conflict resolution, the EU intervention in the conflict after the war breakout through the ceasefire mediation and the following implementation instruments, concluding with an assessment of the EU role’s effectiveness.

3.3.1 Conflict Context

The Republic of Georgia became independent in April 1991 after the dissolution of the Soviet Union. Immediately after, Abkhazia boycotted the elections promoted by the Tbilisi government, and following local parliamentary elections, declared its independence in August 1991, on the basis of its status as a republic recognised in the early years of the Soviet Union. The Georgian countermeasure was a military one, with the deployment of 3000 soldiers in the region to restore order: as a consequence, Sukhumi - the Abkhazian capital - was subject to long clashes between the two forces (Potier, 2001, p. 10, 11).

Originally, tensions between Abkhazians and Georgians already began to grow as Georgian independence approached in the late 1980s, when the Soviet Union was showing signs of collapse. Many Abkhazians, fearing that Georgia's independence would wipe out the Abkhazian independence drive, thought it was necessary to establish an independent republic. The first violent disputes originated in Sukhumi in 1989: after several days of violence, Soviet troops brought order back to the city (Petersen, 2008, p. 189).

Local militias started forming first in South Ossetia, then in Abkhazia, acquiring weapons first from the Soviet Union and then from Russia’s military troops present in their territories. Both Abkhazia and South Ossetia were experiencing intense military clashes, causing thousands of deaths and hundreds of thousands

²² EEAS, 2019, Source: https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en).

of refugees. The majority of the Georgian population living in Abkhazia was forced to abandon their homes (Petersen, 2008, p. 196) .

The war ended in September 1993, with the rebels' conquest of the capital Sukhumi and the signing of a peace treaty in Geneva, which however never led to a definitive cessation of hostilities. The conflict left 8,000 dead, 18,000 wounded, 250,000 people, 5 mainly ethnic Georgians, displaced and unable to return except to Abkhazia's southernmost district (Grono, Georgia's Conflicts: What Role for the EU as Mediator?, 2010, p. 9). In 1994, the parliament of Sukhumi proclaimed the sovereignty of the Republic of Abkhazia²³.

In those years, phenomena of "ethnic cleansing" were present: in the spring of 1995, the Georgians present in the Republic - who in 1989 still constituted 45% of the population - were now reduced to only 35,000, partly victims of the persecutions carried out by the Abkhazians, and partly refugees in the face of the climate of violence. The massacre has been officially recognized by international organizations.

Meanwhile, partially in response to a new law making the Georgian language mandatory in all state bodies, the newly formed People's Assembly of South Ossetia first called for a higher level of autonomy, then declared to remain part of the Soviet Union when Georgia votes for its independence, and finally, in a referendum in January 1992, declared its independence and its desire to join the Russian Federation. Clashes between Georgians and Ossetians, however, had already begun in January 1991, causing about a thousand deaths and 100 thousand refugees.

On 24 June 1992, an agreement²⁴ was reached through mediation of Russia, which put an end to the clashes between Ossetian and Georgian forces; this agreement provided for the redeployment in a specific area of a contingent of "Mixed Forces for Peace Support" composed of soldiers from Russia, North Ossetia and Georgia.

²³ La guerra dimenticata: sintesi e analisi del conflitto russo-georgiano 10 anni dopo, Selene Verri, Euronews, 08/08/2018 Source: <https://it.euronews.com/2018/08/08/la-guerra-dimenticata-sintesi-e-analisi-del-conflitto-russo-georgiano-10-anni-dopo>

²⁴ Agreement on Principles of Settlement of the Georgian - Ossetian Conflict (Sochi Agreement), 24/06/1992

In the years following these agreements, there was a relatively calm situation in the conflict areas, although on several occasions there were new gunfights and attacks, and only a small number of Georgians who had had to leave Abkhazia found the conditions to return to their homes. Even in South Ossetia there were no new large-scale military clashes, and despite occasional clashes, the situation remained overall stable and with a comparatively low level (compared to Abkhazia) of inter-ethnic conflict. (Allison, 2008, p. 1146)

Since then, these regions have been de facto independent: in these areas there are laws enacted by locally elected authorities and in no way subject to the Tbilisi government; Abkhazia and South Ossetia have their own administration, their own judicial system, their own education system, their own army and their own police forces.

3.3.2 EU-Georgia Relations before the crisis

During the years of the two wars between Georgia and Abkhazia and South Ossetia, the EU provided humanitarian assistance, with more than half of all of ECHO's funding to Georgia; Georgia was in fact part of the TACIS (Technical Assistance to the Commonwealth of Independent States and Georgia), an EU aid programme, covering the energy, training, food distribution, transport, and financial sectors. From 1997, the EU started allocating funds also for rehabilitation programmes. With the signing of the Partnership and Cooperation Agreement (PCA) in 1999, the EU increased sharply the funding programmes to Georgia, diversifying the areas that it was covering. Among these, consisting in political dialogue, security, stability, economic development, institutional reform, human and minority rights, etc. a special remark was made in relations to the resolution of regional conflict and tensions²⁵.

The two conflicts were further identified as a major impediment to the development of Georgia in the Country Strategy Paper issued in 2001 by the European Commission. Most importantly, the Paper enhanced the principle of territorial integrity (Whitman & Wolff, 2010, p. 2-3). A revision of the Paper

²⁵ European Commission, Georgia Country Strategy Paper 2002–2006 and National Indicative Programme 2002–2003 (Brussels, 2001), pp. 4, 7–10.

followed in 2003, which brought to the appointment of an EU Special Representative (EUSR) for the South Caucasus, and the deployment of EU's first rule of law mission, EUJUST Themis.

3.3.3 The Rose Revolution

In 2003, the rapprochement to Moscow by the Georgian President Shevardnadze generated concern among the newly-formed pro-Western political generation. The Georgian President had in fact reached a series of agreements with Russia aimed at reducing the role of the United Nations in Abkhazia, reopening the Tbilisi-Soci railway and renew an agreement with Gazprom concerning the Russian gas supply. Shevardnadze's new policy had to be blocked to allow Georgia to consolidate the process of westernization already underway. Furthermore, given the lack of press freedom, allegations of electoral fraud and rampant corruption, Georgia could be considered at the time a failed state in every respect in 2003 (Lynch, 2006, p. 26-27).

Combining popular discontent with the Western ambitions of many Georgian politicians, former Defence Minister Mikail Saakashvili promoted a series of peaceful protests, later known as the "Rose Revolution", which would lead to the expulsion of Shevardnadze from parliament on 22 November 2003 and the rise of Saakashvili himself as a leader. Consequently, a new kind of Georgian activism on the conflict resolution path formed right after the peaceful revolution. Furthermore, the new Georgian leader could not stand the status quo of the two semi-uncontrolled regions. This new social activism towards conflict settlement challenged the EU to consider incrementing its role in conflict resolution in the region (Fawn, 2014, p. 2), despite the stabilisation of Georgia was already part of the EU foreign policy strategy of supporting democracies in Europe.

With Georgia joining the European Neighbourhood Policy in 2004, the following ENP Action Plan considered the issues of the conflicts and their settlement as one of the eight 'priority areas', thus meaning that the EU's engagement in the conflicts was increasing, not only as a humanitarian actor, but also as a political one (Whitman & Wolff, 2010, p. 5). In fact, the mandate of the EUSR for South Caucasus in 2006 changed to a more proactive role in contributing to the conflict

resolution, reflected in EU CFSP actions vis-à-vis the local conflicts. In the Action Plan, the priority area number six envisaged specific actions targeting conflict resolution, confidence building, further economic assistance, demilitarisation, increased presence in negotiating mechanism, and constructive cooperation between interested international actors²⁶.

The EU became the biggest international donor in Georgia's Abkhazia and South Ossetia/Tskhinvali Region, after their patron state, Russia (Popescu 2011, p. 176). From 2007, the TACIS was replaced by the European Neighbourhood Partnership Instrument, together with other instrument such as the Instrument for Stability.

3.3.4 The NATO Bucharest Summit and escalation of the conflict

Georgia and Ukraine have always had European aspirations, and never tried to hide their desire to join the European Union and the North Atlantic Alliance (Kakachia, 2017, p. 78). At the NATO summit in Bucharest (2-4 April 2008), the Atlantic Alliance temporarily rejected Georgia and Ukraine's candidature for the Membership Action Plan, considered to be the first step towards joining the Alliance (Gallis, 2008, p. 5-6). However, NATO Secretary General Jaap de Hoop Scheffer announced the launch of a high-level dialogue to address the outstanding issues, underlining the Alliance's strong commitment to the successful completion of the accession process.

Between April and May 2008, both parties started provoking actions towards one another. On 16 April a statement by the Russian Foreign Ministry announced that outgoing President Vladimir Putin had instructed his ministers and other state agencies to establish "official relations" with their counterparts in the Georgian secessionist regions of Abkhazia and South Ossetia. Russian Foreign Ministry spokesman Mikhail Kamynin said that the Russian Federation did not intend to enter into conflict with Georgia, but rather to take care of the interests of the people of Abkhazia and South Ossetia, including the Russian citizens living there. The Secretary General of NATO, Jaap de Hoop Scheffer, and the High Representative for the Common Foreign and Security Policy of the European

²⁶ EU-Georgia Action Plan, EU Commission, 2006

Union, Javier Solana, expressed deep concern about the Moscow initiative. On the same day, the spokesman for the US State Department, Sean Mc Cormack, reiterated Washington's firm support for Georgian territorial integrity and sovereignty. On April 20, Georgia announced that a radio-controlled plane flying over Abkhazia was shot down by a Russian Mig-29 fighter aircraft. Russia initially denied its involvement; however, a UN investigation will confirm the Georgian version of the incident. On 29 April, Russia sent troops to Abkhazia to counter a hypothetical Georgian attack (Smith D. J., 2009, p. 147-149).

The general elections of 21st of May saw the victory of President Saakashvili's party, which reached 59% of the votes, well above the parliamentary majority of two-thirds needed to amend the constitution. The victory was contested by the opposition, with the OSCE registering some irregularities in the electoral process²⁷. During the month of June, tensions increased both in South Ossetia and Abkhazia. According to Moscow, Georgian troops had started attacking some villages and the city of Tskhinvali, in South Ossetia, and considered this an act of aggression; Georgia, on the other side, refused this accusation. (IIFMCG, Independent International Fact-Finding Mission on the Conflict in Georgia, 2009, p. 18-19).

The Georgian crisis eventually erupted at the beginning of August: on 1 August, intense clashes between Georgian and South Ossetian forces began, followed by the evacuation of Ossetian civilians to Russia on the 3rd. On the 5th the ambassador of Moscow, Yuri Popov, warned Tbilisi that Russia will intervene in the event of an outbreak of conflict. On August 6 Georgian troops entered South Ossetia. On 7 August, Georgian President Saakashvili offered a ceasefire: following the failure of this proposal, Georgian troops attacked the South-Ossetian capital Tskhinvali. The next day, on 8 August, Russia sent additional forces to Georgia to repel these attacks, with Russian President Medvedev announcing that he would have defended his Russian compatriots (Fawn, 2014, p. 76).

²⁷ Georgia, Parliamentary Elections, 21 May 2008: Final Report, OSCE, September 2009, source: <https://www.osce.org/odihr/elect>

The war that broke out officially on 8th of August was only the culminating point of harsh relations between the two countries (Asmus, 2010, p. 9), (IIFFMCG, Independent International Fact-Finding Mission on the Conflict in Georgia, 2009). Although the Independent International Fact-Finding Mission did not confirm officially accusations made by the Georgian side concerning previous Russian incursions, it cites different sources that indeed proved the claims:

“However, there are a number of reports and publications, including of Russian origin, indicating the provision by the Russian side of training and military equipment to South Ossetian and Abkhaz forces prior to the August 2008 conflict. Additionally there seems to have been an influx of volunteers or mercenaries from the territory of the Russian Federation to South Ossetia through the Roki tunnel and over the Caucasus range in early August, as well as the presence of some Russian forces in South Ossetia, other than the Russian JPKF battalion, prior to 14.30 hours on 8 August 2008. Also it seems that the Russian air force started its operations against Georgian targets, including those outside South Ossetian administrative boundaries, already in the morning of 8 August, i.e. prior to the time given in the Russian official information.” (IIFFMCG, Independent International Fact-Finding Mission on the Conflict in Georgia, 2009, p. 20)

On the other hand, Russia justified its military intervention to protect Russian citizens in South Ossetia and stop an allegedly ongoing genocide. The claim made by Russia was that two Russian peacemakers were killed and five wounded by Georgian attacks. Georgians insist that the attacks were a reaction of a first fire opened by Russians. (IIFFMCG, Independent International Fact-Finding Mission on the Conflict in Georgia, 2009, p. 21). The conflict protracted for five days, becoming famous as “the five-day war”. On 10 August, Georgia proposed a unilateral ceasefire, which was not accepted by the opposite side. Consequently, Russian forces gained further positions in Georgia’s territories, reaching the Georgian towns of Gori, Zugdidi, Senaki and Poti.

