

The EU as a global peacemaker

The EU as a global peacemaker

Rede

uitgesproken bij de aanvaarding van het ambt
van hoogleraar EU External Relations Law and Governance
aan de Faculteit der Rechtsgeleerdheid
van de Universiteit van Amsterdam
op vrijdag 15 november 2013

door

Steven Blockmans

This is inaugural lecture 487, published in this series of the University of Amsterdam.

Lay-out: JAPES, Amsterdam
Foto auteur: Jeroen Oerlemans

© Universiteit van Amsterdam, 2014

All rights reserved. Without limiting the rights under copyright reserved above, no part of this book may be reproduced, stored in or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording, or otherwise), without the written permission of both the copyright owner and the author of this book.

*Mevrouw de Rector Magnificus,
Your Excellencies,
Ladies and gentlemen,*

Introduction

In June 1914 a Bosnian Serb called Gavrilo Princip shot and killed Archduke Franz Ferdinand of Austria and his wife during a visit to Sarajevo. The assassination was the spark that ignited the First World War. For four years, advanced nations dispensed millions of combatants, many of them drawn from the colonies, in a war that was impossible to stop because the two sides were too evenly balanced.

On the eve of the centenary of the start of the First World War, it is fitting not only to recall how the Great War started but also how peace was made after Germany's partners faltered and fresh American troops tilted the balance in favour of the Allies. As Margaret MacMillan, a leading historian on the previous uneasy century has observed: "In 1919 Paris was the capital of the world. The Peace Conference was the world's most important business, the peacemakers the world's most powerful men. They met day after day. They argued, debated, quarrelled and made it up again. They made deals. They wrote treaties. They created new countries and new international organizations. They dined together and went to the theatre together. For six months, between January and June, Paris was at once the world's government, its court of appeal and parliament, the focus of its hopes and fears."¹ The world has never seen anything quite like the Paris peace jamboree and in these times of electronic communication and shuttle diplomacy it is unlikely to ever see it again.

Still, there are many parallels between our world and the one of 1919. Let me offer three. First, the Kingdom of Serbs, Croats, and Slovenes was a signatory to the Treaty of Versailles and was thus recognised for the first time as a unified state. Nationalist tendencies in the early 1990's tore Yugoslavia – the name given to the Kingdom in 1929 – apart. The Dayton Agreement sanctioned the changes to the international borders in the Balkans. On 14 Decem-

ber 1995 this peace agreement was formally signed at a ceremony in Paris, the city where the Kingdom of Serbs, Croats and Slovenes had been baptised.

Second, today's situation in the Middle East heralds the end of the Sykes-Picot Agreement of 1916, which was endorsed by the Versailles Peace Conference.² In this secret agreement Britain and France dealt with what was then euphemistically called the "Syria Question" – although in reality it was about dividing the entire Arab Middle East. The Sykes-Picot Agreement carved up the remains of the Ottoman Empire in an old-style imperialist land grab without heeding the ethno-religious and geographical realities on the ground. The borders were contested from the start and tinkered with during and after the Second World War. As the power of central government wanes in Syria, Iraq and Lebanon, ethnic and religious groups (Alawites, Shias, Sunnis, Kurds) establish their new autonomous enclaves by force while Al-Qaeda affiliates freely move across the region, preying on the weakest to establish their mini-caliphates. The heart of the Middle East now consists of a porous bloc of fragmented countries stretching from the Mediterranean to Iran. The borders established by Sykes-Picot are vanishing, like lines in the sand. This raises the question whether almost a century after Versailles, the Middle East is perhaps in need of a Dayton moment of its own, one that goes beyond the confines of the peace frameworks for Syria and Israel/Palestine.

The third parallel I would like to draw is a little more elusive, but not much. Last year the European Union was awarded the Nobel Peace Prize for its contribution to the successful transformation of Europe "from a continent of war to a continent of peace".³ The EU's origins can be traced back to the end of the First World War, when the French minister of commerce and industry, Etienne Clémentel, drew up a plan for a new economic order in Europe, where cooperation would replace competition, where resources would be pooled and shared, and where the integration process would be directed by technocrats. Over time, Germany too could become part of that new order, safely embedded in a strong organisation.⁴ However, the plan foundered because of indifference from the UK and unwillingness of the U.S. to subsidise it. Yet, the effort bore fruit after the Second World War, when Jean Monnet, who was Clémentel's assistant in 1919, sowed the seeds for today's European Union.⁵ In its award announcement in 2012, the Nobel Committee praised the six decades of work towards "the advancement of peace and reconciliation, democracy and human rights in Europe".⁶ To a large degree, the European Union's success story has been built on a strategy of wielding its power of attraction to impose durable peace on candidates for membership. Northern Ireland and Cyprus stand out as notable exceptions. Yet, the EU enlargement policy continues to be heralded as an effective tool for

peacebuilding across the continent, even if the so-called “Stabilisation and Association Process” for the Western Balkans has produced rather uneven results so far.⁷

Without implying any criticism of the Nobel Committee’s decision, one may wonder why the growing role of the European Union to act as a peace-maker beyond its geographical borders has remained unmentioned. There is, of course, an explanation for this: the EU has played only a minor role as a successful peace broker in the wider world and its record has been mixed. I will return to these issues later on. Suffice it to say at this stage that it would be fitting to add a sub-title to the overall theme of this lecture: “The EU as a global peacemaker: value added?”

In this lecture I will present three main arguments: (i) that the European Union is under a moral duty and a legal obligation to work towards the peaceful settlement of disputes with, in and between third countries; (ii) reviewing the Union’s track record in “peacemaking” since the early 1990s, the picture emerges that while the EU is equipped with a rich toolbox, it has so far used its diplomatic instruments in a rather ad-hoc fashion; and (iii) the creation of the European External Action Service has reinforced the EU’s capacities and expertise in the field of conflict resolution and to bring more coherence, visibility and effectiveness to EU efforts in dialogue and mediation with third parties. However, as we will see, there is still room for improvement.

Before I explore these three arguments, it is useful to offer some semantic clarifications.

Semantic clarifications

It has been noted by some that the discourse on international security, which is littered with large quantities of ill-defined terms, has suffered even more from terminological inflation at the hands of the EU.⁸ Indeed, the European Union has developed a cabalistic language only understood by those who run “Brussels”. To be sure, all administrations deal in jargon, from Quai d’Orsay to 10 Downing Street and the White House. The main strategic objective is to keep outsiders guessing at what is being talked about. In the development of EU lingo, compositions of acronyms, place names and numbers are put through a linguistic Enigma machine, thereby creating an impenetrable jargon.⁹ A typical EU press release might thus read: “Ahead of next month’s Gymnich, COREPER 2 and the PSC will discuss the further development of the Copenhagen criteria, the toilettage of the Council Decision on the EEAS,

and the expansion of the Petersberg tasks.” In view of the time, I refer the non-EU experts to my learned colleagues for an explanation.

