EUROPEAN INSTITUTIONAL MODELS AS INSTRUMENTS OF CONFLICT RESOLUTION IN THE DIVIDED STATES OF THE EUROPEAN PERIPHERY

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This working document is part of a research project for the Office for Scientific, Technical and Cultural Affairs, the department of the Belgian Federal Government responsible for scientific research. The project is carried out by the Centre for Political Science (POLI) of the Vrije Universiteit Brussel (by Bruno Coppieters, Michel Huysseune, Tamara Kovziridze and Theo Jans) and the Centre for European Policy Studies (by Michael Emerson, Elena Prokhorova, Gergana Noutcheva, Nathalie Tocci and Marius Vahl). It makes a comparative assessment of the potential for supra-national and international settlement in four secessionist conflicts at the periphery of the EU. It focuses on the potential role that institutional models from the EU and its members can play in the design of solutions to such conflicts – particularly the federation institutions such as the Organisation for Security and Cooperation in Europe (OSCE) or the Council of Europe. In all of these cases, conflict settlement may have to be facilitated by the intervention of third party actors.

The four cases studied in the POLI-CEPS project are confronted by unresolved secessionist crises:

- *Cyprus* has been divided since 1974, although recent proposals by the UN in the context of EU accession came closer than ever to a successful resolution to the crisis. The substance of the UN proposals made considerable use of the Belgian federal model within the multi-tiered EU setting.

- *Montenegro and Serbia* have recently adopted a new, loosely federal union constitution, which was only precariously achieved with strong pressure and incentives from the EU. The new State Union has not yet been tested and threats of secession remain.

- In *Moldova*, the region of Transdniestria has been de facto independent since the early 1990s. While proposals for federalisation sponsored by the OSCE have been discussed recently, these have not yet come to fruition.

- *Abkhazia* de facto seceded from Georgia with the war of 1992-93 and attempts to resolve the question of its political status have failed thus far.

In all of these cases, conflict settlement is related to the prospect of future integration into a European framework. But the form and depth of Europeanisation may vary widely, i.e. the degree to which formal and informal institutional processes may be introduced with a view to European integration and participation in European institutions. Cyprus has been accepted as a future member of the EU, but the status of the Turkish part of the island remains unsettled. Serbia and Montenegro are initiating a process of closer integration with the EU, with the prospect of full membership in due course. The government of Moldova has made integration into the EU an official policy goal, yet also envisages regional integration within the Commonwealth of Independent States (CIS). In Georgia, the degree of Europeanisation is low, but the Georgian government considers EU membership as a long-term goal. All the states considered are, however, members of the OSCE and the Council of Europe. The prospect of future integration with the EU and proposals for institutional reforms could be instruments to conflict resolution. A comparative case study, taking into account the particular problems confronting each one, should help to identify more concretely how these developments may take shape.

In these conflicts, where violent confrontation has been constrained by peacekeeping forces, new institutional frameworks are crucial factors for settlement. Federal or quasi-federal models from countries of the EU (Belgium, Spain, Germany, the United Kingdom and Austria) serve as examples of national institutions built to accommodate ethnic or regional

diversity. Moreover, the EU has developed a number of institutions and mechanisms for cross-border cooperation. It is acknowledged that crisis resolution in secessionist conflicts should also be based on supra-national and international institutions. The EU's innovative practice of multi-level governance and the existence of autonomous and constitutional regions within the EU framework (i.e. regions that have constitutionally defined powers) as well as institutions like the British-Irish Council (BIC) offer such models of supra-national and international integration. For the conflicts studied in this project, the way that European federations are included in models of multi-level governance affect the discussions on political status. These options are considered in the discussions around the question of political status, organised by the UN and the EU in Cyprus, by the OSCE in Moldova, the UN in Georgia-Abkhazia and the EU in Serbia-Montenegro.

Of particular relevance in this context are institutional mechanisms that have different forms of regional integration, division of sovereignty and federalisation of foreign policy. This project aims to study how these themes are viewed in each case and the particular difficulties surrounding their implementation. The degree of Europeanisation in each case, the proximity of the Russian Federation and proposals for regional integration also has to be considered. The application of different forms of regional integration also leads to questions of international security guarantees.

The research will combine theoretical expertise with the perceptions and experience of local actors – officials, politicians and scholars in these conflict regions – who will be consulted through focus groups and discussion fora. By these means, the project intends to identify more precisely the problems associated with proposals to introduce European institutional models as instruments of conflict-resolution in the European periphery.

The project is organised in four phases. During the *first phase* (completed in April-May 2003), key problems involved in adopting different mechanisms were identified, in the areas of division of sovereignty, federalisation of foreign policy, and regional integration to the particular circumstances of a specific conflict. That study has resulted in the present working paper.

In the *second phase* (June-October 2003), we will establish focus groups to discuss this working paper and identify obstacles to the implementation of the institutional reforms outlined above. These focus groups are to be held in each of the four countries and arranged separately for the two parties involved in the conflict. Each focus group should bring together six participants, representing different views within the community involved, for one full-day session. An analysis of the specific problems and areas of conflict in each case will be made on the basis of these discussions. We will synthesise the results of this process in an intermediate report of about 20 pages, to be discussed with the steering committee. The report will offer a comparative analysis of the cases, correlated to international scientific literature on the issue.

The *third phase* (November-December 2003) will bring together two participants of each of the focus groups and two Russian scholars (a total of 18 people) at a conference, to be held in Brussels at CEPS. At this discussion forum, the conclusions of each of the cases will be presented.

In the *fourth phase* (January-March 2004) the final report and documents will be prepared. The final report will be book-length and co-authored by the members of the POLI-CEPS project. It will give an overview of the research project, focusing on the policy relevance of its results. It will include a historical background of each case, a theoretical section and a summary of the research findings.

European Institutional Models as Instruments of Conflict Resolution in the Divided States of the European Periphery

CEPS Working Document No. 195

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1.   Introduction

This study focuses on 'Europeanisation' as an instrument of conflict resolution in the south eastern periphery of the EU. By 'Europeanisation' we mean the cultural, legal, institutional and economic impact of European integration on domestic structures. The introduction of such institutional mechanisms and processes takes place at formal and informal levels. By European integration we do not only mean accession to the EU, but also participation in the wider European international organisations such as the OSCE, Council of Europe, NATO's Euro-Atlantic Partnership Council/Partnership for Peace (EAPC/PfP) and Confederation of Independent States (CIS). All these organisations have their own concepts of Europe.

A distinction has to be made between the role of these institutions, as *actor organisations*, which are involved in developing policies in the European periphery and *framework organisations*, which may embed mechanisms favourable to conflict resolution in these regions. This working paper reviews the role of each of these organisations, considering the EU as a very specific hybrid case.

Our project is based on the normative assumption that Europeanisation can act as a decisive factor for conflict resolution in the European periphery. Europeanisation can be defined as a process that "involves the development of formal and informal rules, procedures, norms and practices governing politics at the European, national and subnational levels".[1] More specifically, our hypothesis is that Europeanisation can contribute to conflict resolution by triggering critical political, security, economic and societal developments in a manner that can positively transform the interests of the conflict parties (e.g. Greece and Turkey recently or Germany and its neighbours after World War II).

Politically and constitutionally, the involvement of European multi-level structures can help transform notions of statehood and sovereignty, facilitating a reconciliation of subject positions. Although multilateral organisations do not impose clear institutional models for constitutional systems, minority protection nor other objectives, they nevertheless offer a framework where the importance of these factors is recognised and where implementation can be discussed. Economically, the involvement of these actors can play key roles in both the short-term (such as for reconstruction and resettlement) and the long-term development of former conflict areas. In terms of security, international peacekeeping and guarantees are often central to long-lasting agreements and conflict resolution. Finally, official processes of Europeanisation can encourage societal development by increasing the respect for the rule of law, pushing back corruption, civilian control of the military and generally bringing civility to

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[1] Carporaso, Green, Cowles and Risse (2001), quoted in Featherstone, K. and G. Kazamias (eds) (2001), *Europeanisation and the Southern Periphery*, London: Frank Cass, p.14.

business and political relations. The perceived incentive of Europeanisation can link these official and societal processes and boost the feasibility of reformist policies. A further positive aspect of Europeanisation is that it is based on multilateral organisations and therefore does not impede the realisation of the principle of national self-determination. It can, however, transform the concept of identity by adding the important European dimension to it.