3.3.5 The mediated ceasefire

The European Union could not just stand and watch: it was called upon to take concrete measures to promote an immediate cessation of hostilities, and above all, to help managing the post-war diplomatic phase. After hesitating moves from the United States – which under Bush decided not to put on the field military troops - Washington happily left the role of intervention to France, in representation of the European Union, as at the time France was holding the EC Presidency. The U.S. Department of State had been unwilling to act as an adequate and impartial participant in the conflict settlement (Volkhonskiy, 2009, p. 204). Moreover, France held heartwarming relationship with the UN, and President Nicolas Sarkozy emerged as a honest broker²⁸. During the first days of the conflict, Sarkozy had approached Putin to agree on a ceasefire, without taking into account EU foreign policy procedures, with the latter declining all the offers (Asmus, 2010, p. 192). The situation became dangerous not only for Georgia, with Russian troops at one hour from the capital Tbilisi, but also for the whole European continent, and thus, Sarkozy had to act promptly in the name of the EU. He reached out to at the time Russian President Dmitri Medvedev, which had a different, positive reaction to the possibility of negotiating a ceasefire (Asmus, 2010, p. 194).

Shuttling between Moscow and Tbilisi, the French President managed to break a six-point ceasefire plan on 12 August, which included the following provisions:

- No recourse to the use of force;
- A lasting cessation of hostilities;
- Unfettered access for humanitarian aid providers;
- Georgian forces must withdraw to their usual barracks;
- Russian forces must go back to positions they held prior to the outbreak of hostilities. Pending an international peace monitoring mechanism, Russian peacekeepers will take additional security measures; and

²⁸ Enter Sarkozy the peacemaker, Mark Tran, The Guardian, August 2008 (source: <https://www.theguardian.com/world/2008/aug/12/georgia.russia4>)

- Launch of international discussions on security and stability arrangements for Abkhazia and South Ossetia²⁹

The first four points of the plan were drawn up by the French presidency of the EU. Tbilisi wanted to add to the third point the right of refugees to return to South Ossetia, but Moscow was able to oppose this request, laying the foundations for a change in the demographic and identity structure of the region. The Kremlin managed to insert two additional points: point 5, the withdrawal of Russian troops to pre-conflict positions, but "pending international mechanisms", and depending on "additional security measures" by the Russian peacekeeping forces (which Georgia had for years considered a mere instrument of military control of South Ossetia and Abkhazia and not real peacekeeping forces). Moscow further managed to insert the international debate on the status of Abkhazia and South Ossetia as a condition for the ceasefire.

Shortly afterwards, Russian President Dmitry Medvedev ordered Moscow forces to end military operations in Georgia, announcing that the purpose of the war operation had been achieved. EU countries' Foreign Ministers met in Brussels and expressed their full support to the attempts of France, to find a solution to the conflict between Russia and Georgia. With Sarkozy acting instinctively and almost in a rush, the EU witnessed the personal actions of the French President, approving his strategy and incorporating it within the scope of the European Union. In fact, the European Council stated that "the six-point agreement achieved on 12 August on the basis of the European Union's mediation efforts has led to a ceasefire..."³⁰, thus stating the authorship of the ceasefire agreement. The green light was also given for the possible deployment of EU observers on site.

Some criticisms however have been moved towards Sarkozy's mediation. EU's actions through Sarkozy moves seemed not to take into consideration more different views such as the one of Poland and the three Baltic States; Sarkozy was also criticised in France and Europe for giving in to Russia. It is interesting to

²⁹ The six-point ceasefire agreement, RFI on RFI website, 16th August 2008, and in French on the Georgian State Ministry for Reintegration website, http://www.smr.gov.ge/uploads/file/Six_Point_Peace_Plan.pdf

³⁰ Extraordinary European Council, Brussels, 1 September 2008

highlight how Sarkozy would have acted in the name of French interests of demonstrating the country's 'grandeur'. The crisis had successively enhanced the President's status and prestige as a great leader. According to David in fact, the Presidential ego might have played a role in the Union's difficulties of drawing a unique policy towards Russia (David, Gower, & Haukkala, 2013, p. 35).

Russian military troops left Georgia's territories in October 2008; nevertheless, the troops did not come back to their original positions – thus not restabilising the status quo – but established their presence in Abkhazia and South Ossetia, with whom Putin signed military cooperation agreements (Grono, *Georgia's Conflicts: What Role for the EU as Mediator?*, 2010, p. 13). The independence of the two regions had never been recognised by any state except for Russia, which did it on 26 August 2008. The EU (as well as the US and NATO) had always rejected any Abkhazian and South Ossetian's claim to equate their case with that of Kosovo, contrary to Russias' will; Brussels had always recognized the right of Tbilisi to keep the two regions under its control, despite the complex history of the disputed territories, since pre-Soviet times. 2008 Kosovo unilateral independence and the following recognition of its sovereignty by most of the EU countries created indeed a 'precedent' for self-determination for Russia (Whitman & Wolff, 2010, p. 12).

The ceasefire appeared successful in the short-term; however, it presented several shortcomings, from the absence of an implementation sequence, to vagueness in the definitions.

3.3.6 Geneva International Discussion (GID)

To support the implementation of the ceasefire, the Geneva International Discussion (GID; known also as "The Geneva Talks") were launched on 15 October 2008, co-chaired by the European Union, the OSCE, and the United Nations. The negotiating table foresaw the presence of the representatives of the parties, namely Georgia, Russia, Abkhazia and South Ossetia, and additionally,

the United States³¹. The EU appointed a new EU special representative for the Crisis in Georgia to prepare and facilitate international talks.

The parties' initial main goals were way too ambitious (Mikhelidze, 2010, p. 2). Georgia aimed at replacing the Russian military troops in the occupied territories with international peacekeepers, an EU monitoring mission, and restoration of its territorial integrity, whereas Moscow wanted to establish independent offices of the UN and OSCE missions in the capitals of the two separatist regions respectively. The EU aimed at getting the parties to commit to the Geneva process, de-escalating tensions in the conflict zones and in bilateral relations between Russia and Georgia, preventing further conflicts, and finally, gradually building confidence between the parties (Merlingen & Ostrauskaite, 2009, p. 24). The first meetings stalled on the status question: Abkhazia and South Ossetian representatives claimed an official status as the one of the other parties, with Georgia strongly opposing to this. To obviate this, the format of the peace talks was modified and split into two parts: the first, involving Georgia, Russia and US, and two separate working groups - on Internally Displaced People (IDP) and Security matters – which saw the informal participation of separatists representatives. The EU, UN and OSCE had sent special envoys to the talks to mediate the negotiation process. The contrast of EU, UN, OSCE on one side, and Georgia, Russia, the US on the other (known as the “3+3 format”) generated the impression that there were two separated groups: one for mediators and one for involved parties.

In addition, the EU rotating Presidency influenced EU's tone and attitude towards Russia and the resolution, as countries historically against Russia (e.g.: Czech Republic, Poland, Estonia whose relationship with Russia has been profoundly conflictual since the Soviet Revolution) reacted differently and harsher compared to the French one (Mikhelidze, 2010, p. 3). The leaders of Italy and Germany toned down the EU's response, considering the role that Russia played in Europe's provision of oil and gas (Giurcanu, 2013). The French position was

³¹ OSCE Press Release, source: https://www.osce.org/press-releases?filters=%20i18n_tus_en_field_keywords%3A%22Geneva%20International%20Discussions%22%20im_taxonomy_vid_1%3A%289%29%20im_taxonomy_vid_3%3A%28116%29&solrsort=ds_date%20desc&rows=10

difficult to identify as France as EU president put all its effort in creating a common European position and acting as mediator (Larsen, 2009, p. 6). According to Boesen and Larsen, France was the 'common lowest denominator' among different EU positions; furthermore, France's interests in making the EU a greater geopolitical actor fell in line with the pragmatism adopted in reacting to the Russo-Georgian War (Larsen, 2009, p. 12).

Except for some difficulties encountered in the establishment of the format of the negotiations, namely the perception of two separated groups, the parties experienced difficult negotiations also in regards to IDP and non-use of force. The IDP question revolves around the fact that IDP were mostly Georgian, meaning that if they would come back to Abkhazia, they would form the majority of the population, reducing Abkhazian to a minority. For this reason the Abkhazian have always opposed solutions to the return of IDP. The agreement on the non-use of force proposed by Russia to Georgia has been also declined, as it involved officially representatives of Abkhazia and South Ossetia, which were not for any reason considered official parties by Georgia (Mikhelidze, 2010, p. 4-5).

The Geneva talks represented however the only format available to bring parties to the negotiation table, enabling the mediators to take active part to the process and play a "constructive peace-building role", rather than keeping the "zero-sum-game". In fact, conflict parties, Georgia in particular, perceived that the resolution and the effectiveness of the talks depended on foreign policy goals and bilateral relations between the mediators (Mikhelidze, 2010, p. 6). Right now, the format constitutes an important step for Russia and Georgia relations, finally facing and discussing an issue that has been ignored for years. The key-role of the Geneva Talks is summed up clearly by Mikhelidze:

"The existence of Geneva forum internationalizes mediation efforts and generates institutional and political incentives amongst the external actors to elaborate concrete positions. At the same time it increases the scope for the much-needed "degeopolitization" of the region." (Mikhelidze, 2010, p. 7)

On September 15, the EU Council established an European Union Monitoring Mission, deploying 200 civilians to the buffer zones of Abkhazia and South Ossetia; EUMM's deployment has been the fastest European Union's mission. (Isakhanian, 2011, p. 2). The main priorities of the missions included ensuring the non-return to hostilities; facilitation of the resumption of a safe and normal life for the local communities living on both sides of the Administrative Boundary Lines (ABL) with Abkhazia and South Ossetia, confidence building among the conflict parties; to provide information EU policy in Georgia and the wider region deployment in its history³². The mandate is valid throughout the territory of Georgia, but Abkhazia and South Ossetia have denied access to the mission. The EU Council last renovated the mandate of the mission until 14 December 2020, allocating EUR 38.2 million for 2018-2020.

In February 2009, within the framework of the EUMM, the Incident Prevention and Response Mechanism (IPRMs) was developed, with the aim of preventing and facilitating disputes resolution between the parties. It involved meetings every 3 weeks between Georgians, Russians with Abkhaz chaired by the UN in Gali. A hot-line links Georgia's Defense Ministry and Interior Ministry to Russian field commanders, Abkhaz and South Ossetian de facto security officials, and the EUMM (Phillips, 2011, p. 10, 11). The IPRM foresees mainly confidence-building measures, with the objectives of identifying and reviewing potential risks, as well as provide recommendations on how to avoid future ones. (Merlingen & Ostrauskaite, 2009, p. 24). The parties reached common position mainly on technical issues, like disruptions of water and gas supply across the boundary line from South Ossetia to Georgia; both parties agreed further on the urgent intervention required for humanitarian assistance in South Ossetia, but no implementation followed.

3.3.7 Mediation Strategies

³² Source: European Union Monitoring Mission, EEAS, (Last access: 06/07/2020 01:07 https://eumm.eu/en/about_eumm/mandate)

Concerning the first phase of the conflict, the European Union has proved to be reactive and effective, thanks to the diplomatic actions carried out by the French Presidency.

Prior to Sarkozy mediation efforts, on 7 August, the HRVP of the EU, Javier Solana, expressed to the Georgian President Mikheil Saakashvili deep European concern about the rapidly deteriorating situation in South Ossetia. Saakashvili expressed to Mr Solana his readiness for "a final call for a ceasefire", but during the night he gave the order to counter attack Russian troops in Tshkinvali. Faced with the precipitation of events, Benita Ferrero-Waldner, European Commissioner for External Relations and responsible for the European Neighbourhood Policy, said on 8 August that the Union was ready to take the lead with confidence-building measures. On the same day, Mr Solana expressed to Russian Foreign Minister Sergei Lavrov and his Georgian counterpart Eka Tkeshelashvili the need to urgently involve the OSCE to end the escalation immediately. These appeals however produced no positive results.

