

**TRANSFORMATION OR REGULATION?
UNDERSTANDING THE EUROPEAN UNION'S APPROACH
TO CONFLICT RESOLUTION IN BOSNIA AND
HERZEGOVINA, MACEDONIA AND KOSOVO**

by

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ABSTRACT

This thesis analyses the European Union's approach to conflict resolution in Bosnia and Herzegovina, Macedonia and Kosovo. It identifies the nature of the Union's policies in the three countries, as well as explaining these policy preferences and how they are legitimised. In doing so, it contributes to a debate in the literature on the EU's role in conflict resolution, between those who suggest that the Union's influence is oriented towards the transformation of conflict parties' identities, and those who argue instead that its policies have encouraged the recognition and accommodation of existing identities. The thesis employs a constructivist institutionalist framework with which to understand EU actors' policy preferences. Applying this through discourse analysis of policy documents and official speeches as well as interviews with key policy-makers, I offer support to the view that the EU's approach is one of conflict regulation rather than transformation. This approach is underpinned by a paradigm that sees conflicts as driven by a fundamental incompatibility between the interests and identities of different ethnic groups. Such an approach has been legitimised not by reference to norms with a basis in EU law, but rather to practice in specific member states and to the nature of the Union itself, which EU actors view as having brought peace and stability to Europe through the accommodation of national identities.

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ACRONYMS AND ABBREVIATIONS

BiH	Bosnia and Herzegovina
CCC	Consultative Council for Communities (Kosovo)
CEECs	Central and eastern European countries
CoE	Council of Europe
CSCE	Commission on Security and Cooperation in Europe
CSDP	Common Security and Defence Policy
DG	Directorate-General (European Commission)
DPA	Democratic Party of Albanians (Macedonia)
EC	European Community
ECCY	European Community Conference on Yugoslavia
ECHR	European Convention on Human Rights
ECLO	European Commission Liaison Office (Kosovo)
EIDHR	European Instrument for Democracy and Human Rights
ESDP	European Security and Defence Policy
<i>ESS</i>	<i>European Security Strategy</i>
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EUSR	European Union Special Representative

FCNM	Framework Convention on National Minorities
FYROM	Former Yugoslav Republic of Macedonia
HCNM	High Commissioner on National Minorities (OSCE)
HDZ BiH	Croatian Democratic Union of Bosnia and Herzegovina
HR	High Representative (Bosnia and Herzegovina)
ICFY	International Conference on the Former Yugoslavia
ICG	International Crisis Group
ICJ	International Court of Justice
ICO	International Civilian Office (Kosovo)
ICR	International Civilian Representative (Kosovo)
IPA	Instrument for Pre-Accession Assistance
JNA	Yugoslav People's Army
KFOR	Kosovo Force (NATO)
KLA	Kosovo Liberation Army
LDK	Democratic League of Kosovo
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organisation
NLA	National Liberation Army (Macedonia)
OFA	Ohrid Framework Agreement
OHR	Office of the High Representative (Bosnia and Herzegovina)

OSCE	Organization for Security and Co-operation in Europe
PDP	Party for Democratic Prosperity (Macedonia)
PER	Project on Ethnic Relations
PIC	Peace Implementation Council (Bosnia)
RoM	Republic of Macedonia
RS	Republika Srpska
SAA	Stabilisation and Association Agreement
SDA	Party of Democratic Action (Bosnia)
SDS	Serbian Democratic Party (Bosnia)
SDSM	Social Democratic Union of Macedonia
SFOR	Stabilisation Force (NATO)
TSG	Territorial self-governance
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
US	United States
VMRO-DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity
VOPP	Vance-Owen Peace Plan

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INTRODUCTION

As violent conflict erupted in the Balkans in June 1991, the European Community dispatched a troika consisting of the foreign ministers of Luxembourg, Italy and the Netherlands – at the time the current, previous and upcoming presidents of the European Council – to the region. Heading the diplomatic visit, the Luxembourg foreign minister Jacques Poos famously proclaimed: “This is the hour of Europe, not the hour of the Americans” (quoted in Riding, 1991, p. 4). This statement is now employed ironically in many an academic text and in the popular press to illustrate the seeming failure of European states to be able to co-operate successfully in foreign policy matters, for the Yugoslav crisis proved to be a time of failure for European diplomacy, resulting in the United States becoming reluctantly drawn in to resolve a crisis in what was often referred to as Europe’s ‘back yard’.

Yet since the early to mid-1990s, the ability of what is now the European Union (EU) to act cohesively and effectively in the realm of foreign policy has improved markedly. The EU’s capacities to intervene in conflict situations were boosted significantly by a decision taken at the Laeken European Council in December 2001 to declare what was then known as the European Security and Defence Policy (ESDP) operational in the form of the Rapid Reaction Mechanism and Rapid Reaction Force. Although, as Keukeleire and MacNaughton (2008, p. 185) note, the declaration may have been “stretching the truth at that time, a year later this statement stood”. The development of the ESDP was in no small part a response to the 1999 Kosovo crisis (see Shepherd, 2009), but built on a number of other foreign policy developments that occurred in the late 1990s. In terms of diplomatic mechanisms, the Treaty of Amsterdam in 1997 established the role of EU Special Representatives (EUSRs), whose mandates are largely focused on conflict prevention and resolution (Gervi, 2007, p. 10), and

the post of High Representative for the Common Foreign and Security Policy, which came into existence in 1999. Moreover, the policy tools available to the EU are not limited to those traditionally associated with the foreign policy of states. As a supranational organisation made up of 27 member states, the EU is able to exert traction over developments in third countries with governments and populations keen to become members themselves. Indeed, as Verdun and Chira (2011, p. 448) note, enlargement is often considered to be the EU's most successful foreign policy tool by academics, politicians, EU officials and journalists alike.¹

These developments point to the possibility of an improved ability on the part of the EU to intervene in conflict situations. Yet until recently, the role of the EU in conflict resolution has received rather scant attention from academics. It is only really in the context of the EU's seemingly successful enlargement to central and eastern Europe and its increasing foreign-policy involvement in a number of regions around the world – not least the Balkans – that scholars have started to take seriously the task of developing frameworks for understanding the ability of the EU to act as a conflict resolution actor (see Coppieters *et al.*, 2004; Diez *et al.*, 2006; Tocci, 2007; Diez *et al.*, 2008).

The point of departure for this thesis stems from an observation that while these studies have usefully and successfully identified the mechanisms that are at the EU's disposal with regard to conflict resolution – and the conditions under which they can be employed successfully – they fail to consider in detail the precise aims of EU conflict resolution policy, and consequently the nature of the Union as a conflict resolution actor. While there is confusion resulting from terminological entrepreneurialism and imprecision, if we adopt the approach of Ramsbotham *et al.* (2005, pp. 8-9) and understand 'conflict resolution' as an umbrella term,

¹ See, for example, Antonenko (2005), De Ridder *et al.* (2008), statements by former EU Enlargement Commissioner Olli Rehn and Swedish Foreign Minister Carl Bildt (European Commission, 2005b; Champion, 2009), and journalistic accounts of enlargement (*The Economist*, 2008).

then it is possible to see a number of different, often competing approaches underneath this broad heading. Most notable in the present context are conflict regulation (or management) approaches that seek to accommodate conflict through its institutionalisation, and conflict transformation approaches that instead seek to transform the very nature of interests and identities in conflict situations, rather than taking them as given.

Much of the recent scholarship on the EU as a conflict resolution actor suggests that it might be able to have a transformative impact on conflicts. This is most obvious in the case of the theoretical framework developed by Diez *et al.* (2006), but as we shall see later in this thesis, such assumptions underpin much of the work on the EU's role in resolving conflicts. Stated briefly, it is often assumed that the purportedly post-national character of the EU leaves it well placed to contribute to the transformation of antagonistic ethnic or national identities in countries where it has traction. Yet other authors have questioned this assumption, arguing that if we study the policies pursued by the EU in actual conflict situations, then what we observe is not so much attempts at transformation but rather a more conservative approach characteristic of a traditional conflict regulation or management agenda. Hayward (2006) in particular has demonstrated that the EU's approach to conflict resolution in the Northern Ireland case has very much revolved around encouraging the institutional accommodation of the British/Irish, unionist/nationalist divide, rather than its transformation.

Moreover, identifying the EU's approach to conflict resolution is of interest because, while there are precedents for different types of institutional design context of plurality, whether that be of an ethnic, national, religious or linguistic variety, within the EU, there is no clearly defined norm with a basis in EU law. While the approach of the international community as a whole – or at least of powerful states and international organisations when playing the role of

external actors in conflict situations – has arguably been to favour consociational power-sharing as a method of conflict management (Anderson, 2007; Taylor, 2009b, pp. 9-10), constitutional design varies significantly between EU member states and European policy-makers are not able to point to the Union's *acquis communautaire* when justifying their policy preferences in third countries (see Wilkinson, 2005, p. 253).

With this in mind, the aim of the present research is to investigate the EU's approach to conflict resolution in a region where – following the observation that the Union's influence is greatest in its near neighbourhood and diminishes with distance from its outer borders, as the prospect of membership decreases (see Christiansen *et al.*, 2000; Diez *et al.*, 2006; Rachman, 2006, pp. 55-56) – its potential impact is likely to be at its highest, namely the Western Balkans. Here, both traditional foreign policy and the prospect of enlargement are at the EU's disposal (Lehne, 2004, pp. 113-15; Diez and Cooley, 2011, pp. 187-88). The empirical focus of the thesis is on three case-study countries in the region, namely Bosnia, Macedonia and Kosovo. In Bosnia, the Union has a Special Representative whose post was double-hatted with that of the international community's High Representative, who has responsibility for overseeing the implementation of the Dayton Agreement that ended the war that took place in the country in the early to mid-1990s, between 2002 and 2011. In addition, there is an EU peacekeeping force – EUFOR Althea – deployed in the country. Bosnia has also been offered the prospect of eventual EU membership, giving the Union additional power of leverage, and this leverage has been used to encourage the reform of Bosnia's existing constitution, which dates back to Dayton and is widely considered to be outmoded. In Macedonia, the EU played a significant role in the negotiation of 2001's Ohrid Framework Agreement, which established power-sharing institutions following a short insurgency by ethnic Albanian paramilitaries. Macedonia is the closest of the three case-study countries to EU accession, and

this has enabled the EU to insist on full implementation of Ohrid as part of the conditionality it applies to Macedonia's possible membership. Finally, in Kosovo, the EU is envisaged by the United Nations' Ahtisaari Plan as a key actor in the implementation of strategies – such as decentralisation – that are designed to mitigate conflict between the country's ethnic Albanian majority and minorities including ethnic Serbs. The EU is very active diplomatically in Kosovo, with a rule of law mission and an EUSR based in Pristina, and previously contributed to the United Nations Mission in Kosovo (UNMIK), with EU member states also playing a role in diplomacy via the Contact Group.

In order to understand the EU's approach in these three cases, the thesis employs a theoretical framework that draws on recent contributions to the literature on the role of ideas in policy-making, primarily from the approach that has come to be known as 'constructivist institutionalism' (see Hay, 2006). This approach posits that we cannot understand political actors' decisions simply by reference to their material interests, since different actors in objectively the same material circumstances take different courses of action. Rather, we must consider how material circumstances are filtered through actors' ideas about and perceptions of their context. Such an approach highlights the value in considering how policy-makers understand the policy problems they face, and how these understandings become institutionalised or change over time.

The decision to employ this theoretical approach is motivated by two observations. Firstly, there appears to be a difference in how proponents of conflict regulation and conflict transformation, as understood in this thesis, conceptualise the nature of conflict in divided societies. In particular, advocates of conflict regulation approaches tend to view antagonistic identities as relatively fixed, particularly in the context of violent conflict, whereas those

advocating more transformative approaches take a view that identities are contingent and therefore potentially amenable to change. This points to the potential value of assessing EU policy-makers' understandings of conflict, which may inform their responses. Secondly, a number of existing studies of the EU's approach to conflict resolution already highlight this value by demonstrating that the EU's conceptualisation of conflict can be used to explain its policy preferences (see, for example, Hayward, 2006; Hughes, 2009a).

Utilising this theoretical framework, the thesis seeks to provide answers to three inter-related research questions:

- How do EU policy-makers understand the nature of conflict in the three case studies, Bosnia, Macedonia and Kosovo?
- How do these understandings inform the EU's policy preferences with regard to the design of institutions of conflict resolution?
- How do European policy-makers justify their policy preferences, given the lack of a conflict resolution norm with a clear basis in EU law?