This project intends to analyse the relevance of Europeanisation in four divided states at the periphery of the EU that are locked in unresolved secessionist crises. Cyprus has been divided between its Greek and Turkish Cypriot parts since 1974. Montenegro and Serbia are presently united in a loose State Union, but the process of redefining the institutional relationship still runs the risk of secession. In Moldova, the region of Transdniestria has been de facto independent since the early 1990s. With the war of 1992-93, Abkhazia has de facto seceded from Georgia and attempts to resolve the question of its political status have so far failed.

The more peripheral these countries are to Europe, the less powerful the incentives of Europeanisation become. Parallel processes – which we shall call Russification and Pax Americana for short – become more important. The compatibility and risks of inconsistency between the paradigms represented by these three principal third party actors is considered here.

In Section 2, we outline the four cases, the context of their crises and the status of negotiations. We then discuss the present role of Europeanisation (Section 3) and outline taxonomy of institutional alternatives to secession based on Europeanisation (Section 4).

2. The four cases: context and current status

2.1 Cyprus

Context

The Greek Cypriot community seeks the reunification of Cyprus and the prevention of its secession or annexation by Turkey. The Greek Cypriots aim to restore the status quo ante to the greatest possible extent, i.e. conditions prior to the 1974 Turkish military intervention and subsequent partition of the island, which led to their loss of control over 37% of the island's territory and the displacement of 140,000 to 160,000 Greek Cypriots. Within a reunified island, the Greek Cypriots call for a fair and fully functioning arrangement for territorial distribution and government structures. This would imply that the larger Greek Cypriot community (an approximate 80:20 ratio of Greek to Turkish Cypriots prior to partition) would benefit from a larger share of the territory and representation. The Greek Cypriots insist on the liberalisation of the 'three freedoms' of movement, settlement and property. They also insist on respect for fundamental human rights, including the right of refugee return. The Greek Cypriot side calls for security guarantees against Turkish aggression. To the Greek Cypriots, Turkey, rather than the Turkish Cypriots, represents the greatest security threat, given its proximity, size, military capability and most critically, its history of relations with Cyprus, from the days of the Ottoman Empire to the 1974 invasion. Since 1974, Greece has supported the Greek Cypriot cause of reunification. This is not least because of Greece's own share of the blame for the 1974 events that were triggered by the Greek military coup on the island. After the 1974 invasion, all Greek governments (pursuing the Cyprus dossier with differing intensities and through different means) supported the reunification of the island. But while supporting strong ties with Cyprus, the Greek governments never advocated their pre-1974 aim of *enosis,* i.e. union between Greece and Cyprus.

The Turkish Cypriot community, supported by Turkey, seeks political equality with the larger Greek Cypriot community. Their greatest fear is to return to the status quo between 1963 and

1974, following the Greek Cypriot attempt to alter the constitution and the ensuing inter-communal violence. Turkish Cypriot officials left all public institutions and most Turkish Cypriots were relegated to small, enclave territories. Since the collapse of the 1960 arrangements, the Turkish Cypriots have felt that their political equality warrants the highest degree of self-rule and physical separation from the Greek Cypriots. They also call for security guarantees from Turkey given their mistrust of other foreign involvement. Nevertheless, the majority of Turkish Cypriots equally reject integration with Turkey. Turkey supports the Turkish Cypriots in view of its own security concerns to prevent Greek control of Cyprus. Along with supporting the political equality of the Turkish Cypriots, Turkey calls for a balance between the roles of Greece and Turkey in the eastern Mediterranean and seeks involvement in Cyprus's security arrangements.

Status

The Greek Cypriot leadership formally accepted the concept of a bi-communal and bi-zonal federation after 1974. Although they accepted this concept of a federation, the Greek Cypriot leadership actually had in mind a specific federal solution. Constitutionally, the Greek Cypriots insisted that a federation would be established through the dis-aggregation of the existing Republic of Cyprus. Any other solution, including the establishment of a new state, would have entailed the recognition of the Turkish Republic of Northern Cyprus (TRNC). The federal state would represent all Cypriots and have a single sovereignty, international personality and citizenship. In governing arrangements, bi-communal participation was accepted to the extent that it would not hinder the unity or workability of the state and it would reflect the demographic balance on the island. The Greek Cypriot leadership accepted the concept of bi-zonality, but expected a considerable reduction of Turkish Cypriot controlled land. In 2002-03, the Greek Cypriots appeared ready to accept the 28.5-29% map presented in the UN 'Annan plan', returning Morphou and Varosha to their control. While accepting the concept of bi-zonality in name, the Greek Cypriots called for the full respect of individual rights and freedoms. For example, Greek Cypriot refugees should be allowed to return to northern Cyprus. At most, the leadership was prepared to discuss a gradual implementation of these rights. Apart from the right of return, the Greek Cypriots called for the liberalisation of the 'three freedoms' that would allow any Cypriot to move, reside and acquire property anywhere on the island. On security questions, the Greek Cypriot side proposed full demilitarisation, including the withdrawal of all foreign troops. There would be no unilateral rights of intervention. Moreover, international guarantees would prevent foreign intervention. The Greek Cypriot side also called for the repatriation of Turkish immigrants to Turkey.

The Turkish Cypriot leadership shifted their negotiating position in the late 1990s, first advocating a federation and then a confederation. But whether federal or confederal, the constitutional arrangements they had in mind had similar features. The leadership called for separate sovereignty and for the creation of a new state of affairs through the 'aggregation' of the Greek and Turkish Cypriot states. The federation/confederation would have a single international personality and be composed of two sovereign states that would delegate select competences to the federal level. At the federal level, political equality would be institutionalised through the greatest possible numerical equality and consensus decision-making. In principle, the leadership accepted territorial readjustments but objected to the maps presented in 2002 by UN Secretary-General Kofi Annan. It was only willing to discuss a 29%+ map, which would lead to the minimal displacement of Turkish Cypriots and would not affect the economic development or the water supply of northern Cyprus. The leadership agreed on freedom of movement throughout the island, but objected to liberalising the

freedoms of property and settlement. It called for a 'moratorium' wherein Greek Cypriots would be prevented from settling and acquiring property in the north, after which specific conditions and an overall ceiling would regulate the 'three freedoms'. Refugee claims would be settled on the basis of compensation and the full communal exchange of property. It supported the retention of the 1959 Treaties of Guarantee and Alliance and the presence of Turkish troops in the north.

Negotiations over the UN Annan plan broke off in March 2003, with the Turkish side stuck in a blocking position (no doubt owing to complications of the Iraq war for the new Turkish government). Meanwhile, the EU agreed to the accession of the Greek part of the island as a member state. But the political situation has become exceptionally fluid, as the Turkish Cypriot leader, Rauf Denktash chose to open the frontier for the movement of persons, to which the people responded in large numbers. Parallels with the fall of the Berlin wall have been suggested, but may be premature. Nevertheless, the initiative has, for the first time, passed from the exclusive hands of the leaders to the people.

2.2   Serbia-Montenegro

Context

The State Union of Serbia and Montenegro (Serbia-Montenegro) was established in February 2003 as the successor state to the Federal Republic of Yugoslavia (FRY). It is a loose federal structure in which the common state has limited competences. The FRY itself originated on 27 April 1992, as a result of the dissolution of the Yugoslav Federation and the rapid secessions of the republics of Slovenia, Croatia, Bosnia-Herzegovina and Macedonia. The FRY consisted of the two remaining republics, Serbia and Montenegro. The absence of ethnic antagonism between Serbs and Montenegrins and the political alliance between the leaderships of both republics explain why Montenegro, unlike the other republics of the Yugoslav Federation, remained united with Serbia. As Serbia comprises 8 million inhabitants and Montenegro only 650,000, Serbia is naturally the dominating partner.