The turning point in European Union action towards the war came with the initiative of Nicolas Sarkozy. The French head of state, the EU president on duty and a convinced supporter of the strengthening of European foreign policy, was able to quickly draw up a plan for the ceasefire between Moscow and Tbilisi. Right after the agreement, the immediate objective of the European Union became the monitoring of the ceasefire, to ensure that the parties kept their commitments. On August 14, Sarkozy sent a letter to Saakashvili to reassure Tbilisi that there was no Russian military presence in Gori, a city located between South Ossetia and Tbilisi. Additionally, the visits of the German Chancellor Angela Merkel on 15-17 August further strengthened the importance of the Franco-German cooperation. The six-point agreement was then approved in an emergency council of EU foreign ministers on 13 August, which stated the principle to which the agreement had respect, namely sovereignty, independence, and territorial integrity of Georgia. In the following months, the EU issued stronger common statements in support of Georgia and critical of Russia, whereas the HRVP Javier Solana made his first trip to Tbilisi and Sukhumi, demonstrating interest in supporting conflict resolution in Abkhazia and South Ossetia (International Crisis Group, 2008, p. 21-22).

The Geneva Talks entrusted the EU for the first time into the role of mediator (Merlingen & Ostrauskaite, 2009, p. 25). The round of peace talks took place physically in the Geneva Palais de Nations building in Switzerland, a place arranged by the European Union. The format of the formal plenary and informal working groups allowed the EU to play a major role in influencing the parties, acting thus as a facilitator, delivering messages between the parties, and formulator, providing different solutions to overcome the stalemate to obtain more stability and security on the ground.

However, the EU seemed not to be in the position of assuming a stronger manipulative role. Grono (2010) states that the EUSR for the crisis in Georgia, appointed in August 2008, played both the role of the mediator and of EU representative. Acting on behalf of the EU, he was bound to the principle of non-recognition of the breakaway regions of South Ossetia and Abkhazia, meaning that he had to give up the status of impartial mediator (Merlingen & Ostrauskaite, 2009, p. 23-24). At least initially, the EU biased approach did not manage to deliver the preferred party – in this case Georgia – in the direction of the agreement; instead, it weakened its position towards representatives of the *facto* authorities, whereas the pressure put on Georgia's government, through a power-based approach, failed to direct the parties towards resolution of issues at the base of the conflict (Grono, *Georgia's Conflicts: What Role for the EU as Mediator?*, 2010, p. 24-25).

According to Makhasvili, the EU has used two traditional sources of leverage: conditionality and social learning (Makhasvili, 2013, p. 73). Conditionality, ("sticks and carrots"), is considered to be one of the main sources of leverage of the European Union. Material help by the EU is offered in exchange for domestic change of policies, and with the leverage that derives from this offer, the EU could influence parties' decisions in the negotiation matters. However, conditionality does not affect deep-rooted motivations and main goals of the disputants, influencing short and medium-term goals. What instead can have an influence in the long-run is the shaping of one's identity and interests; the process of change of both is known as social learning. If these processes are smoother in countries that can have access to EU membership (e.g.: the Balkans), they encounter major complications in the neighbour states, in these case in the Eastern

Neighbourhood, because of the presence and influence of other international actors, such as Russia. Tocci (2004) argues that if “policies of conditionality are viewed as insufficiently legitimate, if existing domestic practice is uncontested, if EU norms are insufficiently related to domestic norms or if institutional ties are too weak”, then these mechanisms of conditionality and social learning cannot be linked to conflict resolution (Tocci, 2004, p. 15). For this reason, (Makhasvili, 2013) argues that the EU conditionality vis-à-vis Georgia is “vague and weak”: the incentive of membership accession is lacking. This would justify the lack of success in the long-term of the peace talks, which so far have brought to minor improvements.

On the contrary, Noutcheva (2018) argues that the EU was able to exert leverage over Georgia through conditionality; EU’s leverage would derive from Georgia’s desire to aspire to the prospect of membership. Despite EU ambiguous behaviour vis-à-vis membership for Georgia, due to its reluctance to expand membership prospects to any country belonging to the Eastern neighborhood, had caused great disappointment in Georgia, Georgian domestic policies reforms indirectly reflected its long-term goal of becoming a credible candidate for membership. (Noutcheva, 2018, p. 454, 455). According to Noutcheva, through conditionality the EU can thus exert political leverage to make Georgia commit to a peaceful conflict resolution policy, and contain Russia from a renewed military intervention against Georgia.

3.3.8 Coherence

Coherence affects mediator’s credibility and effectiveness. In the Russo-Georgian conflict, EU lacked internal coherence in the approach towards the main opposite side: Russia. EU actorness was in fact constrained by underlying disagreements among EU member states over their policies toward Russia (Popescu 2011, 6; Whitman and Wolff 2010). Europe can be divided between governments that are in favour of a strong Euro-Russian partnership and governments that instead favour a "hard-line" towards Moscow. The first group is led above all by France, Germany, Spain, Italy, Belgium and Austria. The most convinced supporters of the "hard-line" are instead the United Kingdom, Poland, the three Baltic

countries and Sweden. Indeed, the EU Council hardly reaches the unanimity in cases when national interests are involved. This generated inconsistency and slow reactions from the EU side (Popescu, 2007, p. 6) preventing meaningful intervention, namely the missing opportunity of introduction of sanctions against Russia (Freizer, 2017, p. 162).

The EU proved lack of internal coherence it decided to appoint a new EUSR specific for the crisis, instead of leaving this role to the already existent EUSR for South Caucasus, which would have provided a great advantage to the EU thanks to its progressed expertise. In this sense, the EU has missed the opportunity to maximise its already existing expertise (Whitman & Wolff, 2010, p. 17).

An example of EU “indecisiveness” due to internal lack of coherence could be also traced back to stages antecedent the conflict, in the failed attempt to establish a border monitoring mission, that was supposed to be deployed after that Russia vetoed the continuation of the same mission operated by the OSCE. In 2004, the EU was invited by Georgia to deploy a similar Monitoring Border Mission on the Russo-Georgian border; however, after several internal discussions, the EU opted for the most cautious option, i.e. sending three EU experts as advisors. According to Popescu, this choice was generated by the fear of irritating Russia, with some countries – the UK, the Baltic states – in favour of a full establishment of the mission, and others – Italy, Belgium, France – opposed to it. This attitude deteriorated EU’s reputation for Georgia (Popescu, 2007, p. 11).

Among characteristics of EU’s approach towards the conflict as part of coherence, there is a lack of coordinated actions among the different tools at EU disposal. In general, Brussels-based officials, local representatives, the EU Commission, the EU Council, the EU Parliament etc., despite participating all to the conflict resolution process, had demonstrated to have different priorities and pursue different strategies. In the Georgia conflict, with the EU lacking a dedicated cross-institutional conflict management body that could take on the role of coordination between institutions, member states and local staff, developing and implementing effective conflict management policies, the role of individuals emerged among the others, with the French President Nicolas Sarkozy taking the lead (Whitman & Wolff, 2010, p. 15, 16). What EU was missing vis-à-vis the Georgian conflict was a permanent External Action Service and, in general, a

coherent and comprehensive conflict management strategy (Whitman & Wolff, 2010, p. 17), together with a more political approach to conflict resolution (Noutcheva, 2018).

3.3.9 Post-conflict relations with Europe

EU Relations with Georgia were further developed in the years following the August conflict. In fact, one year after the war, triggered, among other reasons, by the Russo-Georgian War (Freizer, 2017, p. 164), the Eastern Partnership was created. June 2014 saw the signing of the Association Agreement (AA), that entered into force on July 1 2016, along with the Deep and Comprehensive Free Trade Agreement (DCFTA). The AA constitutes moreover the main instrument for EU support to governance reforms in Georgia, especially in the rule of law and juridical sectors (Macharashvili, Ekaterine, & Nikoloz, 2017, p. 13). Moreover, opportunities to take part to DCFTA negotiations were offered also to representatives of Abkhazia, but these were declined as for Abkhazian, they were just another attempt to force them into re-integration to Georgia (Freizer, 2017, p. 168). Through these policy instruments, the EU aims at shortening the distance with Georgia, exporting EU norms and values through support for confidence-building and inter-community initiatives. However, the prospect of the membership appears to be hazy and dubious, if not impossible. Yet, Georgia still persists on following its aspirations, even if this means “knocking on every door”³³.

3.3.10 Conclusion

In general, the Georgia’s perceptions of the EU result in being highly positive (Müller, 2011, p. 82)³⁴. In relations to the EU role in the Russo-Georgian war, EU

³³ Georgi Gotev, Georgia suggests taking an unconventional path to EU accession, EURACTIV, 11/07/2019, Last Access 10/04/2020 Source: <https://www.euractiv.com/section/eastern-europe/news/georgia-suggest-taking-an-unconventional-path-to-eu-accession/>

³⁴ Public Opinion Toward the European Union in Georgia, Martin Müller, *Post-Soviet Affairs*, 2011, 27, 1, pp. 64–92. DOI: 10.2747/1060-586X.27.1.64 2011 by Bellwether Publishing, Ltd. (source: https://www.alexandria.unisg.ch/72173/1/Mu%CC%88ller_2011_Public%20opinion%20toward%20the%20European%20Union%20in%20Georgia_Post-Soviet%20Affairs.pdf)

is perceived by local actors also as relatively efficient in its various peacebuilding and conflict prevention capacities. Nonetheless, these same local actors also believe that the EU's role in the ongoing Georgian conflicts is limited (Macharashvili, Ekaterine, & Nikoloz, 2017, p. 4). First of all, the EU, or France acting on behalf of the EU as Chairman of the EU Presidency, played a key-role in brokering the cease-fire, strongly recognised by the local actors, stating that without the EU intervention Georgia would have been probably invaded by Russian tanks. However, the internal assessment of France's mediation actions resulted first in approval and then by some criticism by EU member states, in particular Poland and the Baltic States. Sarkozy figure as President of France, despite holding the Presidency of the European Union, was perceived by some more as a representation of personal national interests rather than the whole community's.

The long-term approach to conflict resolution of the EU, through confidence and democracy building, is positively assessed by Georgia, which evaluates positively also the Eastern Partnership (Delcour & Wolczuk, 2018, p. 55-56). The EUMM has been assessed by local and international stakeholders as a positive instrument in ensuring security and stability in the areas near Abkhazia and South Ossetia. According to EU representatives, the narrow mandate of the mission is only a part of the whole process of conflict prevention and stability, considered to play a key-role, given the stalemate reached by the parties in the implementation of the six-point agreement and the ceasefire. To Georgians, the mission should envisage a long-term mandate, as the issue of the possible exit of it would send negative signals to Georgia and Russia. The information-sharing meetings under the auspices of the EUMM with local NGOs are also considered positive initiatives, and indicate that local ownership in Georgia is being exercised (Macharashvili, Ekaterine, & Nikoloz, 2017, p. 25-28). However, EUMM is still unable to access the conflict zones, and despite its mandate foresees hard security-related actions, so far it was mostly engaged in confidence building measures, which brought only to limited results (Freizer, 2017, p. 162).

The Geneva International Discussions have proved to be a failing process in producing an agreement on the return of IDPs and on improving human rights situation in the conflict. The most controversial issue concerned the status of

Abkhazia and South Ossetia, with Georgian government blocking any upgrade in the question. Georgian Civil Society has expressed dissatisfaction as its participation is not foreseen in the talks, which are additionally conducted behind closed doors and the public is not informed about the results. The monitoring of the Geneva Talks results impossible for Georgian stakeholders (Macharashvili, Ekaterine, & Nikoloz, 2017, p. 32). However, EU representatives argue that the GID are extremely important because represent the unique place and modality where discussion among the parties can happen. The format involves Georgia no longer as a minority and Russia as a non-mediator, and representatives of the breakaway regions can participate to the working groups. The GID furthermore provides the Abkhaz and South Ossetians the possibility of bringing their concerns to the attention of the international community. Both local and international respondents highlighted the leading role of the EU in the talks, which is also perceived as the most active among the three co-chairs (Macharashvili, Ekaterine, & Nikoloz, 2017, p. 35).