Instead, I would like to highlight a few concepts. In the most recent episode of the remarkably rapid build-up of the EU’s Common Security and Defence Policy (or “CSDP”), the political leaders of the member states have committed themselves to developing capabilities to conduct an even wider series of so-called “Petersberg tasks”, after the place near Bonn where they were agreed, namely: “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including *peace-making* and post-conflict stabilisation.”¹⁰ All these tasks may contribute to the maintenance and restoration of peace and security. But the EU has refrained from specifying its understanding of each of the notions. Confusion arises when international organisations give different explanations to the same terms. An attempt should be made here at clarifying the term “peacemaking”.¹¹

In the context of the United Nations, the term “peacemaking” (without a hyphen) is understood as the peaceful settlement of disputes through diplomatic means. The term has been most prominently used in “An Agenda for Peace”, a report of the Secretary-General pursuant to a statement by the Security Council from early 1992. Therein, peacemaking is defined as “action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations”. Subsequent binding UN Security Council resolutions, Security Council Presidential Statements, General Assembly resolutions, and a raft of reports by the UN Secretary General refer more specifically to the diplomatic means listed in Article 33 of the UN Charter: “negotiation, enquiry, mediation, conciliation, (...) or other peaceful means”.

In the EU context, the European Parliament and the European External Action Service (or “EEAS”) have in practice employed the notion of peacemaking in the way it has been developed in the last two decades as a principle of the UN Charter,¹² even if the crescendo of tasks listed in Article 43 of the EU Treaty (TEU) leaves little doubt that what is legally meant by EU-style “peace-making” (with hyphen) is the use of military troops to enforce a solution on one or more parties to a conflict, i.e. methods of dispute settlement which go well beyond the scope of Article 33 of the UN Charter and rather fall within the remit of Chapter VII thereof, in particular Article 42; “peace enforcement”, in other words.

As members of the United Nations bound by the provisions of the Charter, the member states have imposed a similar duty on *their* European Union by way of several provisions in and attached to the Treaty of Lisbon.¹³ In order

for the EU to comply with its constitutional obligation “to contribute to the strict observance and the development of international law, including respect for the principles of the United Nations Charter”, as the text of Article 3(5) TEU goes, it would suit the member states to seize the first opportunity for treaty revision and replace the term “peace-making” in Article 43 TEU with “peace enforcement”.¹⁴ In order to establish terminological boundaries and create legal certainty, the member states should then also lift the term “peace-making” from among the provisions on CSDP, where it is now, and relocate it to Section 1 of the chapter on specific provisions on the Common Foreign and Security Policy (or “CFSP”). In the process, the hyphen should be lost in order to harmonise the terminology with that of the UN. Furthermore, just like the “Petersberg tasks” were codified into the EU Treaty, so too could the *finalité* in the EU’s treaty clarification of “peacemaking” reflect the non-exhaustive list of diplomatic means of peaceful dispute settlement in Article 33 of the UN Charter. Article 27(2) TEU could host such an addition to the Treaty text. This provision currently only states that: “The High Representative shall represent the Union for matters relating to the common foreign and security policy. He shall conduct political *dialogue* with third parties on the Union’s behalf and shall express the Union’s position in international organisations and at international conferences.”¹⁵ Arguably, “dialogue” is too narrow a term to describe the different diplomatic methods already employed by the EU in its peacemaking efforts. Dialogue is a specific method which does not meet the threshold of negotiation and debate but which can be best defined as an open-ended process simply intent on reaching a higher understanding among participants.¹⁶ Seen through this prism too, Article 27(2) TEU could benefit from some semantic clarifications and elaboration.

Let me now turn to, first, the moral duty and then the legal obligation which rest upon the shoulders of the EU to act as a peacemaker.

Moral duty and legal obligation

Moral duty

One of the principles underpinning the Union’s legal obligations to be a force for good in the world is the fact that European integration itself is inherently a peace process. In his famous declaration of 9 May 1950, French foreign minister Robert Schuman declared his aim was to “make war not merely unthinkable but materially impossible”.¹⁷ This was to be achieved by regional integration, of which the European Coal and Steel Community was the first step. The

Treaty would create a common market for two of the biggest war industries and would serve to neutralise competition between historic rivals France and Germany and other European nations over natural resources, particularly in the Ruhr region. In a similar vein, a European Atomic Energy Community was created twelve years after Hiroshima. The European peace project took flight in the decades thereafter, as hailed by the Nobel Committee.

The values on which the Union of today is based include “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail” (Article 2 TEU). The Union’s overall aim is to promote those values, as well as peace in general (Article 3(1) TEU). Arguably, this aspiration not only applies to regional integration between the member states. Adhering to the universally applicable principles of solidarity and equality, the EU owes it to itself to also conduct an ethical foreign policy. Such sentiments have been consistently repeated in statements before the UN Human Rights Council, the Union’s own Annual Report on Human Rights, and official declarations such as the one at Laeken in 2001.¹⁸ As has been observed, “[these] texts illustrate the rationale upon which the Union wishes to legitimise its practices and identify some of the ethical values it considers itself founded upon and those which it wishes to promote”.¹⁹ Robert Kagan has argued that as the U.S. believed it had discovered the secret to human happiness, so the Europeans consider that they must export their miracle of regional reconciliation.²⁰ In its relations with third countries, the Union has indeed actively promoted rule-based regional integration as a model for transnational peace and reconciliation. This is particularly apparent in the push for multilateral treaty frameworks like the Central European Free Trade Area among candidate states, the Energy Community Treaty with Western Balkan and some Eastern Partnership countries, and inter-regional trade agreements like the ones with Central America, Mercosur and ASEAN.

Like the moral duty is encoded in the European Union’s DNA, so too is the practice of dialogue and mediation a constant in the EU’s internal decision-making process.²¹ In its external relations, the 2009 Concept on Strengthening EU Mediation and Dialogue Capacities serves as a clear point of conceptual reference. Endowed with a rich toolbox, some positive experiences and the institutional capacity to support the EU’s top diplomats,²² the EU should work towards the goal of peacemaking with, in and between third countries.

Others have responded positively to the Union’s “sanguine world view”.²³ This is reflected in the invitations by parties to a dispute to act as a peace-

maker, the expectations of world powers like the U.S. and China that the EU pacify its neighbourhood, and endorsements from the UN Security Council and other international bodies for the EU's role as a vector for peace. However, with a history of colonial domination, the EU's diplomatic slate is less clean than that of the Norwegians and the Swiss, even if the latter also have spots on their shining armours. Conversely, some member states' familiarity with previously held overseas territories may play to the Union's advantage in bringing a political *savoir faire* to the negotiation table. The perception that others may have of the EU's neutrality and deep knowledge of local affairs may well be the key to success for a future EU role in global peacemaking.

On the basis of the foregoing it should not come as a surprise that the Lisbon Treaty has codified the self-imposed moral duty that others also expect the Union to adhere to.

Legal obligation: EU law

Indeed, the EU is bound by its own rulebook to contribute to peace and security in its relations with the wider world in at least three ways.²⁴ First, Article 3 (5) TEU states this aim in so many words and formulates it as a legally binding obligation: the Union "shall contribute to peace, security [etc.]". Second, Article 21(1) TEU further elaborates the objective and develops the methodology by starting from the premise that 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." In doing so, the Union "shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to [above]". Such is particularly pertinent in the EU's relations with its geographical neighbours. According to Article 8(1) TEU, "[t]he Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation".

A third way by which the EU is legally held to promote peace concerns the references in the EU Treaty to the search for multilateral solutions to common problems, in particular in the framework of the UN. This obligation is especially apparent in Article 21(2)c TEU, which resonates the Member States' preambular resolve "to promote peace, security and progress in Europe and

in the world” by stating that “[t]he Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of 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 (...)”. Protocol No. 10 attached to the Lisbon Treaty explicitly recognises that “the United Nations Organisation may request the Union’s assistance for the urgent implementation of missions undertaken under [Chapter] VI (...) of the United Nations Charter”.