While the Montenegrin leadership initially supported President Slobodan Milosevic, the formation of a government hostile to President Milosevic in 1997 instigated political antagonism between the republics. The Montenegrin political leadership strove for a more independent, pro-Western political course away from Belgrade (despite the presence of a strong pro-Serb and pro-Milosevic opposition) and affirmed its desire to secede from the FRY and form an independent state of Montenegro. This desire was enhanced by the Kosovo crisis, in which Montenegro maintained its neutrality and thus gained support from the international community.

After the downfall of President Milosevic, the FRY and now Serbia-Montenegro have been accepted again as a member of the international community. Serbia-Montenegro has been admitted as a member of European institutions such as the OSCE and the Council of Europe. It is a partner of the Balkan Stability Pact and the South-East European Cooperation Initiative. Now it is oriented towards future membership of the EU. The international community, while previously sympathetic to Montenegro's opposition to President Milosevic, now supports the continued union of both republics, largely because of fears of the domino effect of Montenegrin independence (on Kosovo and Bosnia). Pressure from the EU in particular explains why both republics approved the Constitutional Charter of the State Union of Serbia and Montenegro.

While a stronger union has many partisans in Serbia, the desire for full independence nevertheless remains important in Montenegro. After the downfall of President Milosevic, the

threat of internal subversion in Montenegro has largely disappeared, however, the imbalance of power between the republics is still perceived as a problem. The population of Montenegro is largely overrepresented in the bipolar structure of the new federation and conflicts between both sides may be anticipated. How the status question concerning Kosovo may be resolved in relation to the new Union is still unclear, along with how this might affect its future.

The two republics have divergent economies and economic priorities. An essentially de-industrialised Montenegro, dependent on tourism, has striven for more economic integration with Europe, adopting the Deutsche mark and later the euro as its currency. It has opted for low tariff protection in its trade policy. Serbia still has an industrial base and its government has been more reluctant to introduce radical, market-based reforms. It has also kept its country economically more independent, by maintaining its own currency, the dinar and higher, more protective tariffs.

Status

The conflict between Serbia and Montenegro has been provisionally stabilised with the recent establishment of the State Union, approved by both republics. The union is a two-entity state, with a single international representation and a number of joint institutions (a unicameral parliament, a president, a ministerial council and a court). The unicameral parliament is presently designated indirectly, but in two years it should be elected directly. The Joint Army will be controlled by a common Supreme Defence Council (with the presidents of both republics and of the state union). Two separate monetary systems will continue to coexist. The federal government will be responsible for defence, foreign affairs, human rights (including the protection of minorities) and foreign economic policies.

The State Union, although approved by both republics, seems to suffer from a lack of popular legitimacy. The prospect of Europeanisation, including future accession to the EU, is in fact the main element that gives the Union a degree of legitimacy. There is apprehension that the Union may prove to be temporary solution, only accepted under pressure from the EU (and the US) with future accession to the EU made conditional on the preservation of the Union. The EU fears the proliferation of mini-states and the possible domino effect that a declaration of independence by Montenegro would have on Bosnia and Kosovo (the latter is still formally part of the Serbian republic and therefore part of the State Union). The EU also considers that the economic policy competences of the federal government – unitary customs policies for instance – is in any case part of the accession process.

As a concession to the Montenegrin preference for independence, the Union's Constitutional Charter allows for a referendum on the future status on the republic, although if it were to declare its independence, it might not obtain international recognition. In Montenegro, the leadership favours independence but is uncertain to what extent it would receive the support of the electorate for such a move. It therefore attributes much importance to the possibility of a future referendum on the status of the republic.

In Serbia, the agreement has provoked less opposition. Some Serbian nationalists favour a stronger integration between the two republics. This option is also advocated in order to achieve a stronger integration of the two economies. The option of separation, however, also finds support within Serbia, since it is (rightly or wrongly) assumed that an independent Serbia would be able to reform at a faster pace, without the cumbersome procedure of common institutions.

2.3   Moldova-Transdniestria

Context

Transdniestria declared independence in the wake of Moldova's own independence in 1991. This was followed by a brief military conflict in the spring and summer of 1992, involving Russian troops stationed in the country and resulting in about a thousand casualties. The economy of Moldova has declined precipitously since independence in 1991. It is currently the poorest country in Europe, with a GDP per capita of only 350 euros (excluding Transdniestria). Much of Moldova's industrial base is located in Transdniestria.

The conflict between Moldova and Transdniestria is not essentially one of inter-ethnic tensions. Of the 4.5 million people living in the Republic of Moldova, including Transdniestria, approximately 64% are Moldovans ('ethnic Romanians'), 14% are Ukrainians and 13% are Russians, in addition to other smaller groups like the Christian Turkish Gagauz. This is not very different from Transdniestria, where Moldovans make up 40%, Ukrainians 28% and Russians 23% out of a population of 500,000. Nevertheless, the conflict has national dimensions. It was triggered by a Moldovan nationalist mobilisation at the end of the 1980s for unification with Romania and promotion of the Moldovan language in Transdniestria, which threatened the position of the existing Russian speaking elites.[2] The objective of unification with Romania has been abandoned since then, but economic and social dimensions to the conflict remain prominent.

Russia still maintains a considerable military presence in Transdniestria, with more than 1,600 troops. Russia is also the main energy supplier to Moldova and Transdniestria. The Transdniestrian leadership is widely reputed to be deeply compromised in the region's economic specialisation of illegal trafficking activities (arms, drugs, cigarettes and people).

The OSCE is involved in the Transdniestrian conflict. Its mission in Chisinau has mediated and monitored the withdrawal of Russian troops and equipment. Together with Russia and Ukraine, the OSCE mediates in negotiations between the Moldovan government and the Transdniestria leadership on a political settlement.

The Europeanisation factor is directly perceived by the Moldovan population through the issue of citizenship, passports and visa policies of the EU. It is estimated that approximately half a million Moldovans of Romanian family origin have Romanian passports, for which the demand increased after Romania was removed from the EU's visa list in 2002. Upon pressure from the EU, however, Romania has recently stopped issuing passports to Moldovans. Many Transdniestrians, on the other hand, have Russian citizenship, including most of the leadership.

Status

Both the Moldovan government and the Transdniestrian leadership agree in principle that a political settlement should include the establishment of a federation or possibly a 'common state' as called for by a Russian proposal in 1997. But whereas Moldova wants to view Transdniestria as an autonomous region of Moldova, Transdniestria insists on an agreement between two 'equal' entities. The latter also insists on Russia and Ukraine as guarantors of a settlement, through the stationing of troops from these countries.

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[2] Roper, Steven D. (2001), "Regionalism in Moldova – The Case of Transdniestria and Gagauzia", quoted in Hughes, James and Gwendolyn Sasse (eds) (2001), *Ethnicity and Territory in the Former Soviet Union: Regions in Conflict*, London: Frank Cass, p. 105.

In 1999, both parties agreed to establish five 'common spaces', including common border, defence, juridical, economic and cultural spaces. Transdniestria insisted on keeping separate military forces and its own policies concerning weapons and ammunition stationed on its territory. Moldova, on the contrary, insisted on having a single military force.[3] Demilitarisation of the state has also been discussed.

A new draft agreement for federalising Moldova was proposed by Russia, Ukraine and the OSCE in July 2002, but now appears to have been abandoned. Nevertheless in February 2003, the Moldovan president proposed the establishment of a joint commission to elaborate a constitutional settlement for a federal Moldova, to which Russia, Ukraine and the OSCE have agreed, along with the EU. This should lead to a new constitution, to be approved by the citizens of Moldova and Transdniestria by February 2004. The parliaments of the two sides approved the protocol establishing this procedure in April 2003. There is disagreement over the name, however, as Transdniestria wants the future state to be named Moldova-Transdniestria. Approval of the protocol by the Transdniestrian Supreme Soviet (parliament) was conditional upon the treatment of Moldova and Transdniestria as 'equal subjects' in negotiations, which has provoked criticism from the Moldovan opposition.