In parallel, the EU has used all the instruments it has developed in the context of the ENP to attract fully sovereign countries, including the Deep and Comprehensive Free Trade Association Agreement, the Action Plan for visa liberalization, the promise and provision of visa-free travel, various financial assistance schemes, etc. (European External Action Service 2017). Although these policy instruments derivatives of enlargement policy instruments, they have allowed the EU to have a long-term transformative influence on one side of the conflict. The EU has proved its worth in fact in the broader measure within political, legal and economic support (Whitman & Wolff, 2010, p. 8).

While the EU institutions have continued to support Georgia through the ENP instruments, the reluctance of the member states to authorise a more active political role in the conflict has contributed to the hesitant overall EU response. (Noutcheva, 2018)

3.4 The Ukrainian conflict of 2014

Ukraine crisis has been perceived as one of most important challenges to the post-Cold War international order (Noutcheva, 2018). It reminded to the West that Russia still represents a serious threat to stability in the European continent. The European Union could not just stand and watch, witnessing another crisis at its border. Furthermore, the crisis was triggered by a European-related matter, namely the last minute withdrawal of Ukrainian President in signing process for the Association Agreement. This generated a wave of protests in Kiev and other major Ukrainian cities, which in Eastern Ukraine triggered local independent movements, and brought to the illegal annexation of Crimea by Russia, and the outbreak of an armed conflict in the Donbass and Luhansk regions.

For this reason, the EU intervened in the conflict, trying to bring the parties on a negotiation table to achieve a common agreement. EU involvement in the Ukraine war can be summed up by three level of interventions: first, at a political and economic level, the reprise of the negotiations of the Association Agreement; secondly, the one at CSFP level, deploying a civilian monitoring mission; thirdly, at a diplomatic level, the involvement of two member states representatives in the peace talks. Each level will be analysed and assessed in terms of objective and perceived effectiveness, with a particular focus on the role of the EU in the negotiation process, and on the shortcomings of its implementations.

3.4.1 EU-Ukraine Relations before the crisis

Since the birth of the Ukrainian state after the dissolution of the Soviet Union in 1991, the EU has progressively approached Ukraine's economic and political integration because of its geographic contiguity to Russia and the presence of pro-Russian political forces. EU's first approach to Ukraine consisted in the setting up of the Partnership and Cooperation Agreement (PCA) in 1994, replacing the old Trade and Cooperation Agreement that was concluded with the Soviet Union in 1988. Among the main objectives, there were nuclear safety and disarmament, economic stabilisation, and development of a strong political relationship with Ukraine. The support to democratic development through advice on legislation

and practical assistance was also mentioned as a main goal, anticipating the ENP scopes. The PCA was considered innovative in the framework of the association agreements signed by the EU, and regulated EU-Ukraine relations for more than fifteen years. It underlined the importance of democratic values, respect for human rights and the principles of a market economy, establishing the prospect of a future free trade area. The agreement also created a Parliamentary Cooperation Committee (PCC), which reunited in one place members of the European Parliament and of the Verkhovna Rada of Ukraine. (Moskalenko & Streltsov, p. 120-122).

Since the mid-1990s, Ukraine's most desired goal within the European integration was the association with the EU, which was seen as the step before a possible EU candidacy (Kruglashov, 2017, p. 114). However, weak government institutions, a highly deficient judicial system, poorly developed regulatory authorities, low administrative competence and an unstable political climate hindered the successful implementation of the legal-reform programme in Ukraine. The EU's policy of stressing the importance of legislative reforms as one of the key elements for intensified relations between Ukraine and the EU and best way to use the opportunities of enlargement did not prove sufficient to bring significant result. This left the EU sceptical and distrustful, acting as a 'cold heart' actor towards Ukraine's desire of membership. (Kruglashov, 2017, p. 118)

In 2004, Ukraine went through the Orange Revolution, with Ukrainians raising up in Kiev against fraudulent elections. The old regime had in fact falsified the results of the second round of the presidential elections, proclaiming the victory of Prime Minister Viktor Yanukovich. Massive protests followed, which together with international attention, pressed the Ukrainian Supreme Court to reschedule the elections. This time, Viktor Yushchenko, who has lead the so-called "Orange Revolution" became the ultimate winner, backed up by the Socialist Party and Yulia Tymoshenko (Katchanovski, 2013, p. 356). It was the first time that civil society, whose participation remained almost absent before the 2003 protests, expressed their dissatisfaction with the government so strongly (Natorski, 2017, p. 180). Besides, Yushchenko's victory was seen as a victory of the pro-Western side (Katchanovski, 2013, p. 365).

The EU noticed the Ukraine's turn towards more democratic values, and took the advantage to enhance its strategy in the direction of democracy promotion. The ENP's EU-Ukraine Action Plan was signed by the two parties on 21 February 2005, and it was endorsed for three years. It constituted 'a valid basis for EU-Ukraine cooperation' and encouraged 'Ukraine's objective of further integration into European economic and social structures' (EU-Ukraine Action Plan, 1, 2005). Besides, 'Ukraine and the European Union agreed to enter into intensified political, security, economic and cultural relations, including cross border cooperation and shared responsibility in conflict prevention and conflict resolution.' (EU-Ukraine Action Plan, 1, 2005). The Agreement provided Ukraine of the perspective of going beyond simply cooperation, to a significant degree of integration, in the EU's Internal Market and in 'key aspects of EU policies and programmes', as well as political cooperation and legislative approximation to meet EU norms and standards. Among the priorities of the AP, there was also the democratic conduct of presidential and parliamentary elections, in accordance with OSCE standards. The EU achieved this goal, promising tangible rewards, such as initiation and enhancement of negotiations on the Free Trade Area (FTA) (Franke, Gawrich, Melnykovska, & Schweickert, 2013, p. 157).

3.4.2 The Association Agreement and Euromaidan

In 2007, negotiations were initiated between the EU and Ukraine on an Association Agreement as a framework for closer cooperation and regular political dialogue, under the EU-Ukraine Action Plan. It took twenty-one rounds of negotiations to finally reach a final draft of the Agreement on December 9, 2011. On March 30, 2012, the EU and the Ukrainian counterparts initialled the Association Agreement in order to further strengthen relations and cooperation. Discussions on the chapter on Deep and Comprehensive Free Trade Area (DCFTA) began on July 19, 2012. On May 15, 2013 the European Commission recommended to the EU Council to sign the Association Agreement, and to allow its provisional application until the ratification procedures would be completed by all EU Member States. The major part of the negotiations had been carried out on the Ukrainian side by Viktor Yanukovich, who succeeded Viktor Yushchenko

in February 2010. Yanukovych adopted a more authoritarian policy, reversing the democratic reforms agreed during the Orange Revolution; this, together with the imprisonment of opposition leaders and manipulation of parliamentary elections lead to a deterioration in political freedoms in Ukraine.

Initially, self-declaring himself as a true supporter of Ukraine's European course and a strong leader who would be able to move Ukraine closer to the united Europe (Kruglashov, 2017, p. 118), Yanukovych progressively turned Ukraine's interests towards Russia, approaching it in energy, military and political areas. The EU answer to face this change in directions was the strategic move of linking of the the signing of the Association Agreement to the implementation of reforms in the judicial field, and to the release of Yulia Tymoshenko. The EU refused to change this conditionality approach to avoid further increase of Russian pressure on Ukraine (Natorski, 2017, p. 181).

On 21 November 2013, Viktor Yanukovich refused to sign the Association Agreement with the EU. The outbreak of 'Maidan protests', known also as 'Euromaidan', started on the same day. (Tolksdorf, 2014, p. 111)

The main cause that triggered Ukrainians citizens and activists was the unexpected and sudden refusal of Yanukovich to sign the Association Agreement; other reasons lied in Yanukovich's unpopularity across the country due to its authoritarian nature, and national dissatisfaction for the growing level of corruption, despite the results obtained after the Orange Revolution of 2004. It is true however that the general discourse focused on Ukraine-EU relations, with circulating slogans such as "*Ukraiina tse Evropa*", "Ukraine is Europe" (Onuch & Sasse, *The Maidan in Movement: Diversity and the Cycles of Protest*, 2016, p. 564-566). Up to two-million people protested for nearly three months, and from asking for a more European Ukraine, Ukrainians moved on attacking the regime for corruption, repressiveness, and rights violations. The use of violence by both sides escalated, both accusing one another of using sniper fire against unarmed civilians. More than a hundred people had died before Yanukovych's fled from Kyiv on February 21, headed for exile in Russia (Onuch, 2014, p. 46). What started as a peaceful protest in favour of European integration turned into one of the most unprecedented revolutions in Ukraine's history, known today as the

Revolution of Dignity³⁵. The EU's efforts to mediate between Yanukovich and the opposition parties on 21 February 2014 resulted in an "Agreement on the Settlement of Crisis", which was brokered by the foreign ministers of France (Laurent Fabius), Germany (Frank-Walter Steinmeier), and Poland (Radoslaw Sikorski). Under its terms, early presidential elections had to take place by the end of 2013, a national unity government would have been created by beginning of March, and Ukraine would have returned to its 2004 constitution. Nonetheless, the Agreement was never implemented, and soon after the breakaway of Yanukovich, the EU recognised the new interim president, Oleksander Turchynov (Tolksdorf, 2014, p. 114).

3.4.3 Crimea's Annexation and the outbreak in Eastern Ukraine

The fall and flight of Yanukovich marked a new displeasing turning point in the Ukrainian crisis. The epicentre of the crisis moved shortly to the Eastern regions of the country, and in particular to the Crimea, where the population is two thirds Russian and the Russian Black Sea military fleet is stationed. In this region the pro-Russians started in the last days of February loud demonstrations against the new Ukrainian "fascist" leadership, fearing the spectre of secession from Kiev and calling for Moscow intervention. There were also the first clashes and act of violences between the pro-Russians and minorities in favor of the new post-Yanukovich course. On February 27th, in Simferopolis, capital of the autonomous republic of Crimea, the seat of the regional parliament was occupied by demonstrators, perhaps with the support of Russian soldiers, whose presence in the region was growing fast³⁶. The airports in the region were also blocked. At the same time, after some initial statements of a soothing tone, Russia, started to act, at first threatening to freeze (and then effectively freezing) the loans just granted to the country and to raise the price of gas; then by launching massive military drills on the Eastern borders of Ukraine. Finally, it threatened to send a

³⁵ Hromadske, 10 Dramatic Videos of Euromaidan 21 November, 2017, Last Access 10/04/2020: <https://en.hromadske.ua/posts/10-dramatic-videos-of-euromaidan>

³⁶ Harriet Salem, Crimean parliament seized by unknown pro-Russian gunmen, 27/02/2014, Last Access 15/03/2020 Source: <https://www.theguardian.com/world/2014/feb/27/crimean-parliament-seized-by-unknown-pro-russian-gunmen>

military contingent of its own to Ukraine (Portnov, 2017, p. 154-156). On the 27th February, Crimea was invaded by Russian military troops and illegally annexed to the Russian Federation through an internationally-recognised illegitimate referendum held on 16th March. The day after, March 17th, the United States and the European Union adopted the first sanctions against Russia.³⁷

In the Donbass region, protests continued with the slogan “Donbass, Crimea, Russia!” and Russian flags; in Luhansk hundreds of separatists broke into the regional security service building and seized weapons; in Odessa and Kharkiv, protesters seized the regional government buildings³⁸. Local Parliaments started discussions on issuing a referendum similar to the one occurred in Crimea, while Russia openly supported a federalisation of Ukraine, to give Eastern regions greater economic and political autonomy³⁹. The war between the Ukrainian government and the separatists, backed-up by Russian troops⁴⁰, in Eastern Ukraine finally started on 15 April 2014, when the Ukrainian military launched the “Anti-Terrorist Operation”. Since then, the conflict has caused more than 10,000 civilian casualties estimated⁴¹ and 1.5 million internally displaced people⁴². Three months after the fall of Viktor Yanukovich, Ukraine elected a new president, Petro Poroshenko, one of the richest entrepreneurs in the country, a member of a centrist formation and several times minister. On 17th July 2014, the conflict escalated with the shot down of the Malaysian Airline flight over Ukrainian Spaces, which caused the death of all 298 passengers. According to investigations, the surface-to-air missile that hit the airplane was provided by Russia, attesting finally the presence and the support of Russian militia to

³⁷ European Council, Timeline - EU restrictive measures in response to the crisis in Ukraine, Retrieved from: <https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/history-ukraine-crisis/>

³⁸ International Crisis Group, Ukrainian Crisis Timeline, source: <http://ukraine.csis.org/east1.htm#45>

³⁹ International Crisis Group, Ukrainian Crisis Timeline, source: <http://ukraine.csis.org/east1.htm#6>

⁴⁰ International Crisis Group, Ukrainian Crisis Timeline, source: <http://ukraine.csis.org/east1.htm#66>

⁴¹ UNHR, Human Rights Council discusses oral update on the human rights situation in Ukraine, Retrieved from:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23320&LangID=E>

⁴² UNHR, Conflict in Ukraine enters its fourth year with no end in sight – UN report <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21730&LangID=E>

separatists⁴³. Later, in December 2015, Moscow will finally admit the presence of Russian military specialists in east Ukraine⁴⁴.