In order to answer these questions and in light of the constructivist institutionalist theoretical framework adopted, the thesis employs two main research methods. The first of these is a discourse analysis of more than 300 EU policy documents and speeches relating to the three case-study countries. The aim of this analysis is to uncover the different cognitive and normative ideas that inform EU conflict resolution policy in Bosnia, Macedonia and Kosovo. The discourse analysis is supplemented with data from 30 interviews with EU officials and other key actors conducted by the author between April and November 2010. These

interviews were used to probe deeper into the nature of EU policy and into policy-makers' understandings of the nature of conflict in the Western Balkans.

The thesis is structured as follows. The first part, which is composed of two chapters, establishes the rationale for the research and the theoretical framework that is employed to conduct it. Chapter 1 reviews the existing literature on the role of the EU in conflict resolution. It outlines existing work on the mechanisms at the Union's disposal in this policy area, before identifying a key omission from much of this literature, namely the failure to consider the EU's own conceptualisation of conflict resolution. In order to establish what is at stake when we ask whether the EU's approach is one of managing or of transforming conflicts, I outline the significant differences between these approaches as they are set out in the academic literature. Here, I focus in particular on three different approaches to institutional design in divided societies – consociationalism, centripetalism and power dividing – and the extent to which each is compatible with the aim of conflict transformation, before reflecting on the need to better conceptualise the EU's approach to conflict resolution. Chapter 2 then sets out a theoretical framework that will allow us to analyse this approach in the case studies employed in the empirical portion of the thesis. Here, I briefly discuss competing ways in which political scientists have attempted to incorporate ideational factors into their analysis, before settling on a constructivist institutionalist approach that I argue is best placed to answer the research questions posed here. In doing so, I outline the different forms that policy ideas take and the mechanisms by which they impact on policy preferences, as identified by constructivist institutionalists. The chapter then outlines the research methods used to operationalise this framework.

The second part of the thesis presents the results of empirical analysis of the EU's conflict resolution activities in the three case studies. Chapters 3, 4 and 5 discuss the three case studies – Bosnia, Macedonia and Kosovo – in turn. The chapter on Bosnia examines the EU's role in the ongoing process of constitutional reform in the country. This process, encouraged primarily by the EU, the Council of Europe and the US, is intended to result in the modification or replacement of the constitutional order established by 1995's Dayton Agreement, which brought an end to the Bosnian War. The chapter discusses the EU's approach to constitutional reform in Bosnia in the light of previous European attempts to devise political institutions to stop the war that was eventually halted by Dayton. In the chapter on Macedonia, I examine the EU's response to the crisis that afflicted the country in 2001, when ethnic Albanian fighters launched an insurgency against the ethnic Macedonian-dominated state, and in particular the Union's role in the design and implementation of the Ohrid Framework Agreement that marked the end of the brief period of violence. Finally, the third empirical chapter explores the EU's strategy in post-independence Kosovo, where the Union's stated aim is the creation of a genuinely multi-ethnic society following years of division between Kosovo Albanians and Kosovo Serbs.

After the presentation of the case studies, Chapter 6 reflects on the implications of the analysis contained in the preceding three chapters for how we should conceptualise the EU's role in conflict resolution. Here, I return to the three research questions that inform the study, considering in turn how EU actors understand the nature of conflict in the three Balkan states considered, how these understandings inform their policy preferences, and how these preferences are legitimised. In general terms, I argue that while there are differences between the three cases studied in the thesis, EU policy in each of the three countries considered is underpinned by an 'ethnic conflict' paradigm that explains conflict by reference to what is

seen by European policy-makers as the fundamental incompatibility of the interests of the belligerent ethnic groups. Following Brubaker (2004), I employ the concept of ‘groupism’ – namely the tendency to treat ethnic groups as discrete and bounded, and possessing agency and interests – to describe EU policy-makers’ views of Bosnia, Macedonia and Kosovo’s ethnic communities. As a result of this understanding, nationalist mobilisation is seen as ultimately the result rather than the cause of deeper social divisions, which are considered to be too deep to be amenable to transformation. The EU’s policies in each of the cases are therefore oriented more towards the regulation or management of conflict through mechanisms such as consociationalism and decentralisation than towards the type of transformation envisaged in much of the existing literature on the Union’s role in conflict resolution. Such an approach, I argue, is legitimised not through reference to the EU law, but rather by reference to specific examples within EU members, and to the nature of the Union itself as a mechanism for resolving conflict between its member states. In the case of the latter, the EU is presented in the discourse of its own officials as akin to what Costa and Magnette (2003) term an ‘inter-state consociation’. This discourse also serves to construct the EU as a ‘force for good’ in international affairs, thus boosting the perceived legitimacy of the Union as a conflict resolution actor.

Finally, the concluding chapter draws together the key themes of the thesis and reflects on the research, considering its limitations, the possibilities that exist for further research in this area, and the need to maintain reflexivity in research on the EU to ensure that as scholars we critically evaluate the assumptions we make about the Union and do not simply mirror and reinforce its self-image. I also use the conclusion to consider a number of possible responses to the main findings of the thesis, and also the extent to which its findings can be seen as representative of EU conflict resolution policy beyond the three cases considered here.

CHAPTER 1 – THE EU AND CONFLICT RESOLUTION

Introduction

The present chapter surveys the literature on the EU's role on conflict resolution and in doing so establishes the rationale for further empirical research on the central research question that animates the present thesis, namely whether the EU can be characterised as an agent of conflict transformation or rather, more conservatively, of conflict regulation. It sets about this task by first considering a number of recent contributions to this literature that have sought to identify the EU's mechanisms of impact over conflicts, categorising these impacts into those that involve the exercise of EU foreign policy, and those which rely instead on the power of attraction of membership of, or association with, the Union. In the next section, I argue that while this literature has provided a useful means to conceptualise the ways in which the EU might contribute to conflict resolution, it relies on assumptions about the aims of the EU's substantive engagement with conflicts that need to be interrogated further. More specifically, I argue that the literature assumes that the EU's aim is the *transformation* of conflicts rather than their mere *regulation* or *management*. Here, I survey a number of critiques of the literature on the EU's impact on conflict scenarios, many of which argue that the EU's aim has not been to transform conflicts but rather to manage them through institutional accommodation.

Following this, I then turn to consider the types of institutional design that have been advocated for divided societies. I survey three approaches – namely, consociationalism, centripetalism and the power-dividing approach – before considering which of these is most compatible with the vision of conflict transformation that it has been argued the EU pursues. The aim here is to establish that not only do these approaches differ significantly in terms of

the institutional designs that they entail, but that they are based on very different assumptions about the nature of contemporary identity conflicts. I then return to the issue of the EU's approach to conflict resolution, reflecting on what is at stake in the debate over whether this approach can be characterised as transformationalist, and on ways in which we might explain the EU's policy preferences and their legitimisation.

Mechanisms of EU influence over conflicts

A number of different authors have sought to define the mechanisms through which the EU might have an influence on conflicts (see, for example, Hill, 2001; Coppieters *et al.*, 2004; Diez *et al.*, 2006; Tocci, 2007). Individually, these taxonomies and typologies tend to focus either on the EU's influence through what we might consider traditional foreign policy mechanisms on the one hand, or its influence through offering the prospect of membership or association to countries in its neighbourhood on the other. In order to capture the full range of the EU's mechanisms of influence over conflicts, therefore, we need to consider a number of different contributions to this literature. The differentiation between these two broad strands – traditional foreign policy tools and the EU's power of attraction through offering membership or looser forms of association to countries in its neighbourhood – provides a useful way to categorise the mechanisms at the EU's disposal, as identified by a range of authors.²

Foreign policy mechanisms

In foreign policy terms, the EU's potential contribution to conflict resolution can take a number of forms, drawing on the Union's different foreign policy instruments (for a review of these, see Smith, 2008, pp. 54-75). Perhaps most obviously, it may involve interventions in the form of peacekeeping missions designed to uphold peace agreements. The EU is able to

² I use this distinction in a review of the literature on the EU's role in conflict resolution co-authored with Thomas Diez (Diez and Cooley, 2011).

launch such missions as a result of the operationalisation of the European Security and Defence Policy (ESDP), declared at the Laeken European Council in December 2001 (see Akçali, 2009, p. 182).³ While this type of peacekeeping has fairly tightly defined goals, EU intervention in conflicts can involve both military and civilian components, incorporating police personnel or election observers, for example, and therefore might be seen as contributing to the wider task of peacebuilding, which involves the pursuit of wider goals such as the development of civil society, the reform of institutions such as the police or the military, the holding of free and fair elections and the protection of human and minority rights (see Paris, 2004).⁴

Beyond these traditional forms of intervention, EU foreign policy mechanisms may also include diplomacy or the use of conditionality relating to the recognition of new states (see Hill, 2001; Caplan, 2005). As it relates to conflict resolution, diplomacy perhaps most obviously might involve attempts on the part of the Union to negotiate peace accords between conflict parties or to encourage compliance with existing agreements. When conflict or the potential for conflict involves newly independent states, meanwhile, the EU and other international actors can make diplomatic recognition conditional on compliance with certain standards and norms. As such, recognition can be used as an instrument to provide incentives to states to conform to norms, such as those on minority rights, which may reduce the possibility of violent conflict (Caplan, 2005).

The EU is also potentially able to make use of its power as a large and significant economic actor. In this regard, the Union might impose economic sanctions on conflict parties in order

³ As noted in the Introduction, this declaration may have been premature, although it soon came to reflect reality (see Keukeleire and MacNaughton, 2008, p. 185). The ESDP has since been renamed the Common Security and Defence Policy (CSDP) as a result of the Lisbon Treaty.

⁴ For an overview of all of the military and civilian ESDP missions to June 2007, see Keukeleire and MacNaughton (2008, pp. 186-88). Smith (2008, pp. 68-71) lists such missions up to early 2008.

to pressure them into signing or adhering to peace agreements, or to encourage compliance with human or minority rights guarantees designed to mitigate against further violent conflict. Similarly, the EU can make development aid and the negotiation or conclusion of trade agreements conditional on similar guarantees (Hill, 2001, pp. 327-28; Paris, 2004, pp. 26-27).

Furthermore, it may be possible for the EU to have an impact not through traditional conceptions of power in international relations, but rather through its ‘normative power’, which Manners (2002, p. 239) defines as the “ability to shape conceptions of ‘normal’ in international relations”. If the parties to a conflict share in the EU’s vision of conflict resolution, or if they take the European integration process as a model, and thus buy into the construction of the EU as a normative power, then this power may contribute to conflict resolution beyond the borders of the EU itself (Diez and Pace, 2011).

Conflict resolution through integration and association

In addition to the foreign policy mechanisms outlined above, in the case of its neighbourhood, the EU is also able to make use of the prospect of association with or full integration into the Union as a conflict resolution mechanism. Diez *et al.* (2006), drawing on Barnett and Duvall’s (2005) work categorising different forms of power in international politics, suggest that the EU has four ‘pathways’ of influence through integration or association. As illustrated in Table 1, these pathways are defined along two axes: whether the approach of the EU is actor-driven or is an inherent part of the integration process – that is to say, “whether the impact is generated either by concrete EU measures or an effect of integration processes that are not directly influenced by EU actors” (Diez *et al.*, 2006, p. 571) – and whether the target of the EU’s impact is government policy or wider societal change in the state concerned.

Table 1: Pathways of EU impact through integration and association

		Approach by EU	
		Actor-driven	Integration process
Target of impact	Policy	Compulsory impact	Enabling impact
	Society	Connective impact	Constructive impact

Source: Diez *et al.*, 2006, p. 572

The first of the mechanisms identified by Diez *et al.* is termed the ‘compulsory’ pathway, whereby the EU places certain conditions on states that wish to become members or qualify for association. The term ‘compulsory’ is borrowed directly from Barnett and Duvall’s article and reflects the fact that their schema is of power in international politics in general, rather than being designed to be specifically relevant to the role of the EU. In the broader literature on the EU’s influence stemming from its ability to offer membership or looser forms of association, however, this mechanism is more usually referred to as conditionality (see, for instance, Grabbe, 2002; Hughes *et al.*, 2004; Jacoby, 2004; Schimmelfennig and Sedelmeier, 2004; Vachudova, 2005; Grabbe, 2006; Haughton, 2007), and this seems a more appropriate term in the present context. Indeed Tocci (2007, pp. 10-15) uses this term in respect of the EU’s influence over conflicts in its neighbourhood. Conditionality is actor-driven and targets government policy in prospective member states, since it involves directly linking the prospect of membership to specific demands, such as compliance with the Copenhagen Criteria and implementation of the *acquis communautaire*. In the context of the 2004 eastward enlargement of the EU, Schimmelfennig and Sedelmeier explain how these

conditions of membership, together with the value placed on that membership by the candidate countries, result in the EU having what they see as significant power over them:

The desire of most CEECs to join the EU, combined with the high volume and intrusiveness of the rules attached to membership, allow the EU an unprecedented influence in restructuring domestic institutions and the entire range of public policies in the CEECs. (2005, p. 1)

This view is not, however, universally shared, and the extent to which the EU is able to have such a degree of influence over prospective members has been the subject of significant academic debate (see, *inter alia*, Hughes *et al.*, 2004; Jacoby, 2004; Kelley, 2004; Vachudova, 2005; Grabbe, 2006). Hughes *et al.* (2004, p. 8), for example, argue that “a clear-cut causal relationship between conditionality and policy or institutional outcomes” is only weak. Surveying a number of studies of the EU’s influence during the recent eastern enlargements, Haughton (2007) suggests that the Union’s power varied by policy area (since the density of the *acquis* and the clarity and degree of its implementation in current member states varies), according to whether EU institutions and member states “were singing in unison, harmony or discordantly” (2007, p. 240), and was greater during some stages of the accession process than in others. In this vein, Haughton concludes that “[t]he EU was at its most powerful when it was deciding whether or not to begin accession negotiations with a particular state, because the demands laid down by the EU were tied to a credible offer of membership” (2007, p. 243).