Relations with Russia have improved since the Communist party victory in elections in early 2001; for example, Moldova became an observer in the Eurasian Economic Community in May 2002. Notwithstanding many postponements, the evacuation of the military arsenal in Transdniestria is currently on schedule, although problems remain concerning the destruction of unmovable equipment, owing to opposition from Transdniestrian authorities. Moldova is a permanently neutral country according to its constitution (most recently amended in 2000). Since the constitution prohibits the stationing of foreign troops in its country, the presence of Russian troops is thus considered unconstitutional.

The EU has stated its intention to become more involved in the Transdniestrian conflict. The Commission recently promised to support the establishment of joint Ukrainian-Moldovan customs posts on the Ukrainian side of the border with Transdniestria in order to stop smuggling. Statements from the EU concerning the Moldova's lack of prospects for EU membership have softened lately, although membership cannot be envisaged for many years. The EU has adopted a tougher position towards the Transdniestrian leadership, imposing a ban on travel to the EU by its leaders in February 2003.

In 1995, Moldova was the first CIS country to become a member of the Council of Europe and the second CIS country to achieve membership in the WTO in July 2001. It's Partnership and Cooperative Agreement (PCA) with the EU was signed in 1994 and entered into force in July 1998. The goal of EU membership was included as a strategic objective of Moldovan foreign policy in 1998. Moldova became a member of the Balkans Stability Pact in 2001. A Romanian proposal that Moldova be included in the South East European Cooperation Process (SEECP) in 2004 was adopted at a recent SEECP summit. Moldova will become a direct neighbour of both NATO and the EU, given the planned or agreed accession of Romania to both.

2.4   Georgia-Abkhazia

Context

History has played a prominent role in the war of secession between Georgia and Abkhazia. The Abkhazian national community, as a titular nation of the Autonomous Republic of

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[3] Roper, Steven D., op. cit., pp. 113-114.

Abkhazia, did not have equal status in the Soviet federal structure with the Georgian community, the titular nation of the Georgian Union Republic. This was perceived as a form of political discrimination that, according to the Abkhazian perspective, enabled the Georgian authorities to repress the republic for decades through 'Georgianisation' and colonisation. The fact that some of the Soviet leaders – particularly Stalin and Beria – were Georgian nationals made it difficult to distinguish between Soviet (communist) and Georgian (nationalist) forms of oppression. Examples of oppression include attempts in the 1930s to assimilate the relatively small Abkhazian community through education and cultural policies, along with the change of the demographic pattern of the republic. The immigration waves of Georgian, Russian and Armenian workers changed the demographic situation dramatically between 1939 and 1959. The de-Stalinisation of the 1950s improved the situation of the Abkhazian community on the cultural level and its representation in the administrative and political structures.

In the eyes of the Abkhazian community, however, it did not suppress the political inequality with the Georgian nation or the results of colonisation. In 1989, Abkhazians constituted only 18% of a total population of about half a million, where the Georgians made up 45%. At the local level, there was a harsh competition between the Abkhazian and Georgian political elites for control over the state institutions. According to Abkhazians, the threat of extinction could only be avoided through state sovereignty and full control over the local state structures. Such a national project would also correspond to the economic needs of the region: Abkhazia is more closely interdependent with the Russian than the Georgian economy through the export of agricultural products, tourism, etc.

The Georgian national movement defines liberation as emancipation from Russia. Abkhazians are seen as pawns in the hands of the Moscow authorities, whose primary interest lie in dominating the Georgian nation. Repression of Abkhazian culture and people was the result of Soviet and not Georgian policies. The Abkhazian community should not be considered as a minority, but as indigenous to the region. A more radical section of the Georgian national movement, however, sees the Abkhazian community as a minority, whose ethnic origins are situated in the Northern Caucasus.

There is a consensus within the Georgian national movement that the political privileges accorded to the titular nation of Abkhazia were excessive and did not correspond in Soviet times to the demographic balance. Seen from this perspective, a reunification with Georgia and a democratisation of Abkhazian state structures would have to lead to increased representation of or even domination by the relative majority of ethnic Georgians in the area.

Status

From the Abkhazian perspective, the right to national self-determination could only be achieved in Soviet times by enhancing the status of the autonomous republic to the status of a Union republic. This would have led to the acquisition of sovereign statehood and the formal right to secession. With the dissolution of the Soviet Union, the Abkhazian leadership strived at first for full control over the state institutions of Abkhazia and for a confederation with Georgia.

The Georgians, on the other hand, viewed the Soviet federal legacy primarily as a Russian instrument to divide and rule, which was a threat the survival of the Georgian state and nation. Since the end of the 1980s, the Georgian national movement responded to this threat by placing firmer control over the country's other nationalities or even in case of South Ossetia, by suppressing its autonomous status.

The clash between Abkhazian and Georgian national projects escalated into war. The Georgian armed intervention in Abkhazia in August 1992 was repelled by Abkhazian troops, who had received substantial military support from the Northern Caucasus and Russia. The largest part of the Georgian population fled or was expelled from Abkhazia. The Abkhazian parliament introduced a new constitution in 1994, in which it defined Abkhazia as a sovereign state.

In the negotiations under UN auspices, the Abkhazian authorities first reintroduced the pre-war proposal on confederal links between Georgia and Abkhazia. In 1999, however, the Abkhazian parliament declared independence. The government refused any further negotiations on the creation of a federation with Georgia. It proposed, however, that it be granted the status of a free associated state within the Russian Federation, which would – as it is also the case with a confederation – be based on the international recognition of Abkhazia's sovereignty. The Abkhazian authorities also rejected a massive return of Georgian refugees, at least before international recognition of their independence. The Russian authorities did not accept this proposal, but refused to put sufficient pressure on the Abkhazian side to resume the negotiations on the status question. The Georgian leadership declared in 1995, with the introduction of a new constitution, that the reunification with Abkhazia would have to take place according to the model of an asymmetric federation. It failed, however, to conceive a concrete model of a functioning federation.

In 2002, a short list of basic principles for a future peace settlement – the so-called Boden document – was proposed for discussion by the UN to both parties. This document, which was endorsed by the Georgian authorities but refused consideration by the Abkhazian side, includes the respect of such principles as the territorial integrity of Georgia and the right of the Abkhazians to national self-determination. The balance between both principles is expressed by the use of a formula that recognises Abkhazia as a sovereign entity within (the federal constitution of) Georgia. A federal agreement concerning the distribution of competences would have the force of a constitutional law. It would not be possible to amend it without an endorsement of both levels of this federal structure.

3.   Europeanisation paradigms

Since the idea of Europeanisation as an instrument of conflict resolution is central to this study, we now define this complex and relatively recent phenomenon of the social sciences. We do not pretend, however, that Europeanisation is the only process by which external actors may intervene in the four case studies. The US is present in all cases. Its new security strategy, deployed in the wake of 11 September 2001 and the Iraq war, has to be taken into account. Moreover, in the Caucasus, Russia remains a presence of primary importance. The US, Russia and the EU further defend different paradigms of international relations, so we seek to define these also. Indeed, the compatibility or lack thereof among these three paradigms may be decisive in determining the outcome of some of these conflicts, especially in those cases from the former Soviet Union.

We understand Europeanisation as a normative process, with the European institutions working as actors to orient policies and as providing the framework for national and sub-national actors. A key mechanism of Europeanisation is 'EU-isation', but it entails more than that.