In other words, at the level of primary EU law, there is no shortage of provisions obliging the Union to act as a global peacemaker, *proprio motu* and when requested by the UN. Which brings me to the Union’s obligations under international law.

Legal obligation: international law

Article 33 of the UN Charter and subsequent UN General Assembly Resolutions²⁵ direct the obligation to seek a solution *to the parties* of disputes the continuance of which is likely to endanger the maintenance of international peace and security. Whereas this formulation is sufficiently wide to also cover the EU in its potential disputes with other parties, the Union is more likely to be addressed as a conduit available to other conflicting parties resorting to so-called “regional agencies or arrangements”. The reference here is to Chapter VIII of the UN Charter, in particular Article 52(1) according to which regional arrangements or agencies may deal with matters relating to the maintenance of international peace and security “as appropriate for regional action”. The many references to the UN in the EU Treaties make it clear that the EU’s institutional framework may be used to fulfil a role as a “regional agency” to attain its objectives to contribute to peace and security in the world (Article 21 (2)c TEU), especially when invited by the UN. Protocol No. 10 is a direct response to the last phrase of Article 52(3) of the UN Charter, which states that the Security Council may refer the peaceful settlement of disputes to regional arrangements or agencies.²⁶ The only difference between these communicating legal vessels is the geographical restriction enshrined in the UN Charter, with a focus on local (i.e. regional) dispute resolution by regional agencies or arrangements. However, in his Agenda for Peace, the UN Secretary-General stressed the need for flexibility in the post-Cold War era and the fact that the purpose of establishing closer links with regional organisations was not to set forth “any formal pattern of relationship between regional organisations and the United Nations, or to call for any specific division of labour”. The endorsement by the UN Security Council of the EU’s role in hand-

ling international negotiations with Iran on the nuclear non-proliferation would attest to an existing *opinio juris* that supports regional organisations' peacemaking actions beyond their geographical boundaries.²⁷

That said, the implications of the acceptance of a role for the EU as a "Chapter VIII organisation" are not to be disposed of too easily. According to Article 52 of the UN Charter, the peacemaking activities of the EU have to be "consistent with the Purposes and Principles of the United Nations". And while the EU may have an autonomy in peacemaking, it is subject to a reporting requirement towards the Security Council (Article 54 UN Charter).

Having established the legal obligation resting upon the EU, let us know see how its peacemaking – "*avant la lettre*", as if it where – has panned out in practice and in terms of governance, all the while keeping the newly added sub-title to this lecture in mind.

EU peacemaking *avant la lettre*: effort and impact

As mentioned at the outset, the European Union's role as a global peacemaker did not merit a reference in the Nobel Committee's award announcement last year for its track-record has been rather short and mixed.

*The Balkans*²⁸

The highest profile failure was perhaps when the EU, freshly endowed by the pre-Maastricht intergovernmental conference with a Common Foreign and Security Policy and boasting with confidence that "the hour of Europe has dawned",²⁹ proved unable to stop the violent implosion of former Yugoslavia in the early 1990s. A pattern of negotiated ceasefires facilitated by European Community (EC) mediation were first hailed as triumphs of European diplomacy and subsequently broken, mostly by the Serb-dominated "federal" army. In January 1992, after heavy German pressure, the EC and its member states chose to recognise Croatia and Slovenia as sovereign and independent states, thereby partly ignoring the opinion solicited from its own Arbitration Commission that Macedonia and Slovenia were the only of the four applicants that met all the criteria to be recognised as new states. The political impact of these measures on the dissolution of and the war in Yugoslavia was significant, because it isolated and punished the Serb/Montenegrin-dominated federal authorities. It also ended the European stewardship of the international efforts to negotiate a peaceful settlement to the conflict, due to Serbia's distrust of the EC as a mediator. It took four years of war and many

atrocities, including the one at Srebrenica, for a peace initiative undertaken by the United States, with the support of the UN Security Council and the Contact Group, to result in a ceasefire agreement. This culminated in the peace negotiations held at Dayton in November 1995.

This episode shamed the political leaders of the EU Member States into action. They sharpened up the treaty mechanisms to engage the Union in global peace diplomacy. The innovations of the Treaty of Amsterdam concerned both the scope and objectives of the Common Foreign and Security Policy, the instruments and the decision-making procedures. It was, however, the upgrading of the position of the Secretary General of the Council, since then also designated “High Representative for the CFSP”, which propelled the EU in a diplomatic role on the international scene.³⁰

In spite thereof, the Union failed to end a new eruption of armed conflict in the Balkans, this time in Kosovo, at the end of the 1990s. It was a combination of military pressure by NATO and diplomatic initiatives by the Contact Group³¹ that secured the Serb withdrawal from Kosovo under the Military Technical Agreement and provided the stepping stone for final status talks between 2005 and 2007. Whereas the latter were led by Europeans, the EU – above and beyond its member states – played second fiddle. The unstoppable drift in the direction of a unilateral declaration of independence created enormous problems for the EU due to the differences between member states on the recognition of statehood. As Stefan Lehne, the former EU Representative to the final status talks, explains: “As long as the Contact Group remained operational, the Council of the EU found it relatively easy to bridge the internal divisions by simply mirroring the Contact Group’s positions in its own statements. After [UN Chief Negotiator Martti] Ahtisaari submitted his proposal the EU still managed to agree to support the proposal (which did not explicitly mention independence), while emphasizing the need for a UN Security Council decision”,³² which never came. The member states split soon afterwards.³³

These high-profile failures of EU peace diplomacy were due to a number of factors, ranging from a lack of preparedness and institutional capacity on the part of the EU institutions, differences in positions between member states, wrong sequencing and timing of accountability, and ultimately the lack of consent of the parties to be mediated by the EU. These episodes provided enough fruit for thought and learning lessons.

Partly as a result thereof and partly because it was lucky, the EU, sometimes in cooperation with other organisations like the OSCE and NATO, did score a handful of successes in the peaceful resolution of status disputes after the Amsterdam Treaty entered into force in 1999, both in and beyond the Bal-

kans. Cases in point are: (i) the 2001 Ohrid Framework Agreement that prevented low-intensity warfare between the Macedonian government and Albanian militias from spiralling completely out of control; (ii) the 2002 Belgrade Agreement that introduced a 3-year cooling-off period before Serbia and Montenegro could peacefully separate after one of the republics had obtained a popular mandate by way of a referendum; (iii) the implementation of the 2005 Aceh Peace Agreement which authorised the secession from the northern tip of Sumatra from the rest of Indonesia; and (iv) the Russo-Georgian ceasefire agreement brokered by the EU Presidency in August 2008.

I am extremely pleased to count among you today some of the protagonists who saw the implementation of these agreements through; and I am also grateful for the new insights gleaned from your experiences during the workshop which preceded this lecture.

The single most resounding success for EU diplomacy so far is no doubt the so-called 'First Agreement on Principles Governing the Normalisation of Relations' between Serbia and Kosovo, concluded on 19 April 2013 at the headquarters of the EEAS in Brussels. Significantly, the deal offers the possibility to close yet another chapter in the recent violent history of the Balkans. Bringing arch rivals Ivica Dačić, a former spokesman of the late Serbian President Slobodan Milošević, and Hashim Thaçi, a former commander of the Kosovo Liberation Army – both now prime ministers of their respective countries – to the table for direct talks and towards an accord in barely seven months is no small diplomatic feat. It not only sends a strong signal to the countries in the region, but also to the UN, the U.S., Russia, China and other global players that the EU is serious about stabilising its immediate neighbourhood; and a worthy laureate of the 2012 Nobel Peace Prize.