The application of conditionality to minority rights policies in central and eastern Europe has been the subject of particular debate (see, for example, Hughes and Sasse, 2003; Kelley, 2004; Sasse, 2008; Rechel, 2009; Galbreath and McEvoy, 2012), which is worth reflecting on

briefly here.⁵ While authors such as Kelley have argued EU and other European institutions have exerted significant influence over ethnic politics in the region, others, such as Hughes and Sasse, have argued that the EU's approach has been ad hoc, inconsistent and has stressed formal policy change to the detriment of effective implementation.

Slovakia is often highlighted as a case where EU conditionality made a clear difference. Slovakia was not invited to start accession negotiations along with other central and eastern European states at the 1997 Luxembourg European Council because it was judged not to have met the political conditions for membership, but once Vladimír Mečiar's nationalist, populist government was removed following the country's parliamentary elections of 1998, it was invited to start negotiations in 1999. Pridham, for instance, argues that "Brussels' demands of democratic conditionality have had a direct and not inconsiderable impact here and have, by and large, acted as a spur to democratic consolidation" (2002, p. 222). Auer (2009, p. 204) contrasts the approach of Mečiar's government with that of his successor, Mikuláš Dzurinda, noting that while the former fined a Hungarian-language newspaper for employing the Hungarian name of the city in which it was based in its title, the latter introduced a minority language law in 1999 that enabled Hungarians to use their own language in interactions with local officials where they constituted at least 20 per cent of the population. While Hughes and Sasse argue that the language law "closely correlated with the pressures from the EU accession process" (2003, p. 25), Haughton (2007, p. 241) questions the importance of the EU in bringing about the preceding electoral change in Slovakia. He notes that while the EU's disapproval of Mečiar featured in the election campaign, his defeat was largely the result of domestic opposition to his illiberal policies. Moreover, with Slovakia's accession, the EU now enjoys very little power to prevent the election of extremist parties (Auer, 2009, p. 205).

⁵ My concern here is with the effectiveness of the EU's use of conditionality. Later in this chapter, I turn to consider the nature and sources of the minority rights policies preferred by the EU during enlargement.

Minority issues were also of concern in the Baltic republics leading up to the 2004 enlargement of the EU. Following the independence of the three Baltic states in 1991 and the adoption of restrictive citizenship laws, Estonia and Latvia denied citizenship to large Russian-speaking populations, effectively making them stateless. Haughton (2007, p. 238) argues that the EU was able, in concert with a domestic political figure in the form of new president Vaira Vīķe-Freiberga, to exert pressure that prevented the adoption of a state language law that would have made Latvian mandatory even for the conduct of private business. Discussing the fate of the Russian-speaking minorities of Estonia and Latvia, however, Hughes argues that “[i]t is difficult to reconcile the claims of successful international intervention with an outcome which has left some 700,000 persons stateless and without fundamental political and economic rights” (2005, p. 752). Such issues remain in Estonia and Latvia, and as Haughton (2011, p. 329) notes, perhaps more worrying still is the fact that “the generally positive assessment by international institutions of the situation prior to accession has further eroded the space for political claim-making on the part of the minorities” (Sasse, 2008, p. 855).

Any assessment of the degree of success of the EU’s use of conditionality to improve minority rights in central and eastern Europe also needs to consider the situation of the Roma, who perhaps demonstrate best the difference between changes in policy and changes in the actual living conditions faced by minorities in the region. While EU accession may have raised the profile of the issue and led to some important policy changes, as Vermeersch and Ram note, “if one evaluates the success of EU conditionality in terms of bringing about a substantial improvement in the lives of most of the minority population, few if any [Roma rights activists] would attest to such a success” (2009, pp. 67-68). In the case of the Roma of Slovakia, Haughton argues that the Union “was much more effective in changing the

language and content of policy than in affecting policy implementation” (2007, p. 242), and – we might add – in changing societal attitudes towards the Roma (see also Hughes and Sasse, 2003, p. 26).

Applying the concept of conditionality to conflict resolution, Tocci suggests that in conflict and post-conflict situations, progress towards integration with the Union can be made conditional on peacemaking, citing the example of the 1995 Stability Pact, which, she argues, “was intended to diffuse minority and border tensions” in central and eastern Europe. “Unless the candidates settled their most salient disputes”, she states, “they would be prevented from opening accession negotiations” (Tocci, 2007, p. 13). In the context of conflicts such as those in the Balkans, this use of conditionality might also be applied to the implementation of peace agreements and associated processes of post-conflict peacebuilding (Anastasakis and Bechev, 2003, p. 8). Moreover, there might be a less direct effect on conflicts if EU conditionality influences policies linked to, but not formally constituting, conflict resolution. Tocci (2007, p. 14) cites, for example, the demands made of the Turkish state to normalise relations with Cyprus as contributing to progress in conflict resolution on the island.

According to the second pathway outlined in the Diez *et al.* model, the EU may have an ‘enabling’ impact, whereby the offer of integration or association legitimises new, less conflictual political positions in the state concerned, leading to a de-escalation of conflict. With this pathway, the target of the theorised EU impact remains at the policy level, though it does not involve specific actions undertaken by the EU. Rather, the Union is understood to act as a scapegoat for otherwise unpopular policies that are accepted because they become regarded as necessary in order to achieve the overarching goal of membership of, or association with, the EU. In the context of conflict, this might mean that, by reference to the

acquis, political actors are able legitimise less nationalist positions than would have been acceptable in the broader political debate. This enabling impact may be effective even after a state has achieved membership, with politicians in established member states frequently using the EU as a scapegoat when implementing unpopular policies (Dimitrakopoulos and Richardson, 2001, p. 348; Hay and Rosamond, 2002, p. 157). More broadly, the enabling impact of EU influence might extend to include what Tocci (2007) terms ‘passive enforcement’ (see Diez and Cooley, 2011, p. 189). While the EU may lose the use of its biggest carrot with the accession of new states, conditionality may also give way to this passive enforcement, which Tocci equates with Olsen’s (2002) concept of ‘rule application’. She argues that whereas conditionality involves offering rewards for compliance and punishments for non-compliance, passive enforcement involves obligations that “constitute the necessary rules which determine the overall framework that make mutually beneficial cooperation possible” (Tocci, 2007, p. 17). This passive enforcement occurs when actors, having experienced following EU rules, come to see them as less costly than previously perceived.

Thirdly, the EU might have a ‘connective’ impact, whereby integration or association enables lines of communication between conflict parties to be opened up, for example through funding of cross-community non-governmental organisations (NGOs). This is an actor-driven pathway, according to Diez *et al.*, because it relies on specific policy actions on the part of the Union, though unlike the compulsory pathway, its impact is broader, potentially contributing to wider societal rather than policy change in the state concerned. Essentially, this pathway of EU impact relies on the ‘contact hypothesis’ – namely that increasing social contact between groups results in the reduction of stereotyping and an improvement in inter-group relations (see Allport, 1954). Diez *et al.* (2006, p. 573) cite the EU’s PEACE programmes in Northern

Ireland as an example of support for cross-community and cross-border peacebuilding projects that might contribute to such developments (see also Hayward, 2007; Hayward and Wiener, 2008). As Diez *et al.* (2006, p. 573) highlight, however, increased interaction between the conflict parties is not, in and of itself, sufficient to result in conflict transformation. Rather, the connective impact of the EU leads to conflict transformation should it result in the development of cross-group social networks which can contribute to longer-term changes in the identities of the conflict parties.

Finally, Diez *et al.* envisage a possible ‘constructive’ impact, whereby socialisation into EU norms results in a transformation of the identities and interests of conflict parties. As such, the target of this pathway is society rather than government policy. This is the deepest level of EU impact in the Diez *et al.* model, and offers the possibility of “changing the underlying identity-scripts of conflicts, thus supporting a (re-)construction of identities that permanently sustains peaceful relations between conflict parties”, a claim “based on the assumption that EU impact can put in place completely new discursive frameworks for creating novel ways of constructing and expressing identities within conflict regions” (2006, p. 574). This constructive impact involves a form of socialisation, or what Tocci (2007, pp. 15-17) considers to be a form of ‘social learning’. She outlines this concept as follows:

...rather than acting through direct influence or coercion, learning occurs when domestic actors are faced with new institutional and discursive frameworks which induce the re-articulation of their identities, in a manner indirectly conducive to the resolution of ethno-political conflicts in the long term. (2007, p. 15)

Tocci suggests that this can take place in a top-down fashion, whereby norm entrepreneurs who are engaged at the EU level influence the interests and identities of other domestic actors and the population at large, in a bottom-up manner where non-state actors draw on EU norms

to demand policy change, or through structural change that comes about through interaction between domestic and EU institutions (2007, pp. 15-16).

The EU's conceptualisation of conflict resolution

While the literature outlined above has significantly advanced our understanding of the role of the EU in conflict resolution, it has largely been concerned with identifying and empirically testing the factors that determine whether the EU is able to successfully contribute to conflict resolution. Relatively little attention, by contrast, has been paid to the nature of the policies pursued by the EU as a conflict resolution actor. This failure to analyse the nature of EU conflict resolution policies raises an important question, namely whether the EU's conceptualisation of conflict resolution includes the possibility of a transformation of identities, as assumed in much of the literature.

In her study of the EU's role in conflict resolution in its neighbourhood, Tocci does briefly address the Union's policy preferences, stating that it favours three broad approaches. She argues that in the majority of cases, the EU favours federal or power-sharing arrangements, but that in others it supports the integration of minorities, and in a small minority it has supported secession (Tocci, 2007, pp. 8-9). Elsewhere, however, she argues that the EU's approach goes beyond these institutional preferences, claiming that in highlighting their commitment to peace, "EU actors have meant conflict resolution and transformation, over and above conflict management and settlement" (2008, p. 875). The link between the EU's policy preferences and the overall aim of conflict transformation is not made clear.

Looking beyond the literature outlined in the previous section, one of the ways in which advocates of conflict transformation have argued that ethno-national identities may be eroded is through the integration of deeply divided societies into supranational political structures.

Indeed, the view that Europeanisation offers a route out of zero-sum national and ethnic identity conflicts has become something of an article of faith amongst advocates of conflict transformation, particularly in the Northern Ireland case. Transformationalists have tended to view European integration as a possible means by which post-national identities can be forged, which some see as the only way to ensure the long-term resolution of ethnic conflict (Delanty, 1996a; Kearney, 1997). For instance, Delanty argues that “European integration offers Northern Ireland an opportunity to build up a new democratic culture capable of embracing the two traditions in the province”, and that through European integration, Northern Ireland can “cultivate a new post-national and pluralist identity as a European region” (1996b, pp. 127-28).