3.4.4 The Azov crisis

Further escalations occurred in March and November 2018 in the Black sea. The first escalation at sea took place in March 2018, when Ukraine stopped a Crimean fishing vessel under the Russian flag, because the vessel did not follow Ukrainian procedures for leaving Crimean territory⁴⁵. The Russians reacted by stopping several Ukrainian fishing vessels accused of operating in the Russian exclusive economic zone. Fearing of incurring other similar incidents, fishing enterprises on the Ukrainian coast of the Sea of Azov have restricted their fishing radius within few miles of the Ukrainian coast; this caused economic damage to fishing enterprises⁴⁶. The clash at the end of November resulted as the most acute since the annexation of the Crimea to Russia in 2014, but it is not an isolated fact: tensions on the maritime front were constantly growing. The Kerch Strait was regulated by the 2003 Agreement, which recognised the freedom of navigation through the strait. However, since the annexation of Crimea, Russia had introduced unilaterally new rules, including the right to inspect vessels in an “excessive measure”, according to Kiev. In the months previous to the incident, Russia has increased its military presence in the Sea of Azov and around the Kerch Strait. In fact, other Russian military ships belonging to both the Black Sea Fleet and the Caspian Flotilla have been sighted alongside the Russian Coast Guard fleet. Russia insists on its right to protect the Kerch Bridge, the longest in Europe (19km), which the Kremlin considers a strategic infrastructure. The Black Sea Fleet is a crucial base for the projection of Russian military power in the

⁴³Council on Foreign Relations, Global Conflict Tracker, Conflict in Ukraine Last Access on 14/04/2020 Source: <https://www.cfr.org/interactive/global-conflict-tracker/conflict/conflict-ukraine>

⁴⁴Shaun Walker, Putin admits Russian military presence in Ukraine for first time, The Guardian, 17/12/2015 Source:<https://www.theguardian.com/world/2015/dec/17/vladimir-putin-admits-russian-military-presence-ukraine>

⁴⁵The Moscow Times, Russia Accuses Ukraine of Hijacking Crimean Fishing Vessel in 'Violation of International Law, Last Access on 14/04/2020: <https://www.themoscowtimes.com/2018/03/29/russia-accuses-ukraine-hijacking-crimean-fishing-vessel-violation-international-law-a60980>

⁴⁶International Institute for Strategic Studies, The Kerch Strait incident, December 2018, Last access on 14/05/2020 <https://www.iiss.org/publications/strategic-comments/2018/the-kerch-strait-incident>

Mediterranean, as could be seen on several occasions in recent years with the passage of Russian military ships bound for Syria through the Bosphorus. (2018) The Kerch Strait incident, Strategic Comments, 24:10, i-ii, DOI: 10.1080/13567888.2018.1557878. The incident took place because Ukrainian military vessels communicated their intention to transit, but the Russian authorities denied them permission on security grounds. According to the Russian authorities, continuing to the Straits in any case, the Ukrainian ships did not comply with the 'innocent passage' procedures, while the Ukrainians considered that their actions were in line with international standards (Lewis, 2019, p. 22).

3.4.5 EU response to the crisis

Ukraine's crisis in 2014, and all its consequences, generated from an European Union related issue, the integration process. For this reason, the EU could not stay apart (Shelest, 2016, p. 481). Furthermore, as already mentioned earlier, the principle of establishing a stable and safe neighbourhood in the ENP and EaP documents underpins the objective of conflict settlement (Ivashchenko-Stadnik, Petrov, Rieker, & Russo, 2018, p. 5). The EU response to the crisis can be summed up in three main actions: the reprised negotiations for the Association Agreement, the introduction of sanctions, which had been imposed right after Russia illegal annexation of Crimea; the establishment of the EU Advisory Mission (EUAM); and finally, the involvement the negotiation process in the Trilateral Contact Group.

3.4.5.1 Association Agreement

After the escalation of the Crimean crisis, the negotiations between the EU and Ukraine restarted, and EU relations with Kiev were further strengthened (Tolksdorf, 2014, p. 167). The political part of the Association Agreement as well as the Final Act of the Summit was signed by the Prime Minister of Ukraine Arseniy Yatsenyuk during the extraordinary EU–Ukraine Summit held on March 21, 2014, whereas the economic part of the Association Agreement was signed during the meeting of the Ukrainian President Petro Poroshenko with the

European Council, leaders of the European Union, the Heads of State and Heads of Government of the 28 EU Member States on June 27, 2014⁴⁷. The Association Agreement was then ratified by the Verkhovna Rada on September 16, 2014. However, it entered into force only on 1st September 2017, after a long and definitely not smooth process of approval among EU member states' parliaments. According to Natorski (2017), the AA with Ukraine stood for the support for deep political and economic transformation and as an instrument of the conditionality principle in the revised ENP (Natorski, 2017, p. 179). Most importantly, the EU used the agreement "as a carrot" to incentivise the achievement of a peaceful solution to the conflict, promising its signing only when certain conditions had been met. The EU even mentioned the possibility of future benefits besides the AA, in 'a clear reference to granting a possible enlargement perspective' (Natorski, 2017, p. 182). After Russia's military intervention in Crimea, the Commission approved the 'Support Package for Ukraine', which included a series of economic and financial measures. This was followed by many other initiatives in support to Ukraine, such as a 'European Agenda for Reform', in preparation for the AA, and within the same area, a dedicated Support Group for Ukraine (Natorski, 2017, p. 182-183).

3.4.5.2 Sanctions

The sanctions adopted by the EU against Russia concern individuals, diplomatic relationship and economy. In 2014 the EU-Russia summit was cancelled, and EU Member States decided not to hold regular bilateral summits. Bilateral talks with Russia on visas and the new EU-Russia agreement were suspended. Instead of the G8 summit in Sochi, a G7 meeting was held in Brussels on 4 and 5 June 2014. Since then, the meetings have been continuing within the G7. EU countries also supported the suspension of negotiations on Russia's accession to the Organisation for Economic Cooperation and Development (OECD) and the

⁴⁷ Association Agreement between the European Union and Ukraine, Retrieved from: <https://www.kmu.gov.ua/en/yevropejska-integraciya/ugoda-pro-asociacyu> and EU-Ukraine Fact Sheet, 2013 retrieved from: https://eeas.europa.eu/sites/eeas/files/eu-ukraine_relations_factsheet.pdf

International Energy Agency (IEA)⁴⁸. In the first months of the conflict, between March and July 2014, the sanctions adopted concerned principally the military elite responsible for intervention in Ukraine, both Russians and Crimean. 150 persons and 38 entities were subject to an asset freeze and travel ban because their actions have undermined the territorial integrity, sovereignty and independence of Ukraine. These measures were extended in March 2020 until 15 September 2020, currently applying to 175 persons and 44 entities (EU Council 2019). On 29th July and 12th September 2014, the EU introduced sanctions on trade with Russia, the movement of persons and sanctions in certain sectors of the economy. In March 2015, EU leaders decided to bind the current sanctions regime to the full implementation of the Minsk agreements. The economic sanctions have been extended until 31 July 2020, at the meeting of the European Council, on 12 December 2019 (EU Council, 2020).

3.4.7.3 EU Mission to Ukraine

EUAM Ukraine is an unarmed and non-executive civilian mission with headquarters in Kiev and local offices in Lviv, Kharkiv and Odessa. It carries out projects throughout the country. It was established on 22 July 2014. It started operations on 1 December 2014 and currently has a team of over 300 members⁴⁹. The objective of EUAM Ukraine is to support Ukraine in developing sustainable, responsible and efficient security services that strengthen the rule of law. This process is fundamentally designed to restore the confidence of the Ukrainian people in their civilian security services. The mission supports civil security sector reform, in close cooperation with the police, other law enforcement agencies and the judiciary, in particular the prosecution⁵⁰. The mission provides strategic advice to the Ukrainian authorities and supports them through operational activities, including training. The mission has five priorities: human resources management, criminal investigation, law and order, community policing and

⁴⁸ European Council, EU restrictive measures in response to the crisis in Ukraine. retrieved from: <https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/>

⁴⁹ EUAM – Who we are, Retrieved from: <https://www.euam-ukraine.eu>

⁵⁰ EU Council Press Release, EUAM Ukraine: Council extends mission and approves budget increase. 13 May 2019. Retrieved from: <https://www.consilium.europa.eu/en/press/press-releases/2019/06/04/euam-ukraine-new-head-of-mission-appointed/>

competence building. It also focuses on three cross-cutting issues: human rights and gender, the fight against corruption and good governance. (EU Council 2018).

EUAM is part of the EU strategy of long-term support and development of sustainable economic and democracy building through implementation of reforms within the Ukrainian legislative framework, in particular in the anti-corruption and rule of law sectors (Ivashchenko-Stadnik, Petrov, Rieker, & Russo, 2018, p. 10).

3.4.7.4 Diplomatic and mediation efforts

Åtland (2020) recognises five milestones in the retrospective analysis of the Donbass negotiation process: the “Joint Declaration”, signed in Geneva on 17 April 2014, President Poroshenko’s peace plan, issued on June 2014, the first Minsk Agreement, signed on 5 September 2014, the second Minsk agreement, signed on 12 February 2015, and finally, the “Steinmeier Formula”, proposed by the German Foreign Minister in October 2015 and accepted by the parties in October 2019 (Åtland, 2020, p. 130). The European Union contributed to each of the milestones.

3.4.7.5 The Geneva Group

On 17th April 2014, foreign ministers of Russia, Ukraine, the United States, together with the EU High Representative for Foreign Affairs and Security policy met in Geneva, (the so-called “Geneva Group”), precedent to the Normandy Format. The representatives of the self-proclaimed republic of Donetsk and Luhansk were not present. The foreign ministers agreed on a joint statement that delineated a series of steps in order to deescalate tensions and restore security for all citizens in Donbass; furthermore, a special role was provided for the OSCE, which deployed the Special Monitoring Mission four weeks earlier, to observe and report on the situation, and assisting local authorities in implementing the de-escalation measures⁵¹.

⁵¹Text of the Geneva Statement on Ukraine released by the US, EU, Ukraine and Russia, Washington, DC, April 17, 2014

In the following negotiations, the German and French presence in the peace talks became more and more marked and became known as the “Normandy Format”, created officially on 6 June 2014, during celebration for the D-day in Normandy. Another negotiation format was the “Trilateral Contact Group”, composed by Ukraine, Russia and OSCE, established by the Swiss OSCE chairmanship right after the elections of Poroshenko.