Much credit for the positive outcome of the EU facilitated dialogue has to go to Catherine Ashton. Her leadership and dedication were critical in bringing about this important agreement. The agreement will partly define Ashton's legacy as High Representative. However, this was no solo effort but a multi-level exercise. The first nine meetings of the dialogue foreseen in UN General Assembly Resolution 298 (2010) were in fact held between March 2011 and March 2012 at the level of heads of delegation, with the facilitation of a small team led by Robert Cooper, then counsellor of Ashton. Further gatherings were held in various working groups which hammered out technical agreements on such issues as the recognition of car registration plates in Kosovo and cadastres in Serbia.

The main incentive the EU used to wheedle Kosovo towards an accord was the possible opening of negotiations on a Stabilisation and Association Agreement.³⁴ Serbia was offered the prospect of starting membership talks with the

EU. Both the Commission and the member states, most vocally Germany, backed Ashton by warning the parties that they would not hesitate to push back the April date for a Council decision if either failed to commit fully to the negotiations. It is therefore not only the outcome that makes the EU facilitated dialogue stand out as a success, but also the characteristics of the diplomatic process itself: it was high-level, high on symbolism (e.g. the Ashton-Clinton trip to the Balkans at the outset of the second round of talks in October 2012), high-paced (the EEAS ran a tight schedule with high-level meetings every month), and high on drama (cf. Ashton's disappointment that Dačić and Taçi failed to conclude an agreement as a birthday present for her in March 2013). The facilitated dialogue also shows that, in spite of its image marred by deep economic and financial crises, the EU still musters enough power of attraction to convince third parties to settle their disputes peacefully in return for the prospect of closer relations with the Union. Perhaps a similar form of intense mediation could help achieve what the so-called "High-Level Dialogue on Accession Process" for Bosnia and Herzegovina has not, i.e. breaking the political deadlock between the different ethnic factions and establishing workable governance structures.

Neighbourhood

In operational terms, the biggest challenge for the EU is how it deals with its neighbouring countries.³⁵ To paraphrase what the High Representative has said on more than one occasion: how the EU operates in its neighbourhood and the effectiveness of what it does will define the European Union and its role on the international stage in the future.³⁶ Overlooking the outer periphery, there is little reason to be optimistic: the Union's neighbourhood is littered with potential and actual flash points.

Looking towards the east, no real progress is being made to resolve the inaptly named "frozen conflicts". For the breakaway republics of Abkhazia and South Ossetia in Georgia,³⁷ the EU co-chairs the so-called "Geneva International Discussions" together with the OSCE and the UN. In November 2013, the 25th round of took place without any real progress in sight. Similarly, the EU has precious little impact on the "5+2 talks" devised for dealing with the dispute over Transnistria. This "5+2" format refers to Moldova and Transnistria (the two parties to the dispute), plus the OSCE, Russia and Ukraine as mediators, which in 2005 decided to invite the EU and the US as participants in official meetings as "observers", i.e. without the right to sign documents adopted in the course of the negotiations and no right to take part in the decision-making process. The talks moved to Brussels in the first

week of October 2013 but nothing much has been achieved. Finally, in the dispute settlement mechanism between Azerbaijan and Armenia over Nagorno-Karabakh, Russia, the U.S. and France serve as co-chairs of the so-called “Minsk Group” under the auspices of the OSCE.³⁸ The European Union is not formally involved in the Minsk Group but supports its work, even if the process seems to be going nowhere. A cynic would say that, in so far as the frozen conflicts have been resolved, this has not been the result of peaceful courtesy of the OSCE, the UN, with or without the EU, but rather by Russian military force and ongoing occupation by its so-called “peace-keepers”. Indeed, the path towards conflict resolution in all four status disputes will have to pass through Moscow. However, as long as the separatist entities give Russia geopolitical assets to drive wedges between the EU and Eastern Partnership countries and among the latter themselves, the Kremlin will show little willingness of giving up.

Looking south, the European Union is also painfully ineffective. The EU’s practice towards the oft-forgotten dispute over Western Sahara is even counter-productive and illegal. The EU plays the role of Pontius Pilatus, tacitly renewing its fisheries agreement with Morocco which allows European vessels (mainly Spanish and French) to fish off the shores of the Western Sahara.³⁹ For purely commercial gain of some member states, the EU is washing its hands of responsibility for respect of both international law (as expressed in binding UN Security Council resolutions and an Advisory Opinion of the ICJ), as well as the EU’s own norms and values, whereas it could choose to support the UN-led mediation process by using the substantial leverage it has over Morocco as an important provider of grants and loans. This is a damning example of the double standards for which the EU is sometimes condemned when implementing its external action.

The EU’s slow and timid response to the momentous changes brought about in Tunisia and the other so-called “Arab Spring” countries have put the spotlight on the birth pains of the EEAS, which – in all fairness – had only just become operational on 1 January 2011.⁴⁰ This was compounded by a frustration about the lack of leadership at the highest institutional levels.⁴¹ After some initial hesitations and setbacks,⁴² and faced with a military intervention by member states in Libya, outside the EU framework, the EEAS reacted to events and played its role as a policy coordinator. However, it is really only in Egypt that the EU has been donning the cloak of peacemaker. In spite of the rapid sequence of dramatic events of the last months, Ashton has managed to burn no bridges. The fact that after the *coup d’état* she was the only western leader allowed to visit former President Morsi – who is being detained by the military – is telling of her credibility as an honest broker.

In the wider Muslim world, one can point to a number of other small successes achieved by the High Representative and the EEAS, which illustrate the added value of the Lisbon structures. In 2011, in the absence of initiatives by others, the EU took on a more central role in the Quartet efforts to get the Middle East Peace process unstuck.⁴³ The leadership has since been taken over again by the U.S.

Furthermore, the EU, by way of the High Representative and her team at the EEAS, continues to lead, on behalf of the international community, the so-called “P5+1” negotiations which are intended to prevent Iran from obtaining nuclear weapons. The acronym P5+1 refers to the five permanent members of the UN Security Council + Germany.⁴⁴ This process has gained a lot of momentum recently, up to the point where an interim agreement has been concluded at Geneva on 24 November 2013, the first in almost a decade. In spite of public opposition from France to an earlier draft of the text, Ashton has been widely credited for keeping the P5+1 together.

Further afield and behind the scenes, the EU has been supporting peace mediation activities and dialogue processes with civil society organisations at grassroots levels under the two most relevant financial instruments, i.e. the Instrument for Stability and the African Peace Facility. Examples include support for NGO mediation activities in Mindanao (the breakaway province in the Philippines),⁴⁵ and peace and reconciliation efforts by civil society and ethnic groups in Myanmar/Burma.⁴⁶ It is worth noting that on 14 and 15 November 2013, the first EU-Myanmar Task Force took place, along the same lines of what the EU has rather pompously called a “new form of European diplomacy (...) where economics meets politics”, as previously practiced in Tunisia, Jordan and Egypt.⁴⁷

Concentric circles

The picture that emerges from the EU’s peacemaking efforts is roughly one of concentric circles emanating from the Union’s bureaucratic centre: as the ripple effect expands, its impact weakens.⁴⁸ The EU’s soft power works best for states that could theoretically meet its membership criteria. Thus, the EU is likely to get more traction when it throws its weight behind peace talks in the Balkans, then when it does so in order to resolve disputes in or between its non-European brethren on the southern shores of the Mediterranean. Arguably, the EU’s impact wanes once outside the European periphery, except upon the express invitation of parties to a dispute (e.g. Aceh) or when backed up by world powers (e.g. the P5+1 talks with Iran). Otherwise, the Union’s global role in peacemaking is very much defined in terms of development

assistance and trade relations, and/or the perception among parties to a dispute that the EU is a neutral and credible go-between.