While they do not employ the language of post-nationalism, the approach of Diez *et al.* (2006) is also predicated on the view that European integration offers the possibility of transforming conflictual identities. While their use of the term ‘transformation’ is somewhat ambiguous in that it can simply refer to changes in the level of securitisation of a conflict, it is clear that they conceive of conflict transformation as also referring to identity transformation. Firstly in this regard, they argue that genuine conflict transformation requires a change in identity constructions:

Any long-term transformation of conflicts crucially depends on a change in identity constructions in conflict societies, to the extent that subject positions are no longer regarded as incompatible and the relevance of invoking previous conflict issues loses attraction. (2006, pp. 584-85)

Secondly, they argue that this might come about through EU involvement, since the possibility of the establishment of new discursive frameworks via the EU’s constructive pathway of impact “may lead to the eventual resolution of the conflict, that is, the disappearance of articulations of the incompatibility of subject positions”. They continue:

This is clearly a long-term process, but its applicability is corroborated by the claim that while there may not (yet) be a single European identity, 'Europe' has become an integral part of the identity/-ies in each of the EU's member states. (Diez *et al.*, 2006, p. 574)

The clear assumption here, then, is the EU is engaged in conflict transformation, whereby existing identities are slowly modified through EU engagement with the conflict, such that they take on a 'European' dimension, even if they are not replaced by a single European identity. Belloni makes this argument specifically in relation to the Western Balkans:

In the long term, inclusion into European institutions can soften exclusive, nationalist identities by adding a new layer of identification. For example, a citizen of Sarajevo could possess simultaneously a Serb, Bosnian and European identity (and citizenship) – a situation of multiple layers common to most individuals living in European capitals. Not only do such multiple identities lead to greater acceptance of diversity and provide an antidote to divisive extremism, but also they can sustain a pragmatic attitude in addressing group differences. (Belloni, 2009b, pp. 323-24)

Other authors, however, have cast doubt on this supposition, arguing that instead of attempting to transform conflicts, the EU's approach has been to encourage the recognition and institutional accommodation of ethnic identities. Nagle and Clancy, for instance, argue that "[w]hen it comes to the issue of intra-state conflict...the EU's approach has been one of accommodating ethnic differences rather than striving for their eradication", and that since the 1980s, the EU has sought "to develop legislation which formally recognizes and nourishes the distinctiveness of an area's ethnic groups as part of efforts to stymie violent conflict" (Nagle and Clancy, 2010, pp. 26-27). This is confirmed in the case of Northern Ireland by Hayward's analysis of the European Parliament's Haagerup Report of 1984.⁶ She suggests that the report constructs the Northern Ireland conflict as one of a clash of two competing national identities, an approach to understanding the conflict that later informed the 1998 Good Friday

⁶ The report was written by Danish MEP Nils Haagerup in his role as *rapporteur* for a European Parliament Political Affairs Committee investigation into the Northern Ireland conflict.

Agreement. The EU has not sought to reconstruct national identities in Northern Ireland, let alone build a shared European identity, but rather has taken the more conservative approach of supporting the institutionalised accommodation of existing national identities (Hayward, 2006, p. 277). As Hayward states, “[i]n a conflict the EU defines as one of national identities [...] the EU does not seek to replace or reconstruct them, but instead reiterates them through the formalization of dual state involvement” (2006, p. 263).

A number of authors have made similar claims about the EU’s preference for consociational arrangements in central and eastern Europe. Wilkinson, for instance, argues that many of the reforms encouraged by the EU in Eastern Europe and the Mediterranean “reflect the norms inherent in ‘consociational’ power sharing and emphasize ethnic proportionality, coalition governments, and cultural autonomy for minorities” (Wilkinson, 2005, p. 240). Brusi (2008), meanwhile, claims that through its application of conditionality in the realm of minority rights, the EU has unintentionally contributed to the development of consociational power-sharing mechanisms in Bulgaria, Romania and Slovakia. Similarly, Skovgaard (2007, p. 10) argues that the EU, the Council of Europe and the Organization for Security and Co-operation in Europe have prescribed policies regarding the Hungarian minorities in Romania and Slovakia that “are best understood in terms of multiculturalism or consociationalism ‘light’”. Further afield, Youngs (2004) notes the prominence of power-sharing democracy in European conflict resolution strategies in the Great Lakes region of Africa.

Understanding conflict transformation

As the above section makes clear, a number of authors make a distinction between the concept of conflict transformation that the EU is purported to pursue, and the types of policies that it pursues, such as the promotion of consociationalism, which they suggest are

incompatible with the aim of conflict transformation. As such, it is useful at this point to take a step back and consider the precise meaning of the concept of conflict transformation and what it might entail in policy terms.

The concept of conflict transformation is most closely associated with the work of the scholar and practitioner John Paul Lederach (see, *inter alia*, 1995, 1997, 2003). Lederach's notion of conflict transformation is very much rooted in his Christian faith – and in particular within the Mennonite tradition – and was developed with the aid of his practical experience in Central America (Ramsbotham *et al.*, 2005, pp. 218-19). Lederach suggests that social conflict “transforms events, the relationships in which conflict occurs, and indeed its very creators” (1995, p. 17), but also that transformation can be a part of the prescription for conflicts, whereby relationships can be transformed from the mutually destructive to the mutually beneficial (1995, p. 18). Elsewhere, Lederach proposes the following definition:

Conflict transformation is to envision and respond to the ebb and flow of social conflict as life-giving opportunities for creating constructive change processes that reduce violence, increase justice in direct interaction and social structures, and respond to real-life problems in human relationships. (2003, p. 14)

As this brief insight into the work of Lederach perhaps suggests, there is little in his work by way of policy prescription. As Hughes argues:

The substantive content of the notion of ‘conflict transformation’ is less easy to discern. Lederach criticizes the ‘narrowness of resolution approaches’...because although they may solve problems in the short term, they do not create a dynamic of interpersonal ‘constructive change’. His is not an approach that is concerned with the nitty-gritty institutional outcomes to a political accommodation. But what kind of ‘constructive change’ does Lederach envisage? This is never fully explained; rather, Lederach resorts to generic notions such as building positive ‘relationships’, ‘changing lives for the better’ and building ‘capacities which are creative, responsive, constructive, and non-violent’. (Hughes, 2009b, p. 295)

A number of other authors get us somewhat closer to the types of policies or institutions that might be employed in conflict situations with the aim of transforming their dynamics. Väyrynen provides a useful starting point here with the following observation about much of the conflict resolution literature:

The bulk of conflict theory regards the issues, actors and interests as given and on that basis makes efforts to find a solution to mitigate or eliminate contradictions between them. Yet the issues, actors and interests change over time as a consequence of the social, economic and political dynamics of societies. (1991, p. 4)

Taking such a view, conflict transformation might be understood to be “a process of engaging with and transforming the relationships, interests, discourses and, if necessary, the very constitution of society that supports the continuation of violent conflict” (Miall, 2004, p. 70). Väyrynen usefully identifies four levels of conflict transformation: actor transformation, that is to say changes in the position of conflict actors; issue transformation, which involves changes in the conflict agenda; rule transformation, that is changes in the norms surrounding conflict; and structural transformation, which involves changes in the structure and power relationships in the conflict (1991, pp. 4-6).

Väyrynen’s insights allow us to think in more concrete terms about how the EU might potentially contribute to the aim of conflict transformation. The ‘compulsory’ and ‘enabling’ impacts identified by Diez *et al.* (2006), for instance, could be seen as contributing to a process of actor transformation. Yet Väyrynen’s schema does not include the type of deep conflict transformation that authors such as Diez *et al.* envisage the EU as potentially engendering, namely the transformation of identities of the conflict parties.

Other authors working with the concept of conflict transformation do, however, discuss this particular meaning of transformation. Smithey, for instance, argues that “[i]f polarized and

entrenched identities contribute to intractable conflict, the transformation of those identities into ones with less defensive and more inclusive orientations should occupy a central place in peacebuilding models” (Smithey, 2011, p. 19). Similarly, arguing in favour of conflict transformation rather than the institutional accommodation of ethnic divisions – which he classifies as a strategy of ‘conflict containment’ – Simonsen (2005, pp. 304-06) argues that such an approach need not involve the reconstruction of ethnic identities, as happens under circumstances of assimilation, but rather can entail making ethnic identities a less salient factor in political life. Simonsen describes conflict transformation as “the reduction of the political salience of ethnicity after armed conflict” and clarifies that “[h]ere, the focus is on ethnic identities: not their character but rather their salience relative to other identities” (2005, p. 304).

This definition of conflict transformation, then, seems compatible with the vision of the EU as a transformative actor in conflict situations that Diez *et al.* advance, but given Hughes’s observation quoted above, we still need to consider how such conflict transformation might be brought about. Here, Simonsen’s work is also of use. He suggests that there are two possible ‘entry points’ into the reduction of the salience of particular identities in post-conflict contexts (Simonsen, 2005, pp. 306-7). The first of these involves the development of cross-cutting cleavages at the grassroots level. I consider this issue in some further detail below, but first I consider Simonsen’s second ‘entry point’ – the design of political institutions in deeply divided societies in order to mitigate elite conflict – since, as Wolff (2011a, pp. 163-64) notes, this issue of institutional design has been central to much of the literature on conflict resolution. In the following section, then, I consider a number of approaches to institutional design that have been advocated for divided societies and then consider the extent to which they are compatible with a vision of conflict resolution as conflict transformation, where that

process is understood as involving identity transformation amongst and between the conflict parties.

Approaches to institutional design in divided societies

When we turn to consider the more concrete details of how to design political institutions in divided societies, Wolff's (2011a) differentiation between three approaches advocated by different groups of scholars is helpful in terms of setting out the options available to constitutional engineers. Wolff outlines three approaches: consociationalism, particularly in what he argues is its modern, liberal form; centripetalism; and power dividing. I summarise the key features of each of these approaches below (see also Table 2), also considering the criticisms that have been made of each, in order to give a sense of the terms of the debate between advocates of these approaches.⁷ My intention here is not to establish a normative preference for any one of these approaches, or even to suggest that one is more efficacious than its rivals. Rather, my aim is to establish that the preference of external actors when they act as constitutional engineers is not self-evident – all three approaches are subject to criticism and have both their supporters and detractors.

Table 2: Three approaches to institutional design in divided societies

	Liberal consociationalism	Centripetalism	Power dividing
Principal recommendation	Inter-ethnic co-operation at elite level induced by institutional structure requiring jointness of	Inter-ethnic co-operation and moderation induced by electoral system design encouraging vote	Co-operation between different changing coalitions of interest induced by

⁷ This is not to suggest that other institutional mechanisms are not available to constitutional engineers in deeply divided societies (for various attempts at classifications, typologies and taxonomies, see in particular Coakley, 1992; Smooha and Hanf, 1992; McGarry and O'Leary, 1993; Snyder, 2000; Smooha, 2002; McGarry *et al.*, 2008). Indeed, as we shall see, consociationalism in particular is often combined with other methods of conflict management.

	executive decision-making	pooling	separation of powers
State construction			
Heterogeneity versus homogeneity of federal units (if any)	Preference for units based on self-determining communities	Preference for heterogeneous units	Preference for heterogeneous units
Number of units relative to number of groups	Preference for units equal to numbers of groups	Preference for more units than Groups	No explicit connection between number of groups and units
Institutions of government			
Government system	Parliamentary or collective/rotating presidential system	Presidential	Presidential
Executive power sharing	Yes: guaranteed	Yes: voluntary	No, except transition phase after civil wars
Legislative power sharing	Yes: guaranteed	Yes: voluntary	No, except transition phase after civil wars
Electoral system (for parliament)	PR list or PR preferential	Plurality preferential	Plurality
Judicial branch	Independent and representative	Independent	Independent
Legal entrenchment	Yes	Yes	Yes
Rights and identities			
Individual versus group rights	Emphasis on the combination of individual and group rights	Emphasis on individual rights	Emphasis on individual rights
Recognition of distinct identities	Yes, as private and public matter	Yes, primarily as private matter	Yes, primarily as private matter
Assumptions about nature of identity	Constructed but relatively hardened and not amenable to short or medium-term transformation	Instrumental/constructed and potentially amenable to transformation	Constructed and potentially amenable to transformation

Source: Adapted from Wolff, 2011a, p. 172-73

Consociationalism

Of the three approaches outlined here, consociationalism is the most commonly discussed mechanism in the conflict management literature and arguably also represents the preferred mechanism of the international community (Anderson, 2007; Taylor, 2009b, pp. 9-10).⁸ Academic interest in consociationalism can be traced back to Arend Lijphart's influential attempts to classify democratic systems. Lijphart's initial interest came from his critique of existing typologies of democracies (notably Almond, 1956), which had tended to differentiate between the homogenous and stable Anglo-American systems and the fragmented, unstable continental European systems (Lijphart, 1968). Lijphart's contribution was to suggest that some continental European democracies did not fit this typology since they managed to combine the presence of political subcultures with peace and stability. These systems, such as those in operation in Switzerland, Austria, Belgium and the Netherlands, Lijphart termed consociational.⁹ They were, according to Lijphart, characterised by four key features: elite-level power-sharing by means of a grand coalition; segmental cultural autonomy; proportionality between groups in public positions; and group veto rights over vital interests (Lijphart, 1977a).¹⁰

⁸ Some of the discussion in this section has been published in *Third World Quarterly* (Cooley and Pace, 2012).