3.4.7.6 Minsk I

Between the joint statement of the Geneva Group and the first Minsk agreement (Minsk I), President Poroshenko presented a 15-point peace plan in June 2014, going into the specifics of the conflict and suggesting concrete measures to de-escalate the situation. Poroshenko however refused to engage in talks with the representatives of Donetsk and Luhansk national republics (DNR/LNR); for this reason, the Kremlin stated that it could not accept a Ukrainian “ultimatum”, as according to its view, a ceasefire without the separatist leaders was not feasible⁵². Differently, the Minsk agreement was signed on 5 September 2014, after the Russian counteroffensive against the Ukrainian forces, which had made successful advances through the Donetsk and Luhansk territories, but were soon seized by the DNR and LNR military attacks (Peters & Shapkina, 2019, p. 1). It saw the participation of the Trilateral Contact Group (former President Leonid Kučma as representative for Ukraine, Russian Ambassador to Ukraine and representative for Russia Mikhail Zurabov, and the OSCE’s Chairman Heidi Tagliavini), and, for the first time, the DNR and LNR leaders Aleksandr Zakharchenko, Igor Plotnitsky, Aleksey Karyakin, and Andrei Purgin. According to Åtland, the plan resembled Poroshenko’s peace plan, with terms that were more favourable to Russia and Donbass separatists. It included 12 articles,

Retrieve from <https://geneva.usmission.gov/2014/04/18/text-of-the-geneva-statement-on-ukraine-released-by-the-us-eu-ukraine-and-russia/>

⁵²BBC News, Ukraine crisis: Details of Poroshenko's peace plan emerge

20 June 2014 Last access 16/06/2020: <https://www.bbc.com/news/world-europe-27937596>

Lidia Kelly, Richard Balmfort, Reuters, Poroshenko's Ukraine peace plan gets limited support from Putin. Last access 16/06/2020: <https://www.reuters.com/article/us-ukraine-crisis/poroshenkos-ukraine-peace-plan-gets-limited-support-from-putin-idUSKBN0EW0EH20140622>

divided into four categories: security, political, economic and humanitarian measures. (Åtland, 2020, p. 131). In particular:

Security measures:

- Establishment a bilateral ceasefire;
- Withdrawal of heavy weapons from the line of contact;
- Monitoring of the ceasefire by the OSCE;
- Withdrawal of foreign armed formations and military equipment, disarmament of illegal groups;
- Reinstatement of Ukraine’s control over its border on the next day after elections in ORDLO.

Political measures:

- Decentralization of power in Ukraine through amending the Constitution;
- Ukraine should adopt a law on the special status of ORDLO⁵³;
- Local elections in these regions should be held by the new law;
- Ukraine should amnesty the participants of the conflict.

Economic measures:

- Resumption of socio-economic ties with Ukraine, including taxes and banking system.

Humanitarian measures:

- Enabling the distribution of humanitarian assistance;
- Carrying out an exchange of hostages and prisoners on an “all for all” basis⁵⁴.

⁵³ Temporarily occupied territories of the Donetsk and Luhansk regions

⁵⁴ Trilateral Contact Group. 2014. “Protocol on the Outcome of Consultations of the Trilateral Contact Group on Joint Steps Aimed at the Implementation of the Peace Plan of the President of

Despite the agreement and an additional memorandum, several ceasefire violations occurred soon after the signing, moreover with the parties not granting secure access to OSCE SMM to the region (OSCE response to the crisis in and around Ukraine, OSCE, 2015⁵⁵)

3.4.7.7 Minsk II and the (failed) implementation

With an escalation of violence in months following Minsk I, consisting in the a planned strategic military operation for the control of the city of Debaltseve by DNR and LNR forces in January-February 2015, the parties reunited in a new round of negotiations in the Belarusian capital. Ukraine and Russia, with the mediation of France and Germany agreed on a 13-point peace plan after 16 hours of negotiations. Most of the 13 points were carried over from the previous Minsk I. However, Minsk II included in addition clauses regarding the issue of the decentralisation of power, as well as instructions for local elections and restoration of Ukrainian border control. It also encompassed a sequence and timeframes for the implementation of the measures: the ceasefire should be effective from “00:00 midnight on 15 February 2015,” that the pullout of heavy weapons should commence “no later than the second day after the start if the ceasefire and finish within 14 days,” and that dialogue on the modalities of local elections should start “on the first day after the pullout.” It also stated that the exchange of prisoners should take place “on the fifth day” after the pullout. Also, it stated that the Ukrainian parliament “within 30 days” should adopt a resolution specifying the geographic parameters of the special legislation regime mentioned in the Minsk Memorandum. The restoration of Ukrainian border control was to start “on the first day after the local elections” and end “by the end of 2015,” on the condition of fulfillment of the agreement’s article 11 (constitutional reform and decentralization).

Ukraine, P. Poroshenko, and the Initiatives of the President of the Russian Federation, V. Putin.” September 5. <https://www.osce.org/ru/home/123258>

⁵⁵ OSCE response to the crisis in and around Ukraine, 1 June 2015. Retrieved from: <https://www.osce.org/home/125575?download=true>

It is widely agreed that the state of the implementation of the Minsk agreement still results very poor (Peters & Shapkina, 2019, p. 4). Ceasefire violations still occur, as well as casualties and fatalities, both civilian and military, with OSCE reporting usage of heavy weapons.

The third point in the Minsk II stated that a Special Monitoring Mission by the OSCE should verify the ceasefire regime and withdrawal of heavy weapons; in 2015, the mission was further expanded after the “Normandy Format” meeting in Paris. However, both DNR and LNR and Russian officials prevent full access to OSCE observers, and some cases of violent attitude towards them have also been recorded by OSCE⁵⁶.

Moreover, Ukraine and Russia have different radical vision on the elections issue. The fourth and the twelfth points discuss the modalities of local elections, that should occur under Ukrainian legislation, and state that issues related to it should be discussed and agreed with representatives of Donetsk and Luhans regions in the framework of the Trilateral Contact Group. According to Ukrainian Analytica, Russia seeks to establish political dialogue between Kiev and Donetsk and Luhansk, to obtain the ‘legalisation’ and recognition of the DNR and LNR leaders within the Ukrainian political field, to influence political life in Ukraine (Shelest & Shulga, Minsk Agreements Implementation: Art of Impossible, 2016, p. 12). On 16 September 2014, the Verkhovna Rada adopted the Law “On the special procedure of local self-governance in some districts of Donetsk and Luhansk regions”. According to this legislation, a special status has been established for 3 years, when the Ukrainian legislation can be limited only by this law provisions. Moreover, this law guaranteed use of the Russian language, exemption from the prosecution for participation in the events in Donetsk and Luhansk regions, special procedures for appointment of prosecutors and judges (with the participation of local authorities), a special regime for investment and economic activities, development of the transborder cooperation with the Russian Federation regions, creation of the special militia units to keep public order, controlled only by the local authorities. Despite these achievements, local

⁵⁶ Ukraine Crisis Media Center, Direct violence committed against OSCE monitors, one monitor hospitalized Last Access 03/05/2020 Source: <https://uacrisis.org/en/30171-obsye-12>

representative of ORDLO have expressed dissatisfactions (Shelest & Shulga, *Minsk Agreements Implementation: Art of Impossible*, 2016, p. 13).

The humanitarian aid situation is not stable and it is deteriorating. Many humanitarian organisations do not receive accreditation or are denied the access for delivering aid, and lately also local organisations are experience difficulties and hostility (Amnesty International, Human Rights Watch, 2016⁵⁷). Another important issue is the control over the Ukrainian-Russian border. Since the border is located in the eastern occupied territories, it is no longer under the Ukrainian government's control. What is of major concern about this, is that through the border OSCE has registered illegal weapons and military personnel exchange across the border ⁵⁸.

In September 2019, after months of rumours and negotiations, Ukraine and Russia agreed on an exchange of prisoners. Moscow released 35 prisoners, included Crimeans arrested in February 2014, and sailors captured during the Azov Strait crisis. Kiev released as many 35 detainees, of which 22 Ukrainians, 12 Russians and one Moldovan. The exchange of prisoners is together with the adoption of the Steinmeier Formula, the most advanced step taken by the parties in the implementation of the Minsk agreements; however, it does not mean that the overall implementation is taking place, as Russia still needs to withdraw forces from Ukrainian territories and support to local armed groups, and Ukraine needs to hold elections, implement amnesty and allow self-governance of Eastern territories⁵⁹.

3.4.7.8 The Steinmeier Formula

In the fall of 2015, the German Foreign Minister and OSCE Chairperson-in-office Frank-Walter Steinmeier elaborated, in the framework of the Trilateral Contact

⁵⁷ Amnesty International and Human Rights Watch, "You Don't Exist" Arbitrary Detentions, Enforced Disappearances, and Torture in Eastern Ukraine, 2016

⁵⁸ Latest from the OSCE Special Monitoring Mission to Ukraine (SMM), based on information received as of 19:30, 3 June 2019, Kyiv, Retrieved from: <https://www.osce.org/special-monitoring-mission-to-ukraine/421841>

⁵⁹International Crisis Group, *Ukraine-Russia Prisoner Swap: Necessary, Not Sufficient*, 11 September 2019 Last access on 11/05/2010 <https://www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/ukraine-russia-prisoner-swap-necessary-not-sufficient>

Gropu, a proposal that resembled the Minsk agreements but resulted much slimmer and simplified. The ‘Steinmeier Formula’ should provide for the swift holding of local elections in the *Temporarily occupied and uncontrolled territories of Ukraine* (ORDLO), under the observation and complying with rules of the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR), the adoption of a law on the “special status” of the ORDLO, and the restoration of the Ukrainian government control on the border with Russia.

The EU praised and appreciated the agreement elaborated by the German Foreign Minister, and reinforced its support to the Normandy Four, the Trilateral Contact Group, and the OSCE in their efforts to facilitate the implementation of the agreement⁶⁰.

Discussions on the Formula took place in several rounds of the Trilateral Contact Group meetings, but it was only with the newly-elected president Volodymyr Zelensky, that the Formula was taken into consideration. Zelensky had previous contacts with Vladimir Putin, discussing exchange of prisoners and the feasibility of a new Normandy Format; Putin made clear that the new meeting would have taken place only if the Steinmeier Formula was considered as a means of solution (Åtland, 2020, p. 133). Indeed, the Normandy Format took place on 19th December 2019, after the signing and acceptance of the Formula by Ukraine, issuing a two-page declaration stating the commitment of the parts to the Minsk II agreements and the Steinmeier Formula.

3.4.7.9 What went wrong in the Minsk Agreements?

Several authors have highlighted different shortcomings in the Minsk agreements. First of all, title and terminology play an important role. According to (Peters & Shapkina, 2019), the title *Protocol on the Results of Consultations of the Trilateral Contact Group with Respect to the Joint Steps Aimed at the Implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and the Initiatives of the President of Russia, V. Putin*, grants Russia the role of

⁶⁰ Ukrinform, EU praises agreements on Steinmeier’s Formula, Last Access: 07/07/2020 16:17 source: <https://www.ukrinform.net/rubric-polytics/2791629-european-union-praises-agreements-on-steinmeier-formula.html>

mediator, as it recognises the ‘initiatives’ of Vladimir Putin, but does not acknowledge direct and indirect military involvement of Russian army in the conflict in Eastern Ukraine (Peters & Shapkina, 2019, p. 2). Russia indeed considered itself as pure impartial third-party “mediator”, declining any responsibilities towards the conflict. The Kremlin has not shown interest in an eventual violent escalation of the conflict, instead, incidents on the line of contact are a means for Russia to threaten Kiev and express its leverage improving its bargaining position in the Normandy Format (Kostanyan & Meister, 2016, p. 5). This gives already a confusing aspect to the Agreements. Ukraine, on its side, initially refused and then reluctantly agreed on conducting direct talks with representatives of DNR and LNR. Finding a common language for a shared agreement resulted thus a challenge for the parties and for mediators. The result of this difficulty was the decision of using loose and ambiguous formulations that allowed more than one interpretation, in order to achieve a ‘zone of possible agreement’ (ZOPA)⁶¹, reducing risks of critics (Åtland, 2020, p. 134). For example, the “withdrawal of all foreign armed formations, military equipment, as well as mercenaries” (article 10 of Minsk II) refers to the Russian regular troops, according to Åtland; however, the Russian interpreted it as it was addressing Ukrainians government forces. Another issue regarding the vagueness of terminology consist in the ‘non-definition’ of the parties. In particular, the measures refer to “both parties” with no specificity, and this causes not few misinterpretations, as Ukraine believes that the parties are Ukraine and Russia, while Russia contrarily interpretes them as Ukraine and DNR/LNR (Peters & Shapkina, 2019, p. 3). The vagueness of the terminology of the agreement evidently hinders the implementation of the agreement.

A second obstacle to implementation of the Minsk I concerns sequencing of the implementation. In Minsk I, there was no timing or implementation sequence for the measures established. In the following Memorandum, only timing was mentioned. In Minsk II, presented a more detailed sequence; however, it has

⁶¹Jung, Stefanie; Krebs, Peter (2019). "The Essentials of Contract Negotiation". [doi:10.1007/978-3-030-12866-1](https://doi.org/10.1007/978-3-030-12866-1).

major flaws (Peters & Shapkina, 2019, p. 3). First of all, the sequence mentioned dates that were interlinked, e.g. the ceasefire should have taken place on the 15th of February 2015, followed after two days by the withdrawal of weapons, additionally followed by dialogue on modalities of local elections, etc. Given this inter-linked nature, the provisions could be interpreted in different ways, with Russia preferring first the implementation of constitutional reforms on decentralisation and the law on special status of occupied territories and amnesty, while Kiev prioritised ceasefire, withdrawal of military troops, prisoners exchange and control over borders (Kostanyan & Meister, 2016, p. 7).