Whereas the EU's track record in peace diplomacy is rather modest, it clearly is not the result of a lack of trying. High Representatives Solana and Ashton have carved out a political niche for EU external action in this field; the Council has mandated EU Special Representatives to work towards the peaceful settlement of disputes,⁴⁹ and EEAS staff at EU delegations have been engaged in day-to-day dispute settlement activities in third countries. Financial and technical assistance has been given, restrictive measures have been adopted to force parties to cooperate in the search for a peaceful solution,⁵⁰ EU "blue helmet" missions of various kinds have been deployed to keep or build the peace,⁵¹ and much more. Yet, for all the initiatives, good offices, "carrots and sticks", none of these instruments appears as a particularly strong leverage for securing sustainable dispute settlement beyond the EU's zone of enlargement. Sadly, this observation also applies to the European Neighbourhood Policy which is "not in itself a conflict prevention or settlement mechanism".⁵² Arguably, the EU will have to employ a mix of tools to make sure that it lives up to its Article 8 TEU obligation to work towards the transformation of the neighbourhood into a zone of peace and prosperity. Strong political backing by the member states is the most crucial ingredient in this mix.

What also transpires from the overview is that the EU has been and continues to be engaged across the entire spectrum of Article 33 UN Charter peacemaking activities: negotiations with Iran; enquiry and dialogue in Egypt; mediation between Serbia and Kosovo; conciliation in the early stages of the war in ex-Yugoslavia; and, within the category of "other peaceful means": observation of the 5+2 over Transnistria, support to the Minsk Group, and good offices and financial aid in Myanmar/Burma, to name just a few. But while fact-finding, conciliation, mediation, negotiation and other peacemaking instruments already form integral parts of its external action toolbox, the EU has, by its own admission,⁵³ so far used these diplomatic tools in a rather *ad hoc* and reactive fashion. This raises questions of organisational capacities, preparedness, communication and coordination.

Organisational challenges

A question which has annoyed the European Union since the launching of the Common Foreign and Security Policy (CFSP) in the early 1990s is whether it can also muster the diplomatic clout to coherently, efficiently and

effectively contribute to peaceful dispute resolution beyond its geographical borders.

The Lisbon Treaty, which pivoted the EC into the EU and explicitly endowed the latter with international legal personality, has re-designed the institutional framework to render the organisation's external action more coherent, visible and – above all – effective. However, the Lisbon Treaty did not fundamentally alter the decision-making procedures in the realm of CFSP, which is still based on consensus-building among the member states. Yet, the High Representative, for the first time supported by a formidable European External Action Service, can claim a policy space and develop peacemaking initiatives until and when s/he meets resistance by one or more member states.

In their joint Concept of 10 November 2009, the Council and Commission aim to develop a more systematic approach to strengthen some of its peacemaking capacities in order to allow it to contribute in a more efficient and effective way to the resolution of conflicts.⁵⁴

Based on the blueprint of the 2009 Concept, a specifically dedicated “Conflict prevention, Peace building and Mediation Instruments Division” was created within the EEAS. This division – K.2 in the organogram – supports EEAS senior management, EU Special Representatives, the geographic directorates at headquarters and EU Delegations around the globe in taking decisions in, amongst others, peacemaking. Moreover, within division K.2, the Mediation Support Team offers coaching and training (to EEAS staff, EU Special Representatives and Heads of Delegation) and knowledge management (e.g. in the form of drawing up lessons learnt on EU engagement).⁵⁵ Becoming a knowledge hub and training capability with a flexible and useable roster of geographic and thematic experts seems to be the best way forward to equip the EU for its future peacemaking role.

Since the start of activities in late 2011, the EU Mediation Support team has provided support to colleagues working on a wide range of countries and regions including Afghanistan, Central Asia, Mali, the Middle East, Myanmar, North Africa, South Caucasus, Western Balkans, Yemen and Zimbabwe.⁵⁶ Going by the lessons drawn from a limited review of EU inputs in the EEAS Mediation Support Pilot Project of 2012,⁵⁷ “it is still unclear what the quality and impact of this engagement [is], not least by officials themselves, and secondly as to whether the EU is currently fully exploiting its potential added value”.

One important conclusion points to the fact that the EU will need to more actively and pragmatically manage its own family members' engagement: coherence in policy-making “cannot be left to chance”. Another finding is that

the EU needs to understand the local and regional context and adapt its political and policy responses accordingly rather than seeking to offer a “one-size-fits-all approach”. The most important observation in the review is no doubt that the EU rarely goes solo in peacemaking. “Partnership is key and good partnership adds value”. With the right resources and clout, i.e. political prioritisation, Division K.2 of the EEAS could contribute even more and better expertise.⁵⁸

Despite the progress made so far and the ongoing efforts to enhance the EEAS’s mediation and dialogue capacities, a new initiative has been launched in 2010 by Finland and Sweden to create a European Institute of Peace (EIP) , based on the template of the U.S. Institute of Peace (USIP). The idea has been embraced by Norway and Switzerland, both boasting a strong tradition in peacemaking, perhaps working from the premise that if you can’t beat them, you need to join them.

Advocates for the Institute have been pushing for a small, Brussels-based and publicly funded yet functionally independent entity with close links to the EU, serving as an operational support and knowledge development hub, working in complementarity and in cooperation with national, European and international governmental and non-governmental organisations. The EIP’s assistance would be thematic, geographical, logistical, and technical. It would also act as a proverbial “body shop”, through the rapid mobilisation of expertise in support of mediation and dialogue carried out by the EU, member states, the UN or other international actors, or at the request of parties to a conflict. It would therefore keep a roster of peacemakers.

All of this sounds like a proposal for what could be done within the existing arrangements (EEAS and external action instruments) and should for that reason be dismissed. The only convincing argument that pleads in favour of the creation of an European Institute of Peace is that the entity could conduct direct peace talks in cases in which the EU has an important interest but cannot perform due to structural limits. Such limits may be posed by counter-terrorism legislation, which denies the EU to directly engage with non-recognised or proscribed armed groups like Hamas; groups that nevertheless need to be included if a peace agreement is to hold.⁵⁹ In such cases, an EIP could act upon the request of the EU or parties to the conflict and liaise with the relevant actors in an appropriate manner. It would thus have the required legitimacy to “practice more flexible diplomatic initiatives and engage as an independent facilitator or participant in peacemaking activities”.⁶⁰

Mevrouw de Rector Magnificus, your Excellencies, ladies and gentlemen, let me conclude.