⁹ As Lijphart himself acknowledges (1985, p. 97), consociationalism had antecedents in the work of authors such as Arthur Lewis (1965) and Claude Ake (1967a; b). Gerhard Lehmbruch (1967, 1968) used the German terms *Proporzdemokratie* and *Konkordanzdemokratie*, and indeed consociationalism had been mentioned as early as 1603 by the Calvinist philosopher Johannes Althusius (see Andeweg, 2000, p. 510; Luther, 2001, pp. 91-92; O'Leary, 2005a, p. 3). Yet it was the Dutch political scientist who effectively founded the consociational research programme.

¹⁰ Consociationalism is often referred to simply as 'power-sharing' in both academic and policy debates, although I prefer to employ the former term here since, as Brendan O'Leary (2005a, p. 37 n. 3) has noted, there are many ways for groups to share power, not all of them consociational (see also Kettley, 2003, p. 247). Consociationalism is therefore "power sharing of a specific kind" (Taylor, 2009b, p. 1). Interestingly in the present context, Lijphart himself has stated that he has increasingly come to use 'power-sharing' as a synonym for consociationalism because he realised that policy-makers found the latter "to be too esoteric and polysyllabic", noting that "using 'power-sharing' instead has greatly facilitated the process of communication beyond the confines of academic political science" (2000, p. 427).

Initially, Lijphart's interest in consociationalism was a purely empirical one. However, the writings of Lijphart and others have become increasingly normative over time, characterised by the explicit recommendation of consociationalism as a method of conflict management in deeply divided societies (Brass, 1991, pp. 334-35; Andeweg, 2000, pp. 516-17; Bogaards, 2000). As Bogaards explains, "[c]onsociationalism presents a striking case of description turned into prescription" (2000, p. 396). Whereas in the late 1960s, Lijphart's concern was with the classification of democracies, by 1977 he was writing:

This book's message to the political leaders of plural societies is to encourage them to engage in a form of political engineering: if they wish to establish or strengthen democratic institutions in their countries, they must become 'consociational engineers'. (Lijphart, 1977a, p. 223)

This plea was made more forcefully in 1985, when Lijphart recommended consociational democracy as a solution to the deep divisions in South African society (Lijphart, 1985). Other authors have made similar recommendations in different cases, such as O'Leary's call for the threat of a re-partitioning of Northern Ireland to be made in order to pressure local leaders into accepting a consociational solution to the Troubles (O'Leary, 1989).

Since Lijphart's initial writings on consociationalism in the 1960s, it has spawned a sizeable literature. As Taylor notes, "consociationalism represents one of the strongest, widely discussed, and influential research programmes in the field of comparative politics" (2009b, p. 1). This popularity is not a reflection of any consensus over the merits of consociational democracy, but rather stems from often intense disagreements between those writers who are broadly sympathetic to the adoption of consociationalism as a conflict management strategy and those who oppose it on a variety of grounds.¹¹ As O'Leary acknowledges, "[t]here is...no

¹¹ This debate has often become ill-tempered and it is tempting to suggest that it may require some form of management itself. McCulloch refers to the debate between Lijphart and Horowitz as "a protracted, if low-

consensus over consociational theory, to put it mildly”, including “over the normative merits of consociation” (2005a, pp. 3-4).¹² Some of the most prominent criticisms that have been made of consociationalism are summarised below, but before we consider these, it is necessary to first consider the evolution in consociational theory that has occurred as a result of the significant amount of research dedicated to the topic in recent decades.

Arguably the most prolific and influential contributors to contemporary debates about consociationalism are John McGarry and Brendan O’Leary. As Wolff (2011a, pp. 166-67) notes, McGarry and O’Leary have been central to the evolution of consociational theory, and in particular the development of what is termed ‘liberal consociationalism’. Wolff (2012) argues that liberal consociationalism incorporates two key elements: executive power sharing and self-governance, particularly territorial self-governance (TSG). In relation to the former, and in an important modification of Lijphart’s original understanding of consociationalism, O’Leary argues that “a democratic consociation does not require a complete, total, or all-encompassing grand coalition in the executive”, but rather that what matters is “meaningful cross-community executive power sharing in which each significant element is represented in the government with at least plurality levels of support within its segment” (2005a, p. 13). Importantly, for liberal consociationalists, the groups represented in such executive power-sharing arrangements are not pre-ordained. This marks liberal consociationalism out from corporate consociationalism. In the latter, groups are accommodated “according to ascriptive criteria, such as ethnicity or religion or mother tongue”, which “tacitly assumes that group identities are fixed, and that groups are both internally homogeneous and externally bounded”

intensity, intellectual conflict” (2009, p. 56), but this conflict has also involved other combatants. See, for instance, the exchange between Paul Dixon and Brendan O’Leary in the pages of *Political Studies* (Dixon and O’Leary, 1998).

¹² Useful recent summaries of critiques and defences of consociationalism are provided by O’Leary (2005a) and Horowitz (2008).

(McGarry *et al.*, 2008, pp. 61-62). This may involve electoral rolls that only allow people to vote for candidates from within their own communities, for example (McGarry and O’Leary, 2006, p. 271). Liberal consociationism, by contrast, “allows groups to self-determine their organization and representation” and “rewards whatever salient political identities emerge in democratic elections, whether these are ethnic, religious, linguistic, or other criteria based on programmatic appeals” (McGarry *et al.*, 2008, p. 62). As such, liberal consociationalists advocate co-operation amongst political elites who are democratically legitimised, “regardless whether they emerge on the basis of group identities, ideology, or other common interest” (Wolff, 2011a, p. 167). For this reason, they advocate parliamentary systems, and proportional representation electoral systems, alongside decision-making rules requiring majorities that are qualified or concurrent.

In relation to territorial self-governance, Wolff argues that liberal consociationalists “highlight that the self-governing territory should define itself from the bottom-up, rather than be prescribed top-down” (2011a, p. 167). Wolff (2012, pp. 29-30) identifies five different arrangements that are encompassed under the heading of TSG. These are confederation, federation, federacy arrangements, devolution and decentralisation. Confederations exist where two or more sovereign states agree to pool certain competences such as foreign relations or monetary policy, but do not pool executive power. Here, Wolff gives the example of Serbia and Montenegro between 2003 and 2006. A federation is a state all of which is divided into distinct units, which can exercise some executive, legislative and judicial power. Past and current examples of federations include Belgium, Yugoslavia and Czechoslovakia. In contrast to a federation, a federacy involves the same sort of powers enjoyed by federal units, but not across the entire state. In cases such as the Åland Islands and South Tyrol, these units enjoy significant power, but exist in states that are otherwise unitary. Devolution, such as that

practiced in the United Kingdom, similarly applies to only selected territories of a unitary state, but is not embedded in a constitution, but rather in ordinary law. Finally, decentralisation, Wolff notes, “means the delegation of executive and administrative powers to local levels of government” (2012, p. 29).

In addition to the above, liberal consociationalists also advocate mechanisms to prevent majorities from abusing their power at either the central or the local level. As Wolff points out, this can be achieved by means of a replication of power-sharing institutions at the sub-state level, and through strong guarantees of human and minority rights, which can be upheld by an independent constitutional court that is representative of society (Wolff, 2011a, p. 168).

Having outlined the key elements of consociationalism and in particular its contemporary, liberal variant, I now consider some of the most significant criticisms that have been made of it as an approach to institutional design in divided societies. One of the most frequent criticisms made of consociational power sharing is that, by institutionalising ethnicity, it reifies the very divisions that it is supposed to be a response to (O’Flynn, 2003; Belloni, 2004; Simonsen, 2005; Aitken, 2007). “The fundamental problem with consociationalism is that it rests on precisely the division it is supposed to solve”, argue Wilford and Wilson (2003, p. 11). Consociationalism, its critics charge, turns elections into ethnic censuses, providing little incentive for leaders to appeal beyond their own ethnic groups (Belloni, 2004, p. 337; Simonsen, 2005, p. 300). Horowitz argues that consociationalism can lead to the reification of ethnic divisions, since “*grand* coalitions are unlikely, because of the dynamics of intraethnic competition. The very act of forming a multiethnic coalition generates intraethnic competition – flanking – if it does not already exist” (1985, p. 575, emphasis in original). Thus power-sharing results in the squeezing out of moderate parties and, its critics charge, increases the

salience of the group categories that are the basis of the conflict in the first place. In the case of Northern Ireland, Horowitz has argued that “[t]o be sure, most people still vote by group affiliation, but it is likely that much of this ethnic voting is based on a version of the prisoner’s dilemma, a fear of being alone in defecting while the other side chooses not to defect” (2001, p. 101). Other critics suggest that not only may the adoption of consociational arrangements have implications for the salience of ethnicity in the state concerned, but also that there may be demonstration effects that encourage ethnic mobilisation elsewhere. Tull and Mehler (2005), for instance, suggest that the Western preference for power-sharing solutions to conflicts in Africa has generated incentives for ethnic entrepreneurs elsewhere on the continent to provoke violence, since the likely and predictable response to this violence is the offer of a share of political power.

The reification of ethnicity under consociational systems is a result, according to many critics, of consociationalists’ acceptance of an outmoded view of ethnic or national identities as primordial and hence fixed. Briefly stated, primordialists consider that “group identity consists of the ready-made set of endowments and identifications that every individual shares with others from the moment of birth by the chance of the family into which he is born at that given time in that given place” (Isaacs, 1975, p. 38). The charge that consociationalists are primordialists with essentialist understandings of the nature of ethnic or national groups is made by authors including Taylor, who argues that “rather than sociologically account for the presumed force of ethnicity it is taken as a given and cultural differences are reified as immutable” (1992, p. 3) and Dixon, who states that “[a]t the heart of consociationalism is a pessimistic, primordial view of communal identity – a view of identity now widely discredited” (2005, p. 358). Similarly, Finlay states that “when consociationalism disavows its primordialist or essentialist assumptions about culture and community, it loses intellectual

coherence” (2008, p. 289). McGrattan, meanwhile, argues that in the minds of consociationalists, “national identities are assumed to be fixed and hence need to be separated out into distinct blocs” (2009, p. 167) and that consociationalists engage in circular reasoning to explain conflict, in which long-standing antagonism is presented as both a cause and effect (2010b; a). As a result, he argues, consociationalists “reproduce dominant narratives, bolster the status quo and marginalise the experiences of those individuals who refused to buy into strict nationalistic logic” (McGrattan, 2010a, p. 187). These critics base their criticism on alternative understandings of ethnicity, but some also reject the granting of explanatory power to ethnicity altogether (see, for example, Dixon, 2005; McGrattan, 2010a; Finlay, 2011).¹³

Consociationalists make a number of responses to the charge of primordialism. Firstly, they argue that they have taken on board this criticism by refining consociational theory to allow for possible identity change. Lijphart, for instance, reasons that while his early writings were influenced by the primordialism that predominated amongst scholars of ethnicity at the time “without giving it much critical thought”, his more recent distinction between pre-determined and self-determined groups is inspired by the insights of social constructivist approaches to ethnicity (Lijphart, 2001, p. 11). Similarly, others have pointed to the differentiation, discussed above, between corporate and liberal consociations, and have argued that the latter are not reliant on essentialist assumptions about the nature of identities.¹⁴ Importantly for Wolff (2011a, p. 167), it is the liberal variant of consociationalism that is now the most commonly prescribed by scholars – even if corporate consociational designs remain relatively common in practice. O’Leary explains how this distinction can be seen as a response to accusations of essentialism and the related reification of identities:

¹³ On whether the concept of ‘ethnic’ conflict is a useful one at all, see Mueller (2000) and Gilley (2004).

¹⁴ See Finlay (2011) for a critique of this distinction and of the idea that liberal consociations reflect less essentialist conceptions of identity.