Thirdly, one must keep in mind that the Minsk agreements are not legally binding; thus, they work as recommendations. In fact, they were not signed by head of states or international agencies, but instead by *representatives of the states*, acting as diplomats or unofficial figures (no title were added to the signatures) (Åtland, 2020, p. 135). The nature of the agreement is merely political, and the signature did not follow any official procedures under Ukrainian law. The lack of a standard structure of an international legal binding instruments gives the agreement an informal nature and low legal significance (Peters & Shapkina, 2019, p. 3).

Ultimately, a very controversial issue regarding the implementation of the agreements is the one of sanctions. As seen in the previous paragraphs, sanctions were soon imposed on Russia right after the Crimea annexation by both the United State and the European Union. They were reinforced and renewed in the following months, as the de-escalation of the conflict did not take place. This constitutes a major contradiction in the recognition of the status of Russia; if Russia is not considered a direct involved party in the conflict in the signed document, but a mere mediator, then how come sanctions are applied in linkage to the implementation of such agreement? According to (Pełczyńska-Nałęcz & Buras, 2017), sanctions should be applied independently from the implementation of the Minsk agreement, as their ultimate goal is to defend the principles of security and peace in Europe, rather than force the implementation of a political agreement. There is indeed the risk that sanctions could lose their power and cease to exist, if the political process and dialogue fails (Pełczyńska-Nałęcz & Buras, 2017, p. 7).

Yet, according to (Kostanyan & Meister, 2016), despite the shaky nature of the compromise on EU sanctions, the EU should use its bargaining position to exert leverage towards Russia through them (Kostanyan & Meister, 2016, p. 4). The issue within the EU on sanctions derives from EU disagreement and not consistency in its opinions on sanctions. Member states like Italy, Cyprus, Greece, Austria and Hungary have shown reluctance in renewal of sanctions, and even expressed the will to lift them. This lack of unity represents a serious threat for the EU itself, as lifting the sanctions would make it losing its leverage on the Ukrainian reform process, giving a message of giving up to Ukrainians. If the EU yields on sanctions, Russia would perceive that its actions of destabilisation of countries in the shared neighbourhood will have limited consequences. According to (Kostanyan & Meister, 2016), 'giving up on sanctions without any political gain would declare the bankruptcy of the EU in international conflict resolution.' (Kostanyan & Meister, 2016, p. 8-11)

All these factors contribute undoubtedly to the stalemate between the parties, as both are firm in their positions and are unwilling in making concessions. According to Landwehr, however, the parties have agreed to sign an agreement based on estimation of possible costs either for continuing the dispute, either for reaching an agreement, or, alternatively, to escalate the conflict. (Landwehr, 2019, p. 294).

3.4.8 What role for the European Union in the peace talks?

Elgström, Chaban and Knodt (2019) have analysed in their work the perceptions of EU mediation effectiveness among Ukrainians and EU representatives (policy-, decision- and opinion-makers, leaders of political, business, civil society, media and cultural sectors) between 2016 and 2017. Both sides of the opinionnaires considered EU mediation as 'better than nothing', believing that that the situation would have worsened without EU intervention (Chaban, Elgström, & Knodt, Perceptions of EU mediation and mediation effectiveness: Comparing perspectives from Ukraine and the EU, 2019, p. 10). Thus, the importance and unicity of the EU intervention and actions are recognised.

While the Ukrainians perceived the intervention as it was conducted by the EU ‘as a whole’ (mainly referring to Germany and France, but also to Scandinavian and Baltic countries, Poland, the UK), EU respondents focused more on the question of whether it was the EU *per se* or single member states acting. The answers given suggested that EU considered Germany and France as leaders in mediation actions. Thus, the first question to be taken into consideration is whether it could be said that it was the EU to participate to negotiation process or single state members. In the first phase, the HRVP Catherine Ashton and the EU Commissioner for Enlargement and ENP, Stefan Füle, attempted to mediate an agreement between the parties, but failed. The foreign ministers of Poland, France, and Germany then intervened, brokering a ‘short-lived settlement’ on February 21, acting on behalf of the EU (Natorski, 2017, p. 288). Compared to EU representatives, who were perceived as ‘inferior’, because they stand under the collective decision of the EU Council, foreign ministers could take the responsibility for risky measures, since they were not bounded by any institutional mandate. Furthermore, the fact that one of the motives of the crisis lied right in the implementation of EU integration policies through the Association Agreement, put the EU in a non-neutral position, exposing all its interests at stake (Natorski, 2017, p. 289). Ukrainian President Yanukovich perceived the EU as biased towards protesters, whereas civil society judged EU mediation attempts during the protests as ‘too soft, hypocritical and cynical’. All these factors hindered EU credibility and leverage in the first attempt to broker a ceasefire in February, which, in the end, never saw its implementation due to the flight of Yanukovich to Moscow (Natorski, 2017, p. 290).

Consequently, in the second phase, no EU institution officially participated to the Minsk meetings, only welcoming ceasefires agreements; nevertheless, the sanctions were imposed by EU member states as a whole, and the EU linked the implementation of economic and political reforms in Ukraine (“carrots”) and the lifting of the sanctions against Russia (“sticks”) to the full implementation of the Minsk II agreements. The EUAM for Civilian Security Sector Reform mission is also contributing to the resolving of the conflict, and it constitutes an official mission under the EU mandate, providing financial, technical and expert support for Ukrainian law enforcement and rule of law institutions and agencies

(Ivashchenko-Stadnik, Petrov, Rieker, & Russo, 2018, p. 7). According to (Ivashchenko-Stadnik, Petrov, Rieker, & Russo, 2018, p. 6), (Stepniewski, 2017) (Chaban, Elgström, & Knodt, Perceptions of EU mediation and mediation effectiveness: Comparing perspectives from Ukraine and the EU, 2019), the EU, represented by Germany and France, played a role in the attempt for resolving the Ukraine conflict, as the mediating foreign ministers were always perceived as 'the EU' both by Russia and Ukraine.

Keukeleire and Delreux (2014), as cited by Haukkala (2018), have defined EU's foreign policy by arguing that it is 'single in name, dual in policy-making method, [and] multiple in nature'; the EU is considered as an 'interacting foreign policy system', composed of three components: the EU external relations (foreign economic policy), the Union foreign policy (CFSP) and finally, national member states' foreign policies. These three layers present competing objectives and agenda. The Ukrainian crisis has been taken over by Germany and France. Poland was very active in the early stages of the conflict, but disappeared from the scene soon after. Paris and Berlin took the lead essentially because the EU lacks autonomy in international affairs, especially in high-level diplomatic relations. When the interests and at stakes are too high, responsibilities eventually fall on single member states, who can act for the sake of political interests. According to Haukkala however, it would be erroneous to consider Germany and France's actions aside from EU generic role. In fact, Germany and France's active participation in the Normandy Format has been carried "backing from other member states – and also EU institutions – whom all have in a sense made political, and in form of sanctions, also economic investments into that policy line". (Haukkala, 2018, p. 89-90)

3.4.9 Mediation Strategies

Ukrainians respondents recognised different strategies used on the ground by the European Union for conflict mediation. First of all, the EU has arranged several rounds of talks, and it has been 'awarded' positively for having 'dragged Russia and Ukraine to the negotiation tables', in which then it has set itself as a mediator. As already mentioned, the Minsk Format is considered by

many to be a failing experience, as it was leading to nowhere other than a stalemate. Nevertheless, according to Ukrainians and EU policymakers, the role of the EU was 'crucial' to bring the parties to negotiations and put commitment in place (Chaban, Elgström, & Knodt, *Perceptions of EU mediation and mediation effectiveness: Comparing perspectives from Ukraine and the EU*, 2019, p. 10).

In addition, a strong European presence was recognised since the very beginning of the conflict. In fact, German Prime Minister Angela Merkel and French President François Hollande acted together in February 2015 in their diplomatic efforts to find a solution. They held talks in Kyiv on 5 February with Ukraine's leaders, followed the next day by further talks in Moscow with Vladimir Putin. These discussions paved the way for the re-launch of the Minsk agreements. Three days later, on 8 February 2015, both leaders held a several hours long teleconference with Putin and Ukrainian President Petro Poroshenko before travelling together to Minsk on 11 February to sign 'Minsk II' (Howorth, 'Stability on the Borders': *The Ukraine Crisis and the EU's Constrained Policy Towards the Eastern Neighbourhood*, 2017, p. 130). The EU kept its commitment to the negotiation format despite the results were still at minimum. The French and the German foreign ministers, Laurent Fabius and Frank-Walter Steinmeier met numerous times a week for months and held further meetings at foreign minister level in the 'Normandy Format' (Howorth, 'Stability on the Borders': *The Ukraine Crisis and the EU's Constrained Policy Towards the Eastern Neighbourhood*, 2017, p. 130).

The arrangement of the talks in 'the only format possible' is attributed again to the European Union through its member states, even despite the lack of progress and implementation. The first face-to-face meeting between Russian President Putin and his newly-elected Ukrainian counterpart, Volodymyr Zelensky, took place in Paris on 9 December 2019. The meeting between the two took place after the four-party negotiations with German Chancellor Angela Merkel and French President Emmanuel Macron. The Normandy Format meeting lasted around four hours, and was followed by a one hour session of discussion between the two leaders and their delegations: energy Minister Aleksandr Novak, Gazprom CEO Aleksey Miller, presidential advisors Vladislav

Surkov and Yuriy Ushakov, Foreign Minister Sergey Lavrov and Kremlin spokesman Dmitry Peskov. Of these two hours however, the leaders have directly spoken to each other for ten minutes. A renewed ceasefire was agreed together with exchange of mutual prisoners and OSCE monitoring in the conflict area not only during daylight but also at nighttime and in general. Although not much was achieved concretely, the Meeting was seen as a positive step towards resolution of the conflict⁶². The new meeting was foreseen for March 2020⁶³.

3.4.10 Coherence

Ukrainians perceived the EU as a highly incoherent actor, and this was mainly due to divisions between member states to pursue a strong consistent policy towards both Russia and Ukraine, in particular concerning sanctions. It is especially in this regard that the Ukrainians blamed the EU not to have acted in a consistent way, because of member states' different behaviours towards Moscow. Members state who have stronger economic relationships with Russia ('Putin's group of Friends') started considering the possibility of lifting sanctions towards Moscow (Chaban, Elgström, & Knodt, Perceptions of EU mediation and mediation effectiveness: Comparing perspectives from Ukraine and the EU, 2019, p. 8). It is because of these biased bilateral economic interests that, according to Ukrainian respondents, the EU's abilities are limited. Sanctions are considered the most effective instrument at the EU disposal for settling the conflict with Russia, as EU strongest source of power comes from its economic and norms-setting leverage, rather than military power (Chaban, Elgström, & Knodt, Perceptions of EU mediation and mediation effectiveness: Comparing perspectives from Ukraine and the EU, 2019, p. 8, 9).

3.5 Conclusion

⁶²Ivan Dikov, Putin, Zelensky Agree to Donbass Ceasefire, Prisoner Exchange in Paris 'Normandy Format' Summit with Merkel, Macron Last access 01/07/2020 Source: <https://www.european-views.com/2019/12/putin-zelensky-agree-to-donbass-ceasefire-prisoner-exchange-in-paris-normandy-format-summit-with-merkel-macron/>

⁶³Ukrainian Research Institute, Harvard University, Normandy Format Summit: HURI Experts Respond, Last access 01/07/2020 Source: <https://www.huri.harvard.edu/tcup/tcup-commentary/399-normandy-format-summit-huri-experts-respond.html>

According to interviews conducted by (Ivashchenko-Stadnik, Petrov, Rieker, & Russo, 2018) in the EUNPACK, the Ukrainian conflict represented a new type of conflict for the EU, to which no one was ready to react.

The crisis originated from a strictly EU-related matter, and to be more precise, from the EU policy towards its neighbourhood. Therefore, the EU could not just stay and watch. EU actions in the conflict consisted of a mix of diplomatic intervention by singular EU countries acting on behalf of the EU, namely the mediation role assumed by German and French representatives, CSDF missions (EUAM, EUBAM), and of the conditionality imposed both for the implementation of the brokered ceasefire agreement and for the economic and political reforms foreseen for the application of the so much debated Association Agreement.