Concluding remarks

Georges Clemenceau, who led France in the First World War and who, as one of the principal architects of the Treaty of Versailles, took a very harsh position against defeated Germany, once complained to a colleague: “It’s much easier to make war than peace”.⁶¹ As I have tried to show in this lecture, criticism can be and has been levelled against the EU’s potential and actions in playing the role of a twenty-first century peacemaker. I am nevertheless of the opinion that the EU can add real value to peacemaking, certainly among candidate countries but also in other parts of the world, as a neutral, ethical and credible actor. The European Union itself is a “perpetual peace congress”; dialogue and mediation are encrypted in its DNA.⁶² Moreover, it is under a moral duty and a legal obligation to work towards the peaceful settlement of disputes with, in and between third countries. It is also equipped with a rich toolbox, even if it has used it so far in a rather ad hoc fashion. The EU – above and beyond its member states – has developed its capacities and experience in peacemaking over the last 20 years along several lines: as a peacemaker itself, and in promoting, leveraging, supporting and funding peacemaking activities.⁶³ Moreover, the recent creation of the European External Action Service is expected to reinforce the EU’s capacities and expertise in the field of conflict resolution and to bring more coherence, visibility and effectiveness to the EU family’s efforts in this respect.

After a difficult birth in a theatre overcrowded with jealous protagonists and the multiple crises which fuelled its baptism by fire, the three-year old EEAS has undergone a review exercise which will lead to further changes to the organisation and running of the Service,⁶⁴ and potentially amendments of the Council Decision, flanking regulations and inter-service agreements underpinning it further down the line.⁶⁵ Establishing a firm and effective EU diplomatic service which marries the corporate cultures of 28 national diplomatic services, the European Commission and the Council General Secretariat, and that is able to join up the different strands of EU external action from across all corners of the EU family is a long-term project. Indeed, “clear opportunities exist in the post-Lisbon institutional setup to scale-up EU peacemaking within a comprehensive approach to conflict prevention, peace-building and stability”.⁶⁶ It is therefore better to reinforce the existing arrangements – in terms of law and governance – instead of adding new ones. One hopes that, in spite of tight budgets, the Nobel Peace Prize will motivate the Laureate to make these changes and redouble efforts to develop its peace-making role in the neighbourhood and on the global scene.

Dankwoord

Aan het einde gekomen van mijn rede wil ik al degenen die direct en indirect hebben bijgedragen aan mijn benoeming aan de Universiteit van Amsterdam bedanken voor het in mij gestelde vertrouwen: op de eerste plaats het College van Bestuur dat mij heeft benoemd, alsook het Faculteitsbestuur, in het bijzonder de Decaan, de benoemings-adviescommissie en professor Curtin die mij hebben voorgedragen. Ik kijk uit naar het werken met studenten en promovendi, de samenwerking in de afdeling internationaal publiekrecht en Europees recht en op onderzoeksgebied met de collega's in het Amsterdam Centre for European Law and Governance, waar ik al in oktober 2012 werd verwelkomd. Ik blijf bovendien vertrouwen op de samenwerking met collega's op het gebied van EU externe betrekkingen aan de andere faculteiten in den lande en Europa middels het Centre for the Law of EU External Relations. Tot slot wens ik ook het bestuur en senior management van mijn Brusselsese werkgever, het Centre for European Policy Studies, te bedanken voor het vertrouwen en de flexibiliteit om deze typisch Belgische cumul te verwezenlijken.

Ik heb gezegd.

Notes

1. M. Macmillan, *The Peacemakers: Six Months That Changed the World* (London, John Murray 2001), at 1.
2. This argument is drawn from my CEPS Commentary “Vanishing lines in the sand – Why a new map of the Middle East is necessary”, 1 October 2013.
3. See <http://www.nobelprize.org/nobel_prizes/peace/laureates/2012/press.html>, Oslo, 12 October 2012.
4. See M. Trachtenberg, *Reparation in World Politics: France and European Economic Diplomacy, 1916-1923* (New York, Columbia University Press 1980), at 1-10.
5. See F. Duchêne, *Jean Monnet: The First Statesman of Independence* (New York, Norton 1994), at 40.
6. See <http://www.nobelprize.org/nobel_prizes/peace/laureates/2012/press.html>, Oslo, 12 October 2012.
7. See S. Blockmans, “The EU’s Neighbourhood Policies in 2014: In Need of a Reboot”, *CEPS European Neighbourhood Watch*, 6 January 2014.
8. See H. Neuhold, “Terminological Ambiguity in the Field of International Security”, in K. Dicke, et al. (eds.), *Weltinnenrecht: Liber Amicorum Jost Delbrück* (Berlin, Duncker & Humblot 2005), 473-486, at 475.
9. See Charlemagne, ‘The Tower of Bable’, *The Economist*, 2 August 2003.
10. Article 43(1) TEU. Emphasis added.
11. See, e.g., *Summit Meeting of the Security Council on 31 January 1992*, UN Doc. S/PV.3046, at 6: “peacemaking: to restore peace through diplomatic means”; *An Agenda for Peace: preventive diplomacy, peacemaking and peace-keeping*, UN Doc. A/47/277-S/24111, 17 June 1992, paras. 20-59; *Supplement to An Agenda for Peace*, UN Doc. A/50/60-S/1995/1, 3 January 1995, paras. 23-80; *Report of the Panel on United Nations Peace Operations*, UN Doc. A/55/305-S/2000/809, 21 August 2000; and UN General Assembly Resolution on “Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution”, A/RES/66/291, 15 October 2012. The Security Council focused on the topic of mediation and the settlement of disputes in several resolutions and presidential statements. See, inter alia, the UNSC Resolutions on women and peace and security, S/RES/1325 of 31 October 2000, S/RES/1889 of 5 October 2009 and S/RES/1960 of 16 December 2010; and the Presidential Statements on the Agenda item “Maintenance of international peace and security: mediation and settlement of disputes”, S/PRST/2008/36 of 23 September 2008, S/PRST/2009/8 of 21 April 2009, and S/PRST/2011/18 of 22 September 2011. See further <<http://peacemaker.un.org/peace-making-mandate/security-council>>. See also *NATO Handbook* (Brussels, NATO Office of Information and Press 2001); *A Secure Europe in a Better World – European Security Strategy*, Brussels, 12 December 2003; *OSCE Handbook* (Vienna, OSCE Secretariat 2007); A. Schmid, *Thesaurus and Glossary of Early Warning and Conflict Prevention Terms* (Rotterdam, Erasmus University 1998); H. Neuhold, ‘The United Nations System for the Peaceful Settlement of International Disputes’, in F. Cede and L. Sucharipa-Behrmann (eds.), *The United Nations: Law and Practice* (The Hague, Kluwer Law International 2001), at 59; P. van Ton-