The distinction between corporate and liberal consociational practice corresponds to that between ‘pre-determined’ and ‘self-determined’ identity. The distinction is vital because it is untrue that consociation necessarily privileges, institutionalizes and reinforces prior collective identities. It can do; it need not do so. (O’Leary, 2005b, p. xxv)

Although they argue that consociational theory has evolved to take account of developments in our understanding of the nature of group identity and that liberal consociationalism is compatible with social constructivist thinking on ethnicity, consociationalists also argue that their critics are overly optimistic about the prospects of reducing the salience of antagonistic identities once they are formed. This issue is discussed further below, where I consider the assumptions that underpin each of the three approaches considered in this section, and how they relate to the goal of conflict transformation, but essentially, proponents of consociationalism argue that it is often the most realistic option available to policy-makers in deeply divided societies. O’Leary, for example, argues that ethnic identities are relatively durable, even if they are constructed, and that power-sharing between groups is the most realistic method for dealing with intense ethnic conflict, and that those that wish to “dissolve, transform, or transcend inherited collective identities” (2005a, p. 9) are utopian. Nagle and Clancy, meanwhile, argue that “critics of consociationalism operate from a misreading of social identity – especially ethno-national identity – and its capacity to undergo profound transformation so that new shared forms emerge” (2010, p. 45). Even critics of consociationalism and advocates of alternative institutional designs acknowledge the realism of the approach in the context of violent conflict. Roeder, for instance, notes that:

...at the end of a civil war the leaders of ethnic groups intent on checking the leaders of other ethnic groups may be particularly unwilling to open the political process to involve politicians representing non-ethnic agendas...In such a situation, power sharing may be the only arrangement with which to initiate the transition. (2005, p. 81)

Another significant debate concerns the democratic credentials of consociationalism. Consociational democracy can be viewed as a form of ‘democracy with adjectives’ (Collier and Levitsky, 1997). As Collier and Levitsky note, the adding of adjectives to the word democracy can have two meanings. Firstly, the adjectives can denote classical subtypes of democracy, such as parliamentary democracy or federal democracy. Secondly, they can denote diminished subtypes, such as limited-suffrage democracy, which are “less than complete instances of democracy because they lack one or more of its defining attributes” (1997, pp. 437-38). Bogaarts (2000) notes that, in his early work, Lijphart appears to regard consociational democracy as a diminished subtype rather than a classical subtype of democracy. Lijphart was particularly concerned about the secret nature of political life in the Dutch case, and the passive role that citizens had in the Dutch system. Bogaarts therefore suggests that, in this early work, “[t]he adjective ‘consociational’ then does not only denote the special features that enable democracy in a plural society but also the set of characteristics that detract from the democratic nature of the political system” (2000, p. 402). It is only more recently that Lijphart has come to view consociationalism as a fully democratic system.

Other scholars of consociationalism have remained more critical of its democratic credentials, though. In this vein, Brass argues that “a fully-developed consociational system is inherently undemocratic and violates both the rights of non-recognized groups and the rights of individuals” (1991, p. 334). Consociationalism, for Brass, is elitist and impedes democracy in multiethnic societies (1991, p. 339). Similarly, for Jung and Shapiro, consociationalism stresses “participation and representation to the virtual exclusion of opposition”, thus “permit[ting] the same combination of elites to entrench themselves at the peaks of spoils and patronage hierarchies more or less continuously” (1995, p. 273).

Consociationalists retort that such concerns are misplaced. Consociations are democratic, they suggest, and indeed can be considered more democratic than majoritarian systems. Under consociational electoral systems, they argue, it is more than simply a plurality or a majority of the electorate who influence the choice of the executive (O’Leary, 2005a, p. 11). Moreover, as noted above, they point out that consociations do not necessarily require all segments to be represented in a grand coalition, and use this argument to counter that of authors such as Jung and Shapiro regarding the lack of opposition and accountability under consociational arrangements (O’Leary, 2005a, pp. 12-15). Perhaps most importantly regarding the quality of democracy, consociationalists argue that many of the electoral systems favoured by their opponents risk resulting in the ‘tyranny of the majority’ and the permanent exclusion of minority groups from power (Lijphart, 1977b).

Critics of consociational power sharing also question the applicability of a model of democracy observed in particular geographic and historical settings to other, very different, cases. A number of scholars note the relative ethnic homogeneity of some of the ‘classic cases’ of consociational democracy such as Belgium and the Netherlands and suggest that the cleavages in these societies were or are less significant than those in ethnically divided societies (Barry, 1975; Roeder, 2005, p. 60). Horowitz argues in this vein that consociations “are more likely the product of resolved struggles or of relatively moderate cleavages than they are measures to resolve struggles and moderate cleavages” (2000, p. 256). In the Dutch case, the societal cleavages concerned class and religion rather than ethnicity (Barry, 1975, pp. 501-2). In Belgium, the most ethnically divided of the classic cases, consociationalism did not involve power-sharing between Walloons and Flemings but rather between the country’s

‘spiritual families’ (Barry, 1975, p. 504; Deschouwer, 1994; Wolinetz, 2007).¹⁵ Since the break-up of the non-ethnic Belgian party system in the 1970s, conflict between the country’s two language groups is managed by means of a federal system which only retains some aspects of consociationalism (Deschouwer, 2006; Peters, 2006, p. 1082). Even in divided Belgium, though, power-sharing did not come about in response to *violent* conflict and so its applicability to more fractious cases is questionable, particularly since the experience of conflict is likely to destroy many of the conditions which make consociational agreements possible (Roeder and Rothchild, 2005, p. 323-25). Furthermore, consociations emerged domestically in the classic cases,¹⁶ in contrast to more recent cases of deeply divided societies where they have been imposed by external pressure (Ghai and Cottrell, 2008, p. 313).

Finally, critics are able to point to a long line of consociational failures (Downes, 2006). As one author notes, “the list of cases where consociational arrangements applied reads like an obituary page” (Simpson, 1994, p. 468). Often, this failure is the result of the inability (or outright refusal) of political leaders to reach deals on the formation of coalitions, as was the case with the brief attempts at power-sharing in Cyprus between 1960 and 1963 and Northern Ireland between 1973 and 1974. Changing contextual factors have also contributed to the failure of consociational arrangements. For example, rapid demographic change in Lebanon meant that parliamentary quotas quickly became outdated, putting pressure on the power-sharing arrangements established under the National Pact (Rigby, 2000, pp. 172-73; Rothchild and Roeder, 2005b, pp. 46-47). The breakdown of consociational power sharing has often

¹⁵ Heisler (1974, p. 195) describes Belgium’s spiritual families as “those vertically organized, internally more or less democratic segments representing socioeconomic interests and philosophies. The most important among these – embracing among them virtually all Belgians – were the Catholic, Socialist, and the Liberal. Each had its own party, its labor-union federation, its auxiliary organizations among employers and farmers, in social welfare, youth groups, sports, and the press. Each represented coherent sets of issue positions; each was, in a sense, at once a social, political, economic, and moral reference point for an important portion of the population – for a ‘spiritual family’” (quoted in Rudolph, 1977, p. 404 n. 7).

¹⁶ The *Oxford English Dictionary* defines the word ‘consociate’ as meaning “[t]o associate together, bring into association, companionship, partnership”.

been accompanied by the outbreak of violent conflict such as the Lebanese Civil War in 1975 (Rigby, 2000), or the 1994 genocide in Rwanda, which followed the Arusha Accords signed the previous year (Lemarchand, 1995). Here, however, consociationalists can similarly point to failures that undermine alternative prescriptions, as we shall see below. Moreover, quantitative research has shown that the more elements of power-sharing that peace agreements incorporate, the more likely they are to endure (see Hartzell and Hoddie, 2003).

Centripetalism

The main alternative institutional design to consociationalism identified and prescribed in the academic literature goes by the name of centripetalism or integrative power sharing. Indeed, several major studies characterise the debate over institutional design in divided societies as essentially a debate between consociationalism and centripetalism (Sisk, 1996; Horowitz, 2008; McCulloch, 2009, forthcoming). While the two approaches may share a diagnosis of conflict in deeply divided societies stemming from antagonistic group identities, they differ markedly in terms of the institutional response to these divisions.

If Arend Lijphart is considered the father of academic studies of consociationalism, and John McGarry and Brendan O’Leary its most prominent contemporary exponents, then centripetalism is, as McCulloch (forthcoming) notes, most closely associated with the scholars Donald Horowitz and Ben Reilly. The central focus of their centripetalist approach is a focus on electoral systems, and it is here where “[p]erhaps the clearest distinction between centripetalism and other approaches is found”, according to Reilly (2012a, p. 57). Reilly outlines the premises of a centripetalist approach, and in particular its focus on electoral systems – and contrasts it with consociationalism – thus:

In contrast to [consociational] orthodoxy, centripetalists argue that the best way to mitigate the destructive effects of ethnicity in divided societies is not to simply

replicate existing ethnic divisions in the legislature, but rather to utilise electoral systems which encourage cooperation and accommodation between rival groups, and therefore work to break down the salience of ethnicity rather than foster its representation in parliament. (2001, p. 21)

For Reilly, centripetalism is a normative theory which aims to encourage the development of electoral incentives for politicians to appeal beyond their own ethnic groups, hence encouraging them to take moderate positions on sensitive issues; establish “arenas of bargaining” in which politicians can negotiate cross-ethnic voting pacts; and encourage “centrist, aggregative political parties or coalitions which seek multi-ethnic support” (2001, p. 11).

Horowitz (1985) makes a case for the use of so-called preferential voting systems in which voters rank candidates in preference order as a potential way of inducing ‘vote pooling’. Horowitz’s preference is for the use of the alternative vote (AV) system, but preferential voting systems may take a number of other practical forms, such as the single transferable vote (STV) and supplementary vote (SV) (Reilly, 2001, pp. 27-41). These systems share a common characteristic in that “they enable electors to indicate how they would vote if their favoured candidate was defeated and they had to choose between those remaining” (Reilly, 2001, p. 18). The aim of these systems when employed as conflict regulation strategies is to encourage voting along at least partially non-ethnic lines, by exploiting cross-cutting cleavages such as those between ethnicity and class. So, for example, a voter may cast their first-preference vote for a candidate of their own ethnicity, but that candidate will be dependent on the second-preference votes of electors from groups other than his or her own, and therefore is provided with an incentive to moderate their stance and appeal to voters on the basis of factors other than ethnicity. As McCulloch (forthcoming) notes, centripetalists are pragmatic in the sense that they do not expect candidates to attract the first-preference votes

of members of other groups; rather, they may secure victory through the accumulation of lower-preference votes from outside of their own group.

A second aspect of centripetal institutional designs concerns government coalitions. Horowitz (1985) differentiates between two types of coalition: 'coalitions of commitment', which are centrist and moderate, bringing together parties that wish to participate in pre-electoral vote-pooling pacts with one another, and 'coalitions of convenience', which by contrast involve little by way of inter-ethnic compromise, are often short-lived, and are formed after elections with the sole purpose of aggregating enough seats in a parliament to form a government. Horowitz and other advocates of centripetalism argue that the type of electoral rules that they favour are likely to encourage the vote-pooling and coalition-building that results in stable, inclusive coalitions of commitment.

As with consociationalism, which, as outlined above, is frequently employed in combination with territorial methods of managing conflict, centripetalists favour the use of federalism in addition to their preferences for electoral incentives for moderation. As Wolff (2011a, p. 169) notes, Horowitz's initial preference was for heterogeneous federal units (see, for example, Horowitz, 1991, pp. 214-26), whereas his later work displays an acceptance of the utility of homogenous units (Horowitz, 2007). However, as Horowitz (2008, p. 1218) himself notes, the logic of centripetalists' acceptance of federalism differs from that of consociationalists. Whereas consociationalists see federalism as allowing for group autonomy in territorial units that are relatively homogenous, he argues, centripetalists favour it as it encourages intra-group competition in homogenous regions and inter-group co-operation in heterogeneous regions.

Horowitz is also an advocate of presidential systems of government, which he argues can be more inclusive than parliamentary systems. A number of potential benefits of presidential

systems are foreseen. If a single-person presidency is elected via a system that requires them to win support that is distributed broadly in territorial terms, then centripetalists argue that the result is that the political executive will be a figure with the widest national appeal. Horowitz (1985, p. 636; 1990; 1991, pp. 184-88) employs the example of Nigeria's presidential system, introduced in 1979, whereby presidential candidates must win at least 25 per cent of the votes in a minimum of two-thirds of the country's federal states. This, as McCulloch (forthcoming) notes, means that it becomes difficult for a single group's representatives to capture the state, as they would be able to do with a simple parliamentary majority. Moreover, it means that the candidate who is elected to the presidency will have to be seen to act in a pan-ethnic manner in office, since he or she will require the votes of multiple groups for re-election. The presidency therefore contributes to conciliation between groups (McCulloch, forthcoming), and indeed "[a] strong, statesmanlike, moderate president – forced to appeal to the least common denominator of electoral sentiments – can serve a unifying, nation-building role" (Sisk, 1996, p. 44). As Horowitz puts it, a president elected nationally may well be more representative than a government formed from a parliamentary majority, and "[e]ven if not, the separation of powers could prevent an ethnic group dominating one branch from controlling everything" (1985, p. 636). Horowitz (1990, pp. 76-77) notes that in the Nigerian case of 1979, this system worked and a moderate and centrist president was elected, whereas extremists were elected to the parliament.

Centripetalists make a number of other arguments in favour of presidentialism. They stress that whereas in a parliamentary system, the executive can be chosen by the coalition or party that holds a majority in the parliament, a presidential system where there is a separation of powers between the executive and legislature "can proliferate points of power at the center" (Sisk, 1996, p. 54), thus offering minority groups more chances for representation.