An EU-centred, general definition of Europeanisation can be quoted from the literature: "A process reorienting the direction and shape of politics to the degree that EU political and

economic dynamics become part of the organisational logic of national politics and policy-making".[4]

The distinction is thus made between accession to EU membership (a formal political and legal act) and Europeanisation, which is the wider process of political, economic and societal transformations that can develop within and beyond the frontiers of the EU. In the latter case there will usually be some expectation or hope of future EU accession to drive the process. Further, we see the EU beginning to work out a 'Wider Europe' doctrine in order to give a framework for this outer band of Europeanisation.[5] This 'Wider Europe' doctrine should develop the EU's philosophy of conflict resolution for its periphery. This is not yet adequately reflected in official texts, but the present study should make a contribution in this field.

In general, Europeanisation works through three types of mechanisms:

a) *Institutional compliance.* Precise legal obligations come with preparing for accession to the EU and acceding to the Council of Europe (which effectively serves as the EU's human rights training school and enforcement agency). These European policies reshape domestic policies.

b) *Changing domestic opportunity structures.* Changing domestic rules of the game in politics and business, European policies alter the strategic position of domestic actors and enable them to challenge existing domestic arrangements.

c) *Framing domestic beliefs and expectations.* Through changing the beliefs, expectations and identity of the individual (regional/ethnic, national, European), Europeanisation occurs through policy-learning and the diffusion of experience. Synthesising these different mechanisms of law, economics, politics and sociology is the vital yet subjective will of the individual, political parties and interest groups to accept or even push for the adoption of European norms of business and politics.[6]

For this study, we should underline the multi-tier governance features of the Europeanisation process that are relevant to conflict resolution. The European Union is undergoing a double devolution of competences away from the pre-existing model of the unitary Westphalian sovereign state: both up to the new European tier and down to the sub-state tier. The two phenomena are interrelated, since the sub-state entities (especially the constitutionally protected ones) receive part of their new legitimacy through being able to act at the European level. The EU provides specific opportunities for the 'voice' of the sub-state entities to be heard (i.e. the Belgian model or representation in the EU Council of Ministers, Committee of the Regions). The EU sees examples of recognised 'asymmetric external relations' between a sub-state entity of one member state and another member state where there are bonds of ethnicity (Northern Ireland, Aland Islands).

The cases studied here all belong to the European periphery, but where the term Europeanisation takes a different meaning in each case, is discussed below.

- Cyprus or at least its Greek part has now acceded to the EU and fully adopted the *acquis*. The UN recently tried to resolve the Cyprian conflict simultaneously with full EU accession (albeit not yet successfully), by using a multi-tier governance formula that was modelled on the Belgian and Swiss cases.

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[4] Ladraech (1984), quoted in Featherstone, K. and G. Kazamias, op. cit., p. 13.

[5] European Commission (2003), *Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, COM(2003)104 final.

[6] For a presentation of the concepts and application to southern Europe see: Featherstone, K. and G. Kazamias, op. cit.

- Serbia-Montenegro recently accepted strong EU mediation to push through a federative union, because there is a credible (if long-term) EU accession prospect.
- Moldova-Transdniestria is on the edge of the Europeanisation process, especially as Romania's EU accession prospects improve and the EU begins to become more actively involved in the conflict alongside Russia.
- Georgia-Abkhazia is furthest away from the concept of Europeanisation, but still has certain European aspirations as well as membership in the Council of Europe and the OSCE.

Cyprus will thus belong to the internal periphery of the European Union and Serbia and Montenegro to its outer periphery. Moldova and Transdniestria belong to the inner periphery of what has been defined by the European Commission as the 'Wider Europe'. Georgia and Abkhazia, however, are not at present included in this 'Wider Europe' concept and therefore belong – if the European Council should adopt this definition – to its external periphery.

Europeanisation is still a thin and remote part of the domestic mindsets of the peoples and leaders of countries that have far away prospects of EU accession, especially in the Caucasus. Nevertheless, a widening and deepening of Europeanisation is likely to become increasingly relevant for three reasons. First of all, Europeanisation has a real record of achievement in the transformation of the former dictatorships of southern Europe (Greece, Portugal and Spain) and now of the formerly communist regimes of central Europe acceding to the EU. Secondly, the process already extends into south-eastern Europe in the Balkans[7] and Turkey, to the point that this wider Europe of states with recognised EU accession prospects now border upon the Black Sea and the Caucasus. Thirdly, the three south Caucasus states are all members of the Council of Europe. They have accordingly subscribed in principle and indeed in international law to the political norms of modern Europe and are thus already on a preliminary course of Europeanisation.

The current enlargement of the EU represents Europeanisation on a grand scale. Alongside the arduous process of negotiating and implementing conformity with the *acquis*, there is a wider political condition relating to respect for democratic values, minority protection and resolution of outstanding border tensions. This condition is also part of the accession of European countries to the Council of Europe and – in respect to military policies – NATO's EAPC and PfP. International organisations, like the Council of Europe and the OSCE are generally more involved in the institutionalisation of Europeanisation, understood as the acceptance of a common set of norms and values.

European integration is not only favoured by international organisations but also by outside powers, such as the US in the case of Bosnia-Herzegovina or Turkey's membership to the EU. In the context of our comparative research, the US favours the Europeanisation (or rather the EU-isation) of the Cyprus conflict and – through the OSCE – of the Transdniestrian conflict. It also accepts that the EU should take the lead mediating role in the conflict between Serbia and Montenegro.

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[7] For a Bosnian view of Europeanisation, a paper by former foreign minister Jadranko Prlic is quite clear: "The EU leverage is the identification of the EU in the (Balkan) region as an area with security, jobs, a decent and rising standard of living, the rule of law upheld by accountable, democratic, clean public institutions and a system of minorities protected by law, not by the carving out of territories…. Without recognition that the future of the region is in the EU, there is no chance for the implementation of a coherent plan. Not only the political elite, military officers, intelligentsia, but also the majority of the public should share this opinion. For the first time all the countries from the region, even the participants in the recently ended conflict, are attempting to join the European main stream." Extracted from Prlic, J. (2003), "Milestones towards a reunited Europe – Agenda for integration of south-eastern Europe into the European Union"*,* working paper, University of Mostar, March.

The Russian position is more ambivalent. In the cases of Transdniestria and Abkhazia, one can speak of 'Russification', by analogy to 'Europeanisation'. Both concepts have normative dimensions. Russification refers to the cultural, legal, institutional and economic consequences of integrating the domestic structures of countries from Russia's 'near abroad' with the Russian Federation. In the case of Abkhazia and Transdniestria these consequences are highly visible through economic ties, the use of the Russian rouble, the presence of armed forces and, at the legal level, the acquisition of Russian citizenship and passports by a large part of the population of these non-recognised states. Some of the political elites involved in these secessionist conflicts (the leaders of Transdniestria along with some of the leaders of Abkhazia and Moldova) may consider close ties or even full integration with Russia as the best choice in the given circumstances, with regard to security and economic prospects. But such choices are heavily opposed by other political elites in Abkhazia and Moldova.

Contrary to Europeanisation, Russification is not based on a multilateral framework but on unilateral dependencies. It does not facilitate the principle of national determination to the same extent as Europeanisation. In analysing the relationship between Europeanisation and Russification, we have to take into account that Russia itself is undergoing the impact of Europeanisation. This is not an easy process: during its long imperial history, Russian political elites have never been confronted with the problem of how to develop a diplomacy that is respectful of the sovereign status of Moldova and Georgia. The sheer size of Russia's territory, its population figures and its economic preponderance do not bode well for an easy cooperation with neighbouring countries within a multilateral framework. Nor do Moldovan and Georgian nationalist discourses invite accommodation and conciliation. At some point in the future Russia may, however, come to view its interests in 'its near abroad' through the same lenses as the EU views its 'near abroad' – i.e. the third party's interest is not so much 'possession' of a disorderly province as its transformation towards democratic values and standards. It may then see close cooperation with other European institutions as the best guarantee for such a transformation. Already there are some expectations in Moldova that the EU and Russia will join together in a peacekeeping role to help solve the problems with Transdniestria. One might hope that Abkhazia could, in due course, find its place in a multi-tier constitutional solution with Georgia. This could spark the beginnings of a Caucasus regional community, as well as cooperative peacekeeping on the part of some combination of Russia, the EU and the US (probably under OSCE or UN flags).