- geren, H. van de Veen and J. Verhoeven, *Searching for Peace in Europe and Eurasia: An Overview of Conflict Prevention and Peace-building Activities* (Boulder, Lynne Rienner 2002); and V. Chetail, "Introduction: Post-conflict Peacebuilding – Ambiguity and Identity", in V. Chetail (ed.), *Post-conflict Peacebuilding: A Lexicon* (Oxford, Oxford University Press 2009), 1-33, at 1.
12. "The EU as a Peacemaker: enhancing the EU's mediation capacity", International Conference co-organised and hosted by the European Parliament, Brussels, 28 May 2013, information available on the EEAS website <http://eeas.europa.eu/top_stories/2013/300513_eu_peacemaker_en.htm>.
 13. Articles 3(5) and 21(1) and (2) sub c TEU, 208 TFEU, Protocol No. 10 and Declaration No. 13 attached to the Treaty of Lisbon. The latter is especially clear: "It stresses that the European Union and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security".
 14. On the basis of the general principle of EU law on loyal cooperation with the EU (Article 4(3) TEU) and the duty to "comply with the commitments and take account of the objectives they have approved in the context of the United Nations" (Article 298(2) TFEU), one could even argue that the member states are under a legal obligation to change the treaty so as to allow the Union to carry out its tasks which flow from Article 3(5) TEU.
 15. Emphasis added.
 16. See CIDA/OAS/IDEA/UNDP, *Democratic Dialogue – A Handbook for Practitioners* (Stockholm, IDEA 2007), at 19-34.
 17. The Schuman Declaration of 9 May 1950, available at <http://europa.eu/about-eu/basic-information/symbols/europe-day/schuman-declaration/index_en.htm>.
 18. See U. Khaliq, *Ethical Dimensions of the Foreign Policy of the European Union: A Legal Appraisal* (Cambridge, Cambridge University Press 2008), at 7.
 19. *Ibid*, at 8.
 20. R. Kagan, *Paradise and Power: America and Europe in the New World Order* (New York, Vintage Books 2004), at 61.
 21. See also "From War to Peace: A European Tale", the Nobel Lecture by the European Union, Herman Van Rompuy, President of the European Council and José Manuel Durão Barroso, President of the European Commission, Oslo, 10 December 2012: "symbolic gestures alone cannot cement peace. This is where the European Union's "secret weapon" comes into play: an unrivalled way of binding our interests so tightly that war becomes materially impossible. Through constant negotiations, on ever more topics, between ever more countries. It's the golden rule of Jean Monnet: "Mieux vaut se disputer autour d'une table que sur un champ de bataille." If I had to explain it to Alfred Nobel, I would say: not just a peace congress, a perpetual peace congress!"
 22. See in this respect the tagline which accompanied the High Representative's draft organisational chart of 23 July 2010, on file with the author: "The EEAS: a draft for conflict prevention, security + stability". According to Article 2(2) of Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service, OJ 2010 L 201/30, the Service is

- expected to “support the High Representative in fulfilling his/her mandates as outlined, notably, in Articles 18 and 27 TEU”, and also to “assist” the President of the European Council (pursuant to Art. 15(6) TEU), the President of the Commission, and the Commission as a whole in the exercise of their respective functions in the area of external relations (pursuant to Art. 17(1) TFEU). See S. Blockmans and C. Hillion (eds.), *EEAS 2.0: A Legal Commentary on Council Decision 2010/427/EU establishing the organisation and functioning of the European External Action Service* (Stockholm/Florence/Brussels, SIEPS/EUI/CEPS 2013).
23. See J. Larik, ‘Entrenching Global Governance: The EU’s Constitutional Objectives Caught Between a Sanguine World View and a Daunting Reality’, in B. Van Vooren, S. Blockmans and J. Wouters (eds.), *The EU’s Role in Global Governance: The Legal Dimension* (Oxford, Oxford University Press 2013), 7-22.
 24. Article 3(1) TEU states the aim even more broadly: “The Union’s aim is to promote peace (...)”.
 25. E.g., the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States, adopted as Resolution 2625 of the General Assembly.
 26. See S. Blockmans and R.A. Wessel, “The European Union and Peaceful Settlement of Disputes in its Neighbourhood: The Emergence of A New Regional Security Actor?”, in A. Antoniadis, R. Schütze and E. Spaventa (eds.), *The European Union and Global Emergencies: Law and Policy Aspects* (Oxford, Hart Publishing 2011), 73-103.
 27. See, e.g., UNSC Resolution 1696 (2006).
 28. See, generally, S. Blockmans, *Tough Love: the EU’s Relations with the Western Balkans* (The Hague, T.M.C. Asser Press 2007).
 29. Declaration of Jacques Poos, Luxembourg’s Foreign Minister holding the Presidency of the Council, to the international press, 29 June 1991.
 30. See A Dashwood, ‘External Relations Provisions of the Amsterdam Treaty’, in D. O’Keeffe and P. Twomey (eds.), *Legal Issues of the Amsterdam Treaty* (Oxford, Hart Publishing, 1999), 201-224.
 31. The Contact Group was composed of the US, UK, France, Germany, Italy, and Russia. It was first created in response to the war and the crisis in Bosnia in the early 1990s. The Contact Group included four of the five Permanent Members of the UN Security Council and the countries that contributed the most in troops and assistance to peacebuilding efforts in the Balkans. Representatives of the Council of the European Union, the rotating EU Presidency, the European Commission and NATO generally attended Contact Group meetings.
 32. Stefan Lehne, appointed by the Council of the EU in November 2005, acted as EU representative to support the UN Status Envoy in the implementation of his mandate, and deputised chief negotiator Martti Ahtisaari on a host of occasions. See S. Lehne, “Resolving Kosovo’s Status”, *OIIP Policy Paper*, June 2009, at 11.
 33. However, the EU would be united in its operational engagement, in particular in the deployment of its most ambitious civilian CSDP mission so far, EULEX Kosovo, designed to strengthen the rule of law in Kosovo. The legal decisions concerning the mission were rushed through in early 2008, as the support of all the 27 (Cyprus constructively abstained) would have been more difficult to achieve

- following the declaration of independence on 17 February. While Kosovo's international integration will still require great efforts, its statehood is nonetheless an irreversible fact, especially since the International Court of Justice ruled that Kosovo's unilateral declaration of independence did not violate international law.
34. This argument is drawn from my CEPS Commentary "Facilitated dialogue in the Balkans vindicates the EEAS", 30 April 2013.
 35. See already S. Blockmans and A. Lazowski (eds.), *The European Union and Its Neighbours – A Legal Appraisal of the EU's Policies of Stabilisation, Partnership and Integration* (The Hague, T.M.C. Asser Press 2006).
 36. See 'Remarks by High Representative Catherine Ashton at the AFET Committee in European Parliament in Strasbourg, 12 December 2011', Press release A 511/11, Brussels, 13 December 2011, at 2.
 37. Both breakaway republics are located within the internationally recognised borders of Georgia, as defined in, inter alia, UN Security Council Resolution 1808 of 15 April 2008, supported also by Russia until President Medvedev's decision on 26 August 2008 to endorse the unanimous votes in the Federation Council and the State Duma to recognise the independence of the two entities in the wake of the August 2008 war between Georgia and Russia. Statement by President of Russia Dmitry Medvedev, 26 August 2008, available at <http://www.kremlin.ru/eng/speeches/2008/08/26/1543_type82912_205752.shtml>.
 38. EU Member States Germany, Italy, Portugal, the Netherlands, Sweden and Finland are also participating in the process.
 39. The current Fisheries Partnership Agreement between the EU and Morocco entered into force on 28 February 2007 for a period of four years. It has been tacitly renewed, from 28 February 2011 to 27 February 2015. The first Protocol to this Agreement ran until 27 February 2011 and provided for a financial contribution of EUR 36.1 million out of which EUR 13,5 million was dedicated to the support of the fisheries policy of Morocco. Vessels from 11 EU Member States could obtain fishing authorisations from Morocco under the Agreement and this Protocol. A second Protocol, extending its predecessor by one year under essentially the same terms, was negotiated in February 2011 and provisionally applied until December 2011, when the European Parliament decided not to consent to its conclusion. Negotiations for the conclusion of a new Protocol started in November 2012 and were concluded in December 2013, ignoring fundamental concerns about the controversial agreement.
 40. Compare, e.g., 'Statement by EU High Representative Catherine Ashton and European Commissioner for Enlargement Štefan Füle on the situation in Tunisia', Press release A 010/11, Brussels, 10 January 2011; 'EEAS senior officials' mission to Tunisia', Press Release A 029/11, Brussels, 26 January 2011; and 'Statement by the EU High Representative Catherine Ashton on Tunisia', Press Release A 034/11, Brussels, 28 January 2011. See also T. Garton Ash, 'If this is young Arabs' 1989, Europe must be ready with a bold response', *The Guardian*, 2 February 2011: 'What happens across the Mediterranean matters more to the EU than the US. Yet so far its voice has been inaudible'.