Representatives of minority groups can be elected to the executive under a presidential system even if they do not have a hope of forming a majority in parliament. As Horowitz puts it, “[a] group that is excluded from power in parliament may still find ways of gaining access to the president” (1991, p. 206). Finally, the strong executive that a presidential system provides for means that, in contrast to the deadlock that critics sometimes associate with consociationalism, legislation can be pushed through a parliament that is divided between groups (Sisk, 1996, p. 44).

As the above discussion suggests, centripetalism, perhaps even more so than consociationalism, is a prescriptive theory. Horowitz’s (1985) seminal study of ethnic conflict contains much of his initial analysis of the effects of centripetal institutions, but he went on to advocate centripetalism for a democratising South Africa (Horowitz, 1991), offering an alternative to Lijphart’s (1985) consociational prescriptions. More recently, Wimmer’s (2003) proposals for an Iraqi constitution include, as an alternative to consociational power sharing, “an electoral system that fosters moderation and accommodation across the ethnic divides”. This system, he argues, might include the requirement that “the most powerful elected official, the president or prime minister, should be the choice not only of the majority of the population, but of states or provinces of the country too, as is the case under the current constitution in Nigeria”. Wimmer also advocates the use of the alternative vote, and suggests that “the political party law may require all parties contesting the elections to be organised in a minimum number of provinces” (2003, p. 122). These mechanisms, he argues, should encourage moderation and convergence on the political centre ground.

As Reilly (2012a, p. 63) notes, centripetal institutional designs have been the subject of considerable conceptual and empirical critique. On a conceptual level, centripetalism is often

criticised as an essentially majoritarian mode of democracy. So, for example, Lijphart (2004, p. 98) argues that, applied in Iraq, Horowitz's model would likely result in a government dominated by representatives of the Shi'ite majority, albeit largely moderate representatives. Discussing the specific case of Northern Ireland, O'Leary (2001, p. 71) argues that the problem with the application of the AV electoral system is that it would be majoritarian and disproportional; similarly, Nagle and Clancy argue that AV "would reintroduce a form of majoritarianism...and it would lead to the under representation of minorities in some constituencies" (2010, p. 71). Horowitz himself concedes that "[s]ome of its electoral mechanisms might allow majorities to gain power, in part on the marginal votes of minorities, but without the necessary participation of those minorities in government" (2008, p. 1223). For Lijphart (2004, p. 100), the introduction of majoritarianism – including Horowitz's AV system – in divided societies is ill advised. Reilly, however, argues that "while centripetalism is indeed a majoritarian model, it is a majoritarianism of broad-based parties and inclusive coalitions – not a majoritarianism of 'ins' and 'outs', of ethnically defined majorities and minorities" (2012a, p. 63).

In addition to the criticism that centripetal institutions are excessively majoritarian in nature, critics have pointed out that the use of the AV electoral system, as advocated by Horowitz, does not necessarily lead to moderation on the part of political elites. Most notably, Fraenkel and Grofman (2006) demonstrate that in the case of Fiji, in the elections of 1999 and 2001, moderate parties would have been more successful had a system of proportional representation been used in place of the alternative vote. In response, Horowitz (2006) argues that while AV can promote moderation, it does not necessarily do so – and indeed states that "[n]o one...has claimed that it does" (p. 653).

McCulloch (forthcoming) raises a further criticism of centripetalism when she argues that it “assumes parties will adhere to the incentives to moderate and that voters wish to elect moderate parties” – assumptions that she argues do not always apply. Particularly in the aftermath of violent conflict, moderate political forces are likely to be weak, McCulloch argues, and voters are left with a choice between extremists who portray themselves as defenders of their own groups, and moderates who are portrayed as sell-outs. Not only does the success of centripetalism rely on electoral incentives for moderation, she notes, it also requires “moderate tendencies at the voter level”. “Prescribing majoritarian institutions (even those that offer a ‘centripetal spin’) in deeply divided societies”, McCulloch argues, “overlooks the basic mistrust and insecurity that characterize inter-group relations”. This reveals a paradox – namely that if centripetal institutions are to promote stability, they require pre-existing moderation, yet in post-conflict situations where stability is required, this moderation is lacking.

Criticisms of centripetalism have also focused on Horowitz and others’ preference for presidential systems of government. Theuerkauf (forthcoming) argues that whereas much attention has been paid to the role of electoral systems and state structures in determining the risks of violence in divided societies, relatively little attention has been dedicated to the form of government – presidential or parliamentary – employed in such societies. She argues that the form of government is “rarely treated as a pivotal factor in the constitutional set-up of ethnically diverse societies”. Reviewing the literature that has been dedicated to this question, however, Theuerkauf suggests that many of the arguments in favour of presidentialism made by centripetalists are flawed. A number of these criticisms are particularly relevant to the discussion of presidentialism above. For example, Theuerkauf emphasises that arguments about presidents symbolising national unity are highly contingent, depending largely on the

behaviour and statesmanship of particular politicians rather than being a characteristic of presidents in general. She also casts doubt on the claim that presidential systems are less prone to deadlock than parliamentary ones, citing the work of Jones (1995) and others to suggest that there is actually a “rather high risk of political deadlocks in presidential forms of government”. In common with some of the criticisms regarding the lack of real-world examples of centripetalism considered below, Theuerkauf also makes the case that presidential electoral systems with vote distribution requirements, as favoured by Horowitz, are very rare in practice. Moreover, even where such systems exist, such as Nigeria, she argues that “presidents continue to be seen as acting mainly in the interests of their own ethnic group”, citing Suberu and Diamond (2002). Finally, Theuerkauf states that the argument in favour of presidential systems based on the opportunities that they provide for minorities form the executive is questionable, since it ignores other aspects of presidentialism such as “the zero-sum character of presidential elections, the temporal rigidity of the presidential office, the non-collegial nature of the executive and the comparatively low frequency of coalition-building”.

Perhaps the main empirical charge levelled against advocates of centripetalism is that they lack real-world examples. This, according to Reilly, “has long been the Achilles heel of centripetal theories” (2001, p. 196). Nonetheless, McCulloch (2009, p. 64) cautions that this is not alone a reason to reject the centripetal model. She notes that the list of empirical examples of centripetalism is a growing one, but also that “complete examples of centripetalism are lacking, not because of anything intrinsic to centripetalism itself, but because the adoption of *any* coherent package is unlikely” (McCulloch, 2009, p. 65). Citing Horowitz (2002, p. 262), McCulloch reasons that because of the difficulties in getting conflict parties to accept a

coherent institutional design package, a lack of empirical examples that feature all of the recommendations of any model are likely to be rare.

Where scholars have undertaken systematic analysis of centripetalism's effects in practice, they come to differing conclusions. Reilly provides a relatively upbeat assessment of the prospects of centripetalism based on what he regards as "the best empirical case for the model in action" (2001, p. 192), Papua New Guinea. Moreover, he argues that South East Asia in general might be well suited to centripetal institutional designs, which he argues have better prospects where different identity groups live side-by-side rather than in a geographically concentrated manner. In this respect, he regards Horowitz's focus on South Africa as unfortunate. In later work, Reilly broadens his focus to the wider Asia-Pacific, noting that "informal power sharing approaches, in which political inclusion is a result of deal-making rather than law, appears to have been successfully institutionalised in a number of cases" (2006, p. 171). Based on her own comparative analysis of geographically diverse cases, McCulloch (forthcoming) is much more pessimistic about centripetalism's prospects, arguing that the assumption that the type of electoral systems favoured by centripetalists will lead to moderation "holds only in the context of extant moderation and demographic heterogeneity", and that "there is a limited and specific range of cases to which centripetalism can effectively apply".

Power dividing

Of the three main approaches to institutional considered here, the power-dividing approach is the most recent to have been subject to systematic academic attention.¹⁷ Thanks in large part

¹⁷ While interest in power dividing as a strategy in divided societies may be relatively new, as an approach it arguably has a long heritage. As Rothchild and Roeder argue, "[c]uriously, in the debates over power sharing and majoritarian democracy, we believe a much earlier institutional response to the dangers of simple majority

to the work of Philip Roeder – both in collaboration with the late Donald Rothchild and alone – power-dividing institutional designs, previously “an overlooked alternative to majoritarian democracy and power sharing” (Rothchild and Roeder, 2005a, p. 6), have now started to be taken seriously as a rival approach to consociationalism and centripetalism (see, for example, Wolff, 2011a; Yakinthou and Wolff, 2012). Whereas the debate around institutional design has for some time focused largely on the choice between consociational and centripetal designs, and indeed is still characterised as such by many authors (see, for example, McCulloch, 2009; Reilly, 2011), power dividing has started to appear on institutional menus, and Wolff (Wolff, 2011b, p. 1789) now counts two prominent rivals to consociationalism – centripetalism *and* power dividing.

Rothchild and Roeder’s attempts to map out the power-dividing approach stem from their critique of consociationalism, which they view as valuable as a short-term measure to end conflict but less useful – and in fact potentially harmful – in the longer term, when it proves harmful to the prospects of consolidating peace and democracy (2005a, pp. 12-13). According to Roeder, the power-dividing strategy shares with consociationalism and centripetalism the view that simple majoritarianism provides an inadequate institutional setup in divided societies. However, it differs from those two approaches in important respects, he argues:

...in its emphasis on institutions that limit the privileged representation of...cultural communities in state policymaking to as narrow a domain as is realistically possible, that encourage political representation of as many other cultural groups and socioeconomic interests as possible, and that rely on civil society rather than the state as much as possible to provide the cultural needs of individuals who belong to different ethnic and religious groups. (Roeder, 2012, p. 66)

rule has been largely neglected – the power-dividing arrangements that we associate with the US Constitution” (2005a, p. 15).

Setting out the key features of the power-dividing approach, Roeder starts with the importance of civil rights provisions that empower individual citizens and groups equally, leaving to civil society the question of which groups form and constitute the country's politics. Firstly, Roeder argues that power dividing involves the division of decision rights between government and civil society, with a document such as the American Bill of Rights protecting those decision rights that do not belong to the state. Secondly, it is argued that whereas in majoritarian and power-sharing approaches, legislative and executive powers are fused, power dividing implies the separation of powers. This should be the case at all levels of government, such that power is divided amongst different branches of government and amongst specialised government agencies. Through these means, Rothchild and Roeder argue, "[d]ivided-power institutions that empower multiple majorities increase the likelihood that members of ethnic minorities will be parts of political majorities on some issues" (2005a, p. 17). It is for this reason that Roeder (2012) suggests the possibility of referring to the power-dividing approach as the 'multiple-majorities' strategy. Finally, power dividing requires a series of checks and balances that "keep each of these decisionmaking centers that represents a specific majority from overarching its authority" (Rothchild and Roeder, 2005a, p. 17). With institutions being dominated by differing majorities, Rothchild and Roeder argue, it becomes difficult for those majorities to infringe on the rights of minorities and for majorities on multiple issues to be sustained over long periods. Given the presence of checks and balances, "attempts to expand one organ's (and one majority's) power at the expense of ethnic minorities cause other organs to resist" (Rothchild and Roeder, 2005a, p. 17). As a result, they argue, presidential systems are generally preferable to parliamentary ones, bicameral legislatures are preferable to unicameral ones, and strong, independent judiciaries are preferable to weak ones. Where government decisions are required to be made quickly

(Rothchild and Roeder given the example of decisions over the setting of interest rates), the power-dividing strategy allows for individual organs of government to act independently, but where they involve changes to the constitutional order, “the rules of power-dividing democracy require concurrent approval by multiple organs empowering different majorities” (2005a, p. 17).

As a result of these key features, Rothchild and Roeder argue that power-dividing democracies such as the United States and Switzerland, which they claim represent “the oldest and longest-lasting experiments to make majoritarian democracy work in divided societies”, “have not sought to empower elite cartels” but instead “sought to trust civil society and have limited the powers of government by extending civil liberties that can be enforced against the government”. Moreover, when it comes to institutional design, “they have allocated governmental powers among separate, independent organs constituted on the basis of multiple, crosscutting majorities” (Rothchild and Roeder, 2005a, p. 18). In noting this, Rothchild and Roeder seek to emphasise the potential utility of power dividing as not just a rival, but a favoured alternative to consociational power sharing. Indeed, Roeder makes the rather bold claim that the presence of power-dividing institutions actually explains the apparent successes chalked up by advocates of power sharing:

Ironically, evidence for the importance of power dividing as a deterrent to ethnonational challenges in ethnically plural societies is found in the three cases that are often cited as successful ethnic power-sharing systems. (Roeder, 2005, p. 65)

These three cases are Switzerland, Belgium and India. These are, according to Roeder (2005, p. 60) the only three consociations – out of 16 identified by Lijphart (2002) – which can be said to exist in ethnically divided countries *and* have survived the test of time. He continues:

In Switzerland, Belgium, and India ethnicity has been only one of several empowered dimensions of conflict and cohesion in society. These polities did not privilege ethnicity, but embedded the rights of ethnic groups within a larger scheme of rights that also empowered groups that cut across any ethnic majority and minorities. In short, power sharing has worked best when it has been a smaller part of a larger multiple-majorities arrangement. (Roeder, 2005, p. 65)

As Roeder (2012, pp. 70-71), acknowledges, power-dividing institutional designs are most likely to emerge over time and in response to the specific and limited demands of particular groups, rather than in a more spontaneous fashion through negotiation between parties involved in a civil war. Here, he notes, the parties are unlikely to believe that they share many interests with each other, and will seek to exclude from negotiations groups that were not represented in the violent conflict. Roeder does, however, argue that the prospects for power dividing are likely to improve when external actors have a greater say over the design of political institutions, citing Bosnia as an example where “occupying powers have considerable discretion” (2012, p. 71). Alongside this condition, he also states that power-dividing institutions are more likely to emerge prior to a single cultural divide coming to dominate political life, and when the negotiation of such institutional designs involves a broad range of diverse interests.