Although the crisis endorses the EU with the role of one of the principal mediators, the results brought by its actions are far from being positive. In fact, the status of the implementation of the so-called Minsk II Agreement is still poor, with both of the parties sticking to a zero-sum-game, mostly unwilling to make concessions to each other (Åtland, 2020). Despite the consistent actions at different level, EU efforts did not translate into material leverage (Natorski, 2017). According to Howorth, the EU failing experience in Ukraine is part of a broader flawed approach to the neighbourhood: in fact, the EU did not act with a single voice, lacking coherence in addressing Russia's actions, which result in the inefficacy of sanctions (Howorth, 2017). This ultimate instrument has raised several discussions among scholars and local actors. As cited before, Ukrainians consider sanctions the main coercive instrument against Russia, and believe that the enforcement of these will move some steps ahead towards the resolution of the conflict (Chaban, Elgström, & Knodt, 2019). However, scholars like Howorth (2017) believe that linking sanctions only to the implementation of a political agreement is a dangerous strategy because it would shift the attention from the original reasons of the imposition of sanctions, that is Russia breaking of the international law during the annexation of Crimea.

It is also true that the EU has made use of conditionality in the conflict also in regards to implementation of domestic policies in relations to conflict resolution. In fact, the EU managed to link implementation of decentralisation and electoral

reforms, envisaged in the Minsk II, to the process of European integration of Ukraine (Dressler & Lundström, 2017, p. 15). In this regard, Ukraine has adopted a resolution of the Ukrainian parliament determining the territories that enjoy ‘a special status’ under the Law of Ukraine⁶⁴. Yet, this is seen only as a minor provision (Peters & Shapkina, 2019, p. 4) implemented from the Minsk Agreement, as well as the recent exchange of prisoners and the intensification of the work of the Trilateral Contact Group. Minsk II have thus resulted being quite ineffective.

Despite these negative outcomes of EU actions in Ukraine, one must recognise EU efforts in the setting of the negotiations and peace talks; as Ukrainian local representatives and EU officials expressed, without EU intervention Russia would probably have gone further in military escalation, and worked as a counterbalance to Russia’s leverage (Chaban, Elgström, & Knodt, 2019, p. 8, 10). Thus, if the EU could be appointed as a partially effective formulator and communicator, the same cannot be said for its manipulation role.

3.6 Final considerations: a comparative study of the cases

The cases represented two of the most important security crises at the border of the European Union. Undoubtedly, they challenged the European Union’s capacity of reaction and containment, not without difficulties, making the EU’s own structure wobbling. The cases presented similarities already in the dynamics of the break-out; the EU approached them in different ways, despite reaching similar outcomes.

The conflicts in Georgia and in Ukraine find their roots in historical divisions within the countries. Georgia had to deal with Abkhazian and South Ossetia local communities, who always had independent aspirations, and Ukraine faced the issue of a country divided into two, with one part mainly Western-oriented and the other with more Russophile feelings, and Crimea, place of Russian military naval basis. Furthermore, both of the countries fell into the

⁶⁴ “On interim self-government order in certain areas of the Donetsk and Luhansk regions” (the so-called law on special status), adopted on 16 September 2014.

sphere of influence of Russia, major geopolitical actor in the European continent. As former Soviet republics, Ukraine and Georgia are economically, culturally, historically and socially bound to Russia, which hardly gives up its aspirations of restoring its influence in the immediate neighbourhood. The major issues for these countries started when both of them began to demonstrate their aspirations towards 'the other side' of Europe, i.e. the European Union, which was slowly enlarging its borders, and NATO. It is indeed a fact that both conflicts were triggered by a move towards the West that Russia perceived as too dangerous. NATO commitment to ensure Georgia the accession process, after the denied application at the Bucharest summit in May 2008, made feel Russia threatened. Consequently, as military escalation grew in the following months, Georgia reactions to Russia provocations made the situation precipitating and initiate the armed conflict, with independent regions backed up by Russian military forces.

Similarly, Ukraine's signing of the Association Agreement – a key document ensuring a more intense relationship with the EU in terms of economy and policy reforms – would have meant getting Ukraine even farther than where it was. Yanukovich's sudden move in refusing to conclude the Agreement triggered the whole country, which protested for nearly three months. The protests evolved later in Russia illegal annexation of Crimea, and later into an armed conflict in the Eastern regions of the country. Both countries thus faced destabilisation due to Russia military intervention in defence of the local autonomy-aspiring communities. How did the EU react to such similar cases?

In the case of Georgia, a prompt reaction from the EU side came from the French President Nicolas Sarkozy, whose country was holding at the time the chairmanship of the EU Council Presidency. He reached the capitals of Georgia and Russia, shuttling between them, to mediate a ceasefire, reached on 12 August 2008. Ukraine did not see such a 'personal' intervention after the breakout of the hostilities in the Eastern region or after Crimea annexation. However, the EU responded chorally to Russia military action, imposing sanctions to it.

Both of the conflict's aftermaths were managed through international peace talks. The Geneva International Discussions were co-chaired among others by the High Representative for the Foreign Policy of the European Union; a similar format, the Geneva Group, was put up also in April 2014 to agree on a

joint statement to deescalate tensions, which will result in the Minsk I agreement five months later. Hence, in the Ukraine case, the ceasefire and the following implementation planning were reached quite late compared to Georgia, which saw the signing of the ceasefire by the parts four days later the official start day of the hostilities.

Furthermore, while one format saw the presence of an official figure of the European Union, the ad-hoc appointed EUSR for the crisis in Georgia, the Normandy Format included German and French states representatives, not officially acting on behalf of the whole Union, but perceived by the parties as such. However, both of the final agreements, the six-point ceasefire and the Minsk I and II agreements presented major shortcomings, which hindered the correct implementation of the main provisions. In particular, both of the agreements presented similar points of weakness: first of all, they were both formulated in a vague and ambiguous way; this “creative ambiguity” (Bieber, 2015) seems to be a characteristic of mediated agreements by the EU, as according to the author, it affected also the provisions of the agreements reached during the Belgrade-Pristina dialogue between Serbia and Kosovo in 2011-2013. If ambiguity appears to be necessary to obtain the closest positions possible from the disputant parties, it emerges from the cases that lack clarity and lack of timing sequence make implementation patchy and problematic, if not fully ineffective.

A second point in common between the two agreements is in fact lack of implementation. Abkhazia and South Ossetia are internationally recognised only by Russia, and relations with the central government of Georgia have not improved. Ceasefire violations keep taking place daily in Eastern Ukraine. Thirdly, it emerged from the analysis that the European Union was strongly lacking coherence and unity in actions towards Russia. EU member states pursue their own interests in geopolitical terms, including in relations with Russia. Germany has historically acted strategically to keep the energy cooperation with Russia, as well as France and Italy. Former Soviet States, such as Czech Republic, the three Baltic States, Poland, instead, have always preferred a hard line towards Russia’s attitude. This clash of interests undoubtedly prevented the European Union as a whole to act in a more coherent, cohesive and effective way in the response towards Russia’s actions.

Undeniably, this generated late response and most of all, influenced the perception of the EU as a mediator of involved parties. EU lost credibility for not being able to act with a single voice. A wide first-wave literature believes that in fact EU effectiveness in external relations depends highly on EU internal cohesiveness, while more recently the causal links between actorness, cohesiveness and effectiveness have been questioned. The results of this new analysis showed that EU internal cohesiveness does not necessarily equal to effectiveness; however, regarding bilateral negotiations, internal cohesiveness is considered as “necessary” to ensure EU effectiveness (Meunier & Conceição-Heldt, 2014, p. 975).

In the analysis carried out for the case studies, however, a fourth element common to both conflicts is represented by the employment of a long-term approach towards the countries in terms of conflict resolution. Both states, Georgia and Ukraine, belong in fact to the European Neighbourhood Policy and in particular are part of the Eastern Partnership Programme. These instruments are part of the EU policy towards its neighbour states, with the ultimate goal of establishing security and stability across its borders. The EU seeks to achieve internal stability to hinder possible threats in its neighbourhood. However, as it emerges from the case studies, the policy towards conflicts already broken out in the region, seems to be quite weak, as although the EU has linked conditionality to the implementation of the provisions of the agreement, limited results have been achieved.

Common to both crises however is the perception of local actors and EU officials that the EU intervention was essential in limiting the escalation of violence in the immediate aftermaths of the crisis. The EU role was also of great importance for the establishment of a negotiation format, bringing parties to the same table of discussions. In terms of mediator's roles, thus, the EU has strong capacities of acting as a formulator and as a communicator, even if this relies on single personalities acting on behalf of the Union; however, as a manipulator, the EU needs to focus more on the right deployment of the instruments at its disposal, showing more coherence and consistency in approaches to conflict resolutions.

Conclusion

In this thesis, I have taken into analysis the role that the European Union has played in international conflict mediation, after having prepared the theoretical and institutional background through the study of Princen and Bercovitch's theory of mediation, Bergamann and Niemann's theories on evaluation of mediation efforts, and the institutional instruments that the EU has at its disposal in this field.

From this initial study, I have drafted the framework in which the EU acts as mediator. First of all, the EU acted as such because it provided assistance to settle a conflict by finding a solution that the parties involved could not find by themselves; this corresponds to the definition of mediation of both Princen and Bercovitch. The EU has mediated different times between parties in order to find an agreement and a solution to the conflict, in particular since the end of the Cold War, with the breakout of the conflicts in the Balkans. Following the developments of the institutional structure of the EC/EU, I have concluded that, so far, the EU has at its disposal a range of instruments to act as a mediator, that include civilian missions in the field of the Common and Security Defense Policy, mediation efforts by the European Parliament, by the European Commission, and, more specifically, the European External Action Service (EEAS).

Within the EEAS, in fact, with the signing of the Concept on strengthening EU Mediation and Dialogue capacity of 2009, a special Task Force for mediation was established. However, this task force is still unknown to many EEAS and EU officers, and so far, the concept represents the only document that officially tries to delineate a "EU mediation policy". Then, I have reviewed the analysis made by Bergmann and Niemann of the mediation and conflict management efforts of the EU during the Balkans War and the following Belgrade-Pristina dialogue. The results of this analysis concludes that the facilitated dialogue "stands out as the most prominent example of EU mediation", and that the EU was considered "relatively effective", achieving different, even if small, agreements between the parties.

I have proceeded with the analysis of two other recent cases of international conflict (although considered local or internal conflicts at the early

stage): the Russo-Georgian War of 2008 and the Ukraine crisis in 2014. From the analysis of these two cases the EU has emerged as a less effective mediator than in the EU facilitated dialogue. In fact, both of the ceasefire and of the agreements brokered by EU member states (France and Germany namely) have not been respected nor enforced. An interesting point emerged is precisely the one on the roles of single EU member states in mediation on behalf of the EU. In the case of Georgia for example, the French President Sarkozy has built the EU intervention on France's aspiration of making the EU a more prominent actor in international relations.

One observation that can be made at the end of this analysis is on the place that some States occupy in EU foreign policy. How was the EU more effective in the Balkans rather than Ukraine and Georgia? For sure, in the Balkans the EU did not have to directly face a major opponent such as Russia, as it happened in the other two cases. It is also true that the EU acquired major leverage in the Balkans thanks to the perspective of the EU membership. Indeed, the EU 'normative power' played a major role in the bargaining of the peace settlement.

What about Georgia and Ukraine? Both of the countries are part of the European Neighbourhood Policy and of the Eastern Partnership programme, which aims at closer relationships with the six Eastern neighbours. But within the EaP, the EU has controversially changed its attitude towards the prospective of enlargement and membership. Plus, conflict management seems to be less of a priority in the current EaP objectives, as stated in the latest consultation of March 2020. The EU has decided not to exert its leverage through the traditional "sticks and carrots", despite sanctions against Russia have been renovated again for one year, stuck in an internal "stalemate" due to different positions of different EU member states, demonstrating to be able to achieve only the maintenance of the status quo in the conflicts.

With different political objectives, EU member states are not able to make the EU's single voice heard in foreign policy matters, and, as analysed, in conflict mediation. However, a more specifically designed policy in the field of conflict mediation, or a strengthening of the already existing instruments such as the Concept on Mediation, the Mediation Strategy Task Force, and the EU special

representatives, could at least prepare the basis for a more coherent and joint policy towards international conflicts.

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