'Pax Americana' is our shorthand for the evolving paradigm of US foreign policy relevant to the European periphery. Prior to 11 September 2001, US policy generally sought to support the newly independent states along the post-communist transition, with the ideology and policy prescriptions of the so-called 'Washington consensus' (the norms of market-liberalism and macroeconomic stability of the IMF and World Bank, democratic governance, etc.). Up to this point the process was quite compatible with Europeanisation. Moreover, in the cases of Bosnia and Kosovo, the US intervened decisively with its military, making up for the weakness of the EU as an international actor, while the two worked in entire agreement together with regard to principles. The US has until today been happy to see the EU progressively take over in the Balkans. In the Caucasus, however, Washington strategists under Clinton foresaw the area in terms of the 'great game' paradigm of competing with Russia for influence in Central Asia and the Caspian basin, for which promotion of the Baku-Ceyhan oil pipeline became the most tangible project. In this situation the EU was more concerned, as the US headed off into a different paradigm.

Since 11 September 2001, US priorities have transformed. Their priorities are now seen through the prism of the war against Islamic fundamentalist terrorism and the threat of arms

of mass destruction falling into the hands of terrorists, (possibly via the intermediation of criminal gangs in lawless states). The new priorities in US doctrine entail a greater willingness to deploy military, the special forces and the CIA, unilaterally and pre-emptively. The chief ideologues in the Bush administration set out their agenda for transforming the wider Middle East region, including any nearby places that might link together Islamic fundamentalist terrorism and the chronic criminality of weak or failed states. It is hoped that the Iraq war and overthrow of the Saddam Hussein regime will deliver a demonstrative effect to other states in the region. While this new doctrine is a stark feature of the world system, it should not lead us to an oversimplification of US policy, especially with regard to the cases studied here. The US is currently working with the international community in the Balkans (especially the UN and OSCE), in Moldova (with the OSCE) and in Abkhazia (with the UN). One can reasonably expect that after the huge diplomatic costs to the US of going it (almost) alone in Iraq, its foreign policy will make special efforts to smooth over the rough edges of its pre-emptive, militaristic unilateralism – and achieve maximum results in conjunction with its main partners at the global G8 level, i.e. with the EU, Russia and the multilateral organisations where feasible.

Crucial questions for our research agenda with these four case studies include whether the Europeanisation process can work in favour of overcoming secessionist crises beyond the EU accession process (or how far and how fast)? How far can the OSCE/NATO/Council of Europe work as agents of Europeanisation for non-EU candidate states that are confronted with the problem of secession? How should Russia and the US, as the other major external actors, intervene in favour or against such processes? Finally and most importantly for this study, is how Europeanisation may be helpful to break the stalemates in secessionist conflicts and pave the way to outcomes that are at least going to give the peoples of these territories clearer and more ordered political frameworks for their futures? The four case studies are carefully selected to examine these questions, in the sense that they represent a clear hierarchy of different degrees of Europeanisation.

For the Cyprus and Serbia-Montenegro cases, the outcomes are still uncertain, yet the name of the game is clear: Europeanisation with a three-tier federative constitution (i.e. Belgian style, with a reduced federal tier of governance, but where the importance of the top EU tier makes the whole structure of powers viable). Much less clear are the cases of the two former Soviet Union states, Moldova and Georgia, which have no foreseeable prospects of EU accession. In these two cases we observe Russia on one side of the conflicts (with dominating presences in Abkhazia and Transdniestria) and the EU and the US perceived as the other pole of attraction or protection by Chisinau and Tbilisi.

The competition between the external powers of the US, Russia and the EU is reinforcing the stalemate, even while the diplomatic speeches are all about the search for cooperative solutions. For the time being, Russia is not willing to abandon all of its bases in 'its near abroad'; the EU does not yet have sufficient political energy and cohesion to offer strong Europeanisation incentives; and the US willingly engages in competitive games in the region. US foreign policy is presently in a state of uncertainty. In Georgia, particularly after the events of 11 September 2001, the picture has been complicated by the arrival in 2002 of US armed forces and by ambiguities in the US-Russian relationship (partly cooperative, partly competitive). Similar ambiguities arise in the case of Moldova, where the EU, the OSCE and Russia play in somewhat competitive roles, even if the diplomatic discourse is cooperative. Russia refuses, in particular, for the OSCE to assume primary responsibility for providing guarantee mechanisms to a settlement. This split of interests and incentives among the external powers may go a long way to explain the lack of progress in finding solutions. In this

situation the international organisations – the UN or the OSCE – can make little headway with their attempts to mediate solutions.

4.   Taxonomy of one, two and three-tier solutions

In Box 1 we offer a systematic taxonomy of the types of constitutional or systemic solutions that are conceivable, making use of the foregoing analyses. We emphasise at the outset the hierarchy of three possible tiers to solutions.

Box 1. Taxonomy of solutions to dyadic, ethno-secessionist conflicts

One-tier – secession accepted or denied

1. Unitary state (suppression of secession)
2. Secession and independence, recognised internationally
3. De facto secession and independence, non-recognised

Two-tier – federative solutions

4. Dyadic federation (one state in international law, separation of powers between the levels of governance)
5. Dyadic confederation (two states in international law, some common policies)

Three-tier – with Europeanisation through multilateral structures & external powers

6. Regional community of two or more states (and sub-state entities)
7. Multilateral organisations (OSCE/Council of Europe/UN/CIS)
8. EU-isation/Russification/Pax Americana (including coalitions, consortia)

Note: A primary choice should be made between one or two tiers, which may be stand-alone solutions or may be completed by adding elements from tier three.

The *first tier* consists of the entities that have been in conflict.

The *second tier* is that of dyadic federative sovereign states, of which there are many variants in detail. We highlight here two main types – federal and confederal.

The *third tier* is that of supra-national and multilateral organisations, and of the major external powers that may intervene in the conflict region in question. This tier can be quite complex and starts with 'local' regional organisations of several states and entities. Then there are the multilateral organisations functioning at the wider European or global level. The major external powers may intervene in part through the multilateral organisations that they control. Nevertheless, we also have to consider their role when acting unilaterally or in coalitions.

In the next section, we discuss in more detail the interest shown in some of these solutions. This study aims to develop more thoroughly the potential of tier three, to enable breakthroughs in stalemated attempts to negotiate federative solutions (at the level of tier two) than has so far been achieved.

4.1   One-tier solutions

The cases studied here all concern crises of nation-states, but in a context where the model of the unitary nation-state often still exerts a strong attraction. These nations have frequently been involved in the construction of a common identity and an ideology that gave legitimacy to the country's institutions – an issue of special importance in the three post-communist countries we are studying. From the perspectives of the governments as well as those from

scholars, minorities have frequently been perceived as a source of instability best managed by centralisation and assimilatory policies. In the cases of Cyprus under President Mikhail Makarios, the former Yugoslavia under President Milosevic and Georgia under Prime Minister Zviad Gamsakhurdia, attempts were made to downsize the rights accorded to minority nations. The homogenising intention of governments or even the perception of such an intention have been one of the main sparks that triggered off secessionist crises (although the seceding parties have sometimes – as in the case of Abkhazia – tended to elaborate similar nationalising policies themselves).

The alternative solutions proposed for these divided societies maintain the model of sovereign nation-states, but with important institutional adaptations. The most drastic solution is to simply accept the situation created by the de facto division of the state, legitimise the secession and create two independent states. The international community has been very wary of accepting this solution, because it is generally assumed that the legitimisation of secessions would result in a domino effect. An uncontrolled fragmentation of the international order would have far reaching consequences on minority protection and international stability. Even in cases where external intervention aided the secessionist party, such as Kosovo, the international community has preferred to create an international protectorate rather than grant independence (although a protectorate can at best only be considered as a provisional solution).