41. See R. Balfour and H. Ojanen, 'Does the European External Action Service Represent a Model for the Challenges of Global Diplomacy?', 1117 IAI Working Papers (2011), at 2.
42. See D. O'Sullivan, 'Setting up the European External Action Service: part II', Speech at the IIEA, Dublin, 6 October 2011, available at <<http://www.iiea.com>>, referring to the ups and downs of the EU-Tunisia Task Force and the failure of the recipients to show up at an international donor conference organised by the EEAS.
43. See 'Remarks by High Representative Catherine Ashton at the AFET Committee in European Parliament in Strasbourg, 12 December 2011', Press release A 511/11, Brussels, 13 December 2011, at 4.
44. The EU has been desperately trying to promote its own acronyms, first "E₃+3" and then "E₃/EU+3", putting the emphasis on the EU and its 3 biggest member states which cooperate with China, Russia and the US.
45. See A. MacDonald and G. Munuera Viñals, "The EU and Mindanao: Innovative Avenues for Seeking Peace", EUISS Occasional Paper No. 97, 27 June 2012.
46. Through the Instrument for Stability, the EU financially support the peace process. Since 2012, the EU been supporting the government, international organisations and non-state actors with a total of EUR 16 million. A major programme in this respect is funding the Myanmar Peace Centre (approximately EUR 7 million).
47. See <http://eeas.europa.eu/top_stories/2013/081113_myanmar_task_force_en.htm>. All these initiatives make the EU the largest grant donor to peace related projects in Myanmar/Burma. They are part of a Comprehensive Framework which was adopted by the Foreign Affairs Council on 22 July 2013 and which defines the EU's policy and support in the next three years to the ongoing reforms in the transition from authoritarian rule to liberal democracy. Peace, democracy, development and trade and Myanmar/Burma's engagement with the international community have been identified as main areas for engagement.
48. This argument is drawn from my CEPS Commentary "EU global peace diplomacy", 15 October 2012.
49. The mandates of EUSRs are included in the Council decisions underpinning them. The latter are available at: <http://eeas.europa.eu/policies/eu-special-representatives/index_en.htm>. See in this context E. Fouéré, "The EU Special Representatives: A Dying Breed?", *CEPS Commentary*, 13 December 2013.
50. E.g., Council Common Position 2008/160 of 25 February 2008 restricting the admission of persons responsible for preventing progress in arriving at political settlement of the Transnistrian conflict, OJ 2008 L 51/23.
51. CSDP missions of various kinds have been deployed, for instance a police operation to the Palestinian territories (EUPOL COPPS), EU border assistance missions (EUBAM) to Rafah (Palestinian territories) and to Ukraine/Moldova (over Transnistria), and an EU Monitoring Mission to Georgia (EUMM), to name just a few.
52. See B. Ferrero-Waldner, "Political reform and sustainable development in the South Caucasus: the EU's approach", Speech at the Bled Strategic Forum 'Caspian Outlook 2008', SPEECH/06/477, 28 August 2006; and, more generally, B. Fer-

- rero-Waldner, Benita, “The European Neighbourhood Policy: The EU’s Newest Foreign Policy Instrument”, 11 *European Foreign Affairs Review* (2006), 139-142.
53. See Council General Secretariat, ‘Concept on Strengthening EU Mediation and Dialogue Capacities’, doc. 15779/09, 10 November 2009, at 4.
 54. *Ibid.*
 55. Systematically gathering best practices and lessons learnt, developing guidelines, in cooperation with the UN and other partners. See Factsheet, “EU Mediation Support Team”, May 2013, available at <http://eeas.europa.eu/cfsp/conflict_prevention/>. See also the United Nations Guidance for Effective Mediation, issued in September 2012 as an annex to the report of the Secretary-General on Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution, A/66/811, 25 June 2012.
 56. V. Hauck and A. Sherriff, *EEAS Mediation Support Pilot Project Evaluatory Review* (2013). The quotes in these two paragraphs have been drawn from this study submitted to EEAS by ECDPM through the AETS Consortium – Cardno. See more at: <<http://www.ecdpm.org/>>.
 57. Under the Instrument for Stability, a sum of EUR 1 Million was earmarked by the European Parliament in the 2011 budget, allowing the EEAS to spend EUR 600.000 in 2012 to start up a pilot project on building up the EU’s own mediation support capacity.
 58. See the assessments published by the European Peacebuilding Liaison Office, referred to in EPLO Statement on the EEAS mid-term review, July 2013, available at <<http://www.eplo.org>>.
 59. See V. Dudouet, “Mediating Peace with Proscribed Armed Groups”, USIP Special Report No. 239, May 2010: “Political engagement with proscribed armed groups is possible and desirable when, first, the conflict parties (state and non-state alike) are interested in exploring political solutions to a conflict; second, the parties are seen as legitimate representatives of social, political, or cultural interests by their community; third, parties have the capacity to deliver a ceasefire or peace agreement; fourth, engagement could generate significant behavioral change on the part of the actors involved; and fifth, strategic national interests favor engagement, or there is a strong demand by allies or the conflict victims to engage politically”.
 60. See J. Claes, “Towards a European Institute of Peace; Innovative Peacebuilding or Excessive Bureaucracy?”, USIP Peacebrief No. 239, 21 February 2013.
 61. Macmillan, *op. cit.*, at 6, with reference to A. Ribot, *Journal d’Alexandre Ribot et correspondances inédites, 1914-1922* (Paris, Plon et Nourrit 1936), at 255.
 62. See “From War to Peace: A European Tale”, the Nobel Lecture by the European Union, Herman Van Rompuy, President of the European Council and José Manuel Durão Barroso, President of the European Commission, Oslo, 10 December 2012.
 63. V. Hauck and A. Sherriff, *EEAS Mediation Support Pilot Project Evaluatory Review* (2013).
 64. See GAC Conclusions of 17 December 2013, points 1.9-11. Also, it has been observed that whereas there exists already a close cooperation between the Division K.2 and the Commission’s Foreign Policy Instruments DG (for assistance in the

short-term) and DG DEVCO's security policy unit (for longer-term aid), the precise boundaries of portfolios, competences and responsibilities remain to be settled. The EU needs to ensure policy coherence and coordination between political/diplomatic efforts and financial and other support to mediation and dialogue processes, connecting the EU's high-level engagement with grass-roots initiatives. See EPLO Statement on the EEAS mid-term review, July 2013.

65. See S. Blockmans and C. Hillion (eds.), *Recommendations for the amendment of Council Decision 2010/427/EU establishing the organisation and functioning of the European External Action Service* (Stockholm/Florence/Brussels, SIEPS/EUI/CEPS 2013).
66. V. Hauck and A. Sherriff, *EEAS Mediation Support Pilot Project Evaluatory Review* (2013).