The reluctance towards recognising new secessionist states also explains why entities that have been de-facto independent for a long time, such as Turkish Cyprus, have never been able to obtain significant international recognition. The same concern about international stability explains the general reluctance to accept any form of annexation, which could be an alternative option in some of the cases studied (the annexation of Abkhazia and Transdniestria by Russia or of Turkish Cyprus by Turkey).

4.2   Two-tier, federative solutions

The main alternatives proposed in response to demands for secession are confederations and federal states. Rather than a unified state, a confederation should be termed a 'union of states'. Constitutions of confederal states take the form of a pact or treaty between the sovereign member states involved, with a minimalist central government for joint decision-making (most examples of confederations are historical, such as the United Provinces). In federal systems, sovereignty is shared domestically, but internationally attributed to the federation as a whole instead of to the constituent entities. This does not necessarily mean – as may be demonstrated by the present example of Serbia and Montenegro – that these entities are more integrated than those in confederations. Nor does it mean that the competences of the federal level have to be broader than the ones of the federated level. Confederations tend to be the preferred model of the seceding parties, since their sovereignty would be preserved and even internationally recognised. This means that such models imply a right to secession. In all the cases we are studying, the seceding parties have at certain moments in the negotiations, defended such a model. For the same reasons, the parties interested in preserving the unity of the state (the Greek Cypriots, the Georgians and the government of Moldova) tend to be hostile towards confederations.

Federations have been established to give national minorities an institutionalised position within the state or even to go beyond the definition of a minority to permit the realisation of the principle of national self-determination for all nations in a multi-national state. The establishment of so-called 'ethno-federations' is facilitated when the various nations are concentrated in particular territories (e.g. Belgium, the United Kingdom, Spain). Such

multinational federalism poses, however, particular problems concerning the status of the territorial entities. Not all nations claim the same rights and competences. A solution sometimes adopted is that of asymmetrical federalism, in which some entities are given broader responsibilities than others (e.g. Spain).

These types of solutions are not without problems. Asymmetric federations may pose difficulties in the functioning of those entities within the federal state; there may also be issues in the coexistence of entities within a same state that have different competences, owing to conflicts that may arise from an unequal distribution of power among the various entities. The parties that favour secession suspect federations of being against their interests. In general, they are in a minority position and hence have concerns that federal systems entail for them the risk of being outvoted on crucial decisions. Governments may also suspect federations, as they may be perceived as a stepping-stone towards a future independence of the federated entities. The very capacity for self-government within a federal system becomes an asset and argument for independence and the possibility of European integration may in fact reinforce such a stance, since it diminishes the costs of independence.

In those cases located in the former Soviet bloc, the acceptance of federal models is made more problematic by the historical experience of the Soviet Union. For minorities, this experience was characterised by the semblance of autonomy and the cavalier way of treating constitutional agreements. The latter tradition has not yet been superseded by the post-Soviet states, as the history of post-Soviet Georgia under Prime Minister Gamsakhurdia reveals. These experiences give the weaker parties legitimate reasons to be suspicious of constitutional arrangements that could be modified unilaterally by the stronger party.

4.3   Three-tier solutions – with EU-isation

Two-tier models from Western Europe offer certain elements for a solution to ethnic conflicts. Yet, the weaknesses and insufficiencies of two-tier solutions as instruments of conflict settlement draw attention to the relevance of those solutions that include a supra-national level, which plays an important role in the federal models of the EU. Therefore, it is important to understand the extent to which three-tier systems may extend the participation of federated states – which belong to the first tier – to international affairs, including security policies. Secessionist conflicts, which lay at the intersection of domestic and international politics, can indeed be more easily resolved if the principle of national self-determination is not limited to domestic affairs. Contrary to strongly entrenched prejudices, federations do not necessarily limit the realisation of this principle to internal self-determination, but may extend it to external self-determination, primarily through the right to external representation and through the power to negotiate treaties. This possibility is greatly increased through the integration of federations in three-tier structures.

The European Union's system of governance can aid the search for constitutional solutions in ethnically divided societies, owing to its fundamentally transformed notions of statehood and sovereignty. These notions go against the often rigid and absolutist views of these concepts held by the principal parties in secessionist conflicts, making their negotiating positions mutually incompatible. Although the EU is predominantly constituted and shaped by its member states, its practice of multi-level governance proposes an institutional model where state power and sovereignty are not exclusively located at the level of nation states. Through its policies and its institutions, it mitigates the black-and-white legal differences between monolithic and divided sovereignty, as well as between foreign and domestic policy-making. Decision-making and implementation in a given policy domain are determined by a system that allocates and shares competences between levels of government. While different levels of

government remain legally distinct, they become practically inter-related and mutually interdependent through various channels of communication and policy procedures. As a result, the role of the second (state) level within the EU is fundamentally transformed. While remaining full-fledged 'states', EU member states delegate several competences to Brussels. Predominantly in the economic sphere but increasingly in the justice and home affairs (and only marginally in the security and foreign policy spheres), the first (supra-national) level of government lies at the forefront of policy-making. And at the EU level, decisions in most domains are taken collectively, on the basis of majority rule.

The EU framework also increases the scope for third (sub-national) level roles in EU policy-making. This does not mean that EU membership necessarily upgrades the roles and status of the third tier of governance. It rather allows enhanced opportunities for the development of the third level. Whether and how these opportunities are acted upon depends on the internal structure of the member states, i.e. the extent to which regions already have pronounced roles within their state. Europe is remaking itself from an entity 'of the regions' to a 'Europe with some regions'.

Through the creation of Euroregions, the EU stimulates transborder, interregional cooperation and such forms of cooperation are not limited to member states of the EU. The EU also gives sub-national entities an international forum in the (as yet weak and subordinate) Committee of the Regions. Within the EU, institutions like the British-Irish Council (BIC), where representatives of regions of the UK participate on par with the governments of the UK and Ireland, offer other models of conflict settlement and regional integration.

The meaning of European integration, as understood in the strict sense of membership of the European Union, clearly differs in each case. While Cyprus has been accepted as a future member state, the other cases have at best a medium-term prospect of membership. European integration, nevertheless, plays an important role: it is a clear aspiration of the elites and the population of these countries; consequently, European institutions are already able to exercise considerable influence.

Three-tier solutions in a European framework thus provide more effective means for conflict settlement than two-tier solutions. A federal system with a third tier offers more protection for the weaker party. It may provide sub-national entities innovative forms of sovereignty and international representation. A three-tier solution may also offer institutionalised protection of minorities, including security guarantees. In the case of loose arrangements, with only a minimal tier of governance at the level of the common sovereign state, a substantial three-tier framework renders such a model sustainable. At the same time, it offers incentives for further cooperation and/or prospects of regional integration. Even in the case of an effective secession, the presence of a third tier dilutes the impact of such a step.

While such scenarios have positive normative content, we should not neglect other possibilities. Inclusion in the EU is not a *deus ex machina* solution to conflicts. For countries that have no accession prospects, there may even be a negative effect from the possible exclusion of their citizens from the Schengen space. Those parts of society that might want to struggle in favour of democratic reforms could be demoralised and discouraged. Should this negative effect from the spread of Europeanisation be a reality or even a real risk, the onus is placed back on the EU to devise and offer sufficiently attractive incentives, even for the states or entities that are accession candidates. This is effectively the challenge of the 'wider Europe policy' or 'neighbourhood policy' of the EU and the policies towards the Caucasus region that the enlarging EU seeks to develop, but so far with too little substance to be credible.

There are alternative approaches to EU bilateralism. One is that the international community (including the EU) push for regional cooperation and integration in regions that are emerging

out of conflict. This is clearly relevant for regions such as the Balkans and Caucasus, drawing on the EU's own positive experience of the benefits of mutual dependence. While the Stability Pact for South East Europe is an example of an initiative of this type, the experience showed that states of the region were unwilling to place regional integration ahead of EU integration as a policy priority. Similarly in the Caucasus, there is a potential case for post-conflict regional cooperation, but the perceived benefits from this are ranked lower by the states and entities themselves than the even remote prospects of EU-isation. The conclusion seems to be that regional cooperation needs to be part of a bigger and wider Europeanisation package to be viable.

A further alternative could be the more imaginative and effective use of the wider European multilateral organisation, to which we now turn.

4.4   Three-tier solutions with strengthened multilateralism

Even when EU accession is not an immediate prospect, Europeanisation, conceptualised in a broader sense may, nevertheless, contribute to conflict settlement in the wider periphery of the EU. In this section, we analyse the extent to which mechanisms of representation similar to the EU's multi-level governance could also be applied to the international organisations that intervene in these conflicts. The intervention of these organisations may extend to security issues. For example, institutions like the Council of Europe and the OSCE could contribute to the establishment of a juridical framework for the protection of minorities. Organisations like the IMF and the World Bank (WB) may contribute to the economic and social dimensions of conflict settlement. The WB includes a political dimension as well, through support to state building.

The end of the cold war has seen rapid advances in membership by the newly independent states of the former Yugoslavia, Soviet Union and Czechoslovakia in the European international organisations. Yet little has been done by international diplomacy to give a place to federated entities within these organisations. Within the Council of Europe, federated states can develop their activities in the framework of the Chamber of Regions and Local Authorities. But nothing similar has been done in the security domain. It is generally assumed that the role of federated entities in foreign relations has to be limited to trade, culture and tourism (i.e. to para-diplomacy and to non-security issues). Consequently, international security organisations such as the OSCE or NATO's EAPC and PfP presently exclude all forms of participation by non-sovereign units.

The resolution of secessionist conflicts through solid security guarantees may, however, require that defence or parts of the defence sector, will be among the shared competences of the federal and sub-state federated entities. Among the four cases we are presently studying, the federated states of Serbia and Montenegro are active in the execution of defence policies, through the participation of their respective presidents to the Supreme Defence Council. In the cases of Georgia/Abkhazia and Moldova/Transdniestria, if a peace settlement is not based on demilitarisation, one could envisage drawing on the model of Bosnia-Herzegovina, where the 1995 Dayton Agreement gave the right to each of the two entities to establish its own armed forces and its own ministries of defence. This means that the coordination of defence policies at the state level is one of the main tasks of federal state-building. In Bosnia, this is done with the active support of the international security organisations (the OSCE and NATO). Indeed, this coordination is a main condition for Bosnia's participation in the NATO EAPC and PfP.

The development of common security and defence policies at the state level is particularly interesting in cases – such as in Bosnia and Herzegovina – where it is practically impossible to disarm or integrate two (or more) armies that have been involved in a war against each

other. Such policies force both sides to focus on the defence and security interests they have in common and to downsize or transform their armed forces accordingly. The example of Bosnia and Herzegovina, and the experience of using international UN peacekeeping operations outside the Balkans to oblige both sides to coordinate their policies at state level is also worth consideration.

NATO's EAPC and PfP activities could be developed to enhance the cooperation between the federated states and the federal government in their respective defence policies. A method used by Belgium, Germany and the UK at the EU level for issues within the competences of federated or autonomous entities, is that of inviting the ministers of federated states or regions to represent the federation as a whole at EU Council of Ministers' meetings, according to a rotation system. A similar rotation system could be used for the federation, to speak with one voice in defence and security matters at the EAPC (once a month at the ambassadorial level, twice a year at the ministerial level). Divergent positions – which would make it impossible to speak with one voice – should lead to an internal search for compromise. Where no compromise is found, the federation would lose its voice in EAPC fora. But then an intra-state security problem in an EAPC member state would become apparent and perhaps provoke mediation by other members of the EAPC.

Concerning the establishment of new security guarantees, one could envisage the OSCE mechanisms that have been developed in the past as an aid to resolving disputes about the violation of the human dimension commitments of its members (e.g. the Vienna mechanism and the Moscow mechanism). The mechanisms developed to foster the peaceful settlement of disputes between participating states (the Valetta mechanism) could be extended to federated states. One could also imagine that the Court of Conciliation and Arbitration that established in 1992 to settle disputes between the OSCE members, could extend its activities to disputes between federated states or between federated states and the federal authorities. It could further be hoped that, in case of disputes, federated states would have access to the OSCE Permanent Council. A similar system of representation for federations to that used within the EU in Council of Ministers meetings could also be adapted to the OSCE.

The UN, working via the Security Council, can have an important role in conflict situations, through:

a) decisions to accept or deny international recognition for attempted secession or other changes in state borders;

b) conflict meditation;

c) peacekeeping and monitoring;

d) humanitarian assistance and notably care for refugees (the UN We Feed People programme, the UN High Commissioner for Human Rights/UN Relief and Works Agency); and

e) civil administration of violently disordered states or entities.

Nevertheless the access of non-recognised states to UN Security Council meetings is not possible in principle. In the case of the Georgian-Abkhazian conflict, the participation of an Abkhazian representative (then Prime Minister Anri Djergenia) in a Security Council discussion on Abkhazia in 2002 was supported by Russia, but blocked by other members of the 'Friends of Georgia' group. Such participation could be foreseen as part of the security measures for a peaceful settlement for Abkhazia, notably in the case of severe threats. The right to participate in Security Council discussions could be made available and conditional

upon the support of at least one permanent member of the Security Council. Similar measures could be envisaged for Transdniestria.

We finally have to consider the extent to which the Council of Europe and the OSCE could provide supplementary guarantees of impartial arbitration for ethnic conflicts within federations. The Council of Europe plays an important role in the Europeanisation process through its implementation of the legally binding European Convention of Human Rights and through the European Court of Human Rights. The Framework Convention for the Protection of National Minorities outlines the principles that states should respect in this field. The European Charter for Regional or Minority Languages offers similar protection for languages. The Council of Europe could be indirectly involved in juridical decision-making in new federations. A 'Bosnian' type of constitutional court of the federation could be envisioned, where a certain number (perhaps even the majority) of judges could be designated by the President of the European Court of Human Rights (which is linked to the Council of Europe). Such a model has been included in the Dayton Agreements, where three of the nine judges of the Bosnian Constitutional Court are designated by the European Court for Human Rights. The UN draft on Cyprus provides for such a constitutional court at the state level. In a federation, this type of constitutional court, giving maximal guarantees of impartiality in a multiethnic context, could be applied to the federated states (e.g. Transdniestria, Abkhazia).

By their economic intervention, the IMF, the International Bank for Reconstruction and Development (IBRD) and the WTO can be actors in fostering durable conflict settlements. The experience of federated entities (such as Flanders within UNESCO) that combine their participation in federal decision-making in 'national' areas to be defended in multilateral organisations, with their autonomous representation to these organisations, is also relevant to the design of federal alternatives to secession.

4.5   Role of the major powers

The major powers control the multilateral organisations. Whether the OSCE works usefully depends on the level of cooperation between the EU, Russia and the US. While the Council of Europe depends on the EU, Russia also has a significant voice. How these organisations are able to stabilise and resolve conflicts through security guarantee mechanisms rests on the compatibility of the objectives among these three major players. The problems are not just the unwieldy decision-making procedures of consensus-bound councils of ministers with vast numbers of seats around the table. The problems also lie in the different paradigms of international relations among the big three powers (assuming that the EU is itself reasonably unified on Balkan and Caucasus issues) and the bottom line objectives that each may have for the different conflicts. These problems are virtually non-existent now in the Balkans and Cyprus, because the EU-isation process dominates. But for Moldova and the Caucasus, the compatibility of objectives is still an issue and official diplomacy is often highly opaque. This project will analyse how the major powers may be inclined to work together or not (including options for coalitions or troika alliances) in the light of the new paradigms of international relations that are emerging after 11 September 2001 and the Iraq war.

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