As with Lijphart’s interest in consociationalism, Roeder’s work on power-dividing institutions goes beyond analysis of the features of and conditions for this mode of government, and extends to consideration of the policy implications of his empirical findings. Roeder believes that “many instances in which analysts have advocated power-sharing arrangements fall far short of [the] extreme circumstances where only power sharing will do” (2005, p. 81), and if constitutional designers have scope to do so, he recommends the use of power-dividing institutional designs in divided societies. Drawing on the insights of his analysis, Roeder recommends that negotiations should be opened up not only to

representatives of ethnic groups, but also to other interest groups, such as those representing labour and business. He also suggests that if some parties demand either majoritarian institutions on the one hand, or power-sharing on the other, this can be accommodated, but must be checked with other institutions that “represent society differently”. In this vein, he argues that attempts to find perfect institutions such as electoral formulas miss the point and that “[w]e should not rely on a single formula, but on multiple formulas in the same polity so as to create multiple, crosscutting majorities” (2005, p. 82). Finally, Roeder suggests that the insights of his analysis stress the value of limited government in conflict-riven societies. Whereas power sharing “has a statist orientation that assumes government is the solution”, he argues, power dividing implies that decision rights should be dispersed and that governments should leave potentially divisive decisions to individuals and civil society (2005, p. 82).

While it has not yet been subject to the degree of critical attention that consociationalism and, perhaps to a lesser extent, centripetalism have, a number of criticisms of power dividing as an approach to institutional design should be considered. The first of these will be familiar from debates about centripetalism – namely that there are few real-world examples of its successful employment in deeply divided societies. Wolff, for instance, argues that while “[t]heoretically not without some appeal, power-dividing theory has few practical examples to rely on as far as its application to ethno-nationalist conflicts is concerned” (2011a, pp. 171). Wolff notes that Roeder’s example of ethnically divided Switzerland is more commonly viewed as a consociational democracy – and indeed was included amongst Lijphart’s original case studies – while the western states of the US more obviously employ power-dividing institutions but cannot be regarded as ethno-nationally divided.

Lijphart is more dismissive than Wolff of the power-dividing approach, dedicating only several lines to dismissing its likely efficacy. He focuses on the likelihood of power-dividing institutions being agreed upon by representatives of conflict parties in negotiations, arguing in a similar manner to one of his criticisms of centripetalism that “[a]part from the dubious intrinsic merits of the Roeder-Rothchild power-dividing plan, it suffers from the same low likelihood of being accepted in a negotiated settlement” (2008, p. 279). While not attributing this criticism to Lijphart, or indeed any particular author, Roeder (2012, p. 71) acknowledges that it is likely to be difficult to achieve agreement on establishing power-dividing institutions between conflict parties in the context of a civil war. Nonetheless, here he points to the ‘dilemma of power sharing’, arguing that it is at exactly the time when conflict parties demand power sharing and when that solution seems to be the sole option, that constitutional designers concerned about long-term peace and stability should resist it the most. Whether this response is sufficient to satisfy critics who question the viability of power dividing as a strategy to be employed in conflict situations is perhaps questionable. Even if constitutional designers accept the premise of the ‘dilemma of power sharing’, knowledge of this does not equip them with the ability to override the demands of armed participants in civil wars, and indeed Roeder seems to acknowledge this by implying that this particular criticism ‘hits the mark’. Moreover, beyond the need for group leaders to agree on the establishment of power-dividing democracy, Rothchild and Roeder argue that in order for common institutions to be established, there needs to be consensus between those leaders that their respective groups constitute a common nation. “In particular”, they state, “when there are no significant issues where members of minority ethnic groups are members of the political majority and members of an ethnic majority are members of the political minority, this may be evidence that there is no nation that unites the ethnic groups” (2005a, p. 19). In such a situation, Rothchild and

Roeder not only suggest that power dividing may not be suitable, but go as far as advocating partition. This is apposite in the context of violent conflict, when the intensity of inter-group violence may have destroyed any previous shared sense of national identity.

In his survey, Roeder also anticipates two other criticisms that might be levelled at the power-dividing approach. Beyond the criticism that it may be hard to implement during times of violence, the second potential objection that he considers is that “power dividing can exact a price in the coordination and coherence of policy” (2012, p. 71). This might occur, he outlines, because of the division of power between organs of the state, and hence the possibility that policies are not integrated across government. Citing Berry (2009), Roeder notes that higher levels of taxation and government expenditure might result, as “each organ responds to the demands of its particular majority seeking greater government benefits but no single organ is responsible for the entire government budget” (2012, p. 71). However, he argues that incoherence is the accepted price of a trade-off between the risk of policies being imposed on a minority by a single majority, political deadlock, and lack of policy coherence (Roeder, 2012, pp. 71-72). While Roeder notes that increased co-ordination between areas of government can be a remedy to policy incoherence, he argues that this can have dangerous results in divided societies since it increases the possibility of a single group dominating minorities across policy realms. Power-sharing approaches attempt to mitigate against this possibility by employing minority vetoes, he notes, but this can result in deadlock, whereas power dividing attempts to limit majorities to relatively narrow policy areas. Roeder contends that while the price of power dividing may be policy incoherence, from the point of view of peace and stability, this is preferable to deadlock or domination.

The third and final criticism considered by Roeder is that “power dividing places excessive faith in the ability of political institutions to structure conflict” (2012, p. 72). He argues that such criticism is misdirected, and that the premise that institutions shape incentives and outcomes also underpins consociational and centripetal approaches. Roeder notes that “political institutions are rarely neutral in their effects on the prospects for conflict management” and that his argument is simply that “to the extent that these institutions have an effect, it is preferable, when possible, to rely on power dividing rather than the alternatives” (2012, p. 72).

Not considered or acknowledged by Roeder is Barma’s criticism concerning states’ capacities to implement power-dividing institutional designs. While arguing that “[t]here is certainly much to recommend this approach”, she qualifies this statement in the case of developing countries:

Yet the utility of the power-dividing approach is hampered in post-conflict state-building efforts because it is, to some extent, predicated on degrees of state capacity, rule enforcement and norm-adherence that do not often exist in many developing countries, let alone those that have undergone violent conflict. (Barma, 2006, p. 155)

This is a criticism that might apply to all approaches to institutional design – to the degree that they require a minimum level of state capacity in order to be successfully implemented – but perhaps applies all the more to power dividing, given the stress it also places on a vibrant civil society, which might be lacking in the aftermath of violent conflict.

Institutional design, identity and conflict transformation

As explained previously, the above discussion of these three alternative approaches to institutional design in divided societies does not represent an attempt to establish an argument in favour of the use of any one in particular, but rather to illustrate that the choice facing

constitutional designers is not a simple one, since each of the competing approaches are the subject of considerable debate and criticism. This is important in the context of this thesis because it makes the question of why EU actors would opt for one particular approach all the more interesting. Put another way, if there was consensus in the academic literature that one approach was clearly superior to its rivals, then there would be little for the thesis to explain.

In relation to the main question that the thesis sets out to answer – namely, is the characterisation of the EU’s approach to conflict resolution as transformative correct – then we need to consider how each of the three approaches to institutional design set out above relate to the aim of conflict transformation. If we consider conflict transformation to imply, as discussed above, a reduction in the salience of antagonistic identities, then a useful way to start to think about the potential contribution of each of the three approaches is to consider the assumptions they make about the nature of group identities.

As much of the above discussion of the criticisms made of each approach demonstrates, the debate between consociationalists, centripetalists and – latterly – advocates of power dividing, reflects in large part a fundamental disagreement about the nature of ethnicity and ‘ethnic’ conflicts (see McGarry and O’Leary, 2009, p. 17). It is therefore useful to consider what Donald Horowitz has termed ‘meta-conflict’. In his seminal study of the prospects of democracy in post-Apartheid South Africa, the country faced not only a conflict, but a meta-conflict between competing interpretations of that conflict:

There is, then, not one conflict in South Africa, or even one type of conflict, but two. There is the conflict itself, and there is the metaconflict – the conflict over the nature of the conflict. Neither is coterminous with the other; neither can be reduced to the other. (Horowitz, 1991, p. 2)

While Horowitz coined the term ‘meta-conflict’ in the South African case, it is clear that it applies to many other cases of ‘ethnic’ conflict (for other applications, see McGarry and O’Leary, 1995, pp. 1-9; Lemarchand, 1996, pp. 17-33; Gilligan, 2007; Hughes, 2007, pp. 13-18). Much of the literature uses the meta-conflict concept to describe the divergent views held by belligerents – who often have profound disagreements over the conflict in which they are fighting – but the term can be used to describe intellectual debates over the nature of conflicts (Edwards, 2007), and it is these debates that underpin much of the disagreement between consociationalists, centripetalists and power dividers. This is something picked up upon by Wolff, who argues that “[t]he difference in the approach to power-sharing and TSG permeates all three dimensions of institutional design, and rests on differences in the underlying assumptions about the nature of ethno-national identities that have permeated the literature on ethnicity for some time” (2011a, p. 171). This view is given further substantiation by Yakinthou and Wolff:

Clearly, the underlying assumptions about the drivers of conflict in divided societies and the dynamics they give rise to are fundamentally different among the three theories of consociationalism, centripetalism, and power dividing, and so are their core institutional design prescriptions – despite the fact that all three theories of conflict management share a common goal: to craft institutions which facilitate the (re)building of trust between groups and in the institutions by which they govern themselves and which consolidate democracy and stability within a divided society. The different answers, in part, have their roots in different perspectives on the nature of identities, especially how malleable they are, and on the importance and impact of elites, groups and individuals in the conflict management process. (2012, p. 6)

As the above quote suggests, the understandings of the nature of identities that underpin different approaches to institutional design in divided societies lead their advocates to divergent conclusions about the possibility of identity transformation. While they have in many ways cast off the association with primordialist thinking about ethnicity, consociationalists remain the most pessimistic about reducing the political salience of ethnic

identities. Liberal consociationalists may subscribe to a broadly constructivist understanding of ethnicity, but they reject the idea that, once formed and hardened, identities can easily be changed. By contrast, centripetalists and power dividers subscribe to a notion of ethnic identities as potentially more malleable.

With a view of identities as relatively stable once established and therefore not necessarily amenable to short-term change, consociationalists arguably have the most pessimistic take on the possibility of conflict transformation out of advocates of the three approaches considered above. This is reflected in the fact that advocates of conflict transformation are often critical of consociationalism, arguing that it takes conflictual interests and identities as givens and seek to accommodate rather than to transform them. Ryan, for example, claims that “[b]y building new democratic structures around ethnic divisions there is a real danger that, far from transforming intercommunal conflict, consociationalism reinforces it” (2007, p. 113). But it is not only consociationalism’s critics that contrast its approach with transformationalist alternatives. For instance, Nagle and Clancy (2012), who are much more supportive of consociationalism, employ a distinction between consociational and transformationist approaches. McGarry and O’Leary, on the other hand, perhaps get closest to suggesting that consociationalism might eventually contribute to the aim of identity transformation, arguing that “*ceteris paribus*, an extended period of voluntary inter-group cooperation should reduce inter-community divisions rather than maintain or deepen them” (2006, p. 275), but Nagle and Clancy cast doubt on whether consociationalism is conducive to the development of shared identities. Overall, it is fair to say that identity transformation does not play a major role in consociationalists’ account of conflict resolution. Rather, they stress the value of realism when it comes to addressing the problem of governance in deeply divided societies.

We do not need to accept the charge often made of consociationalism – that it relies on an essentialist, primordialist view of identities – then, to realise that consociationalists are relatively pessimistic about the prospects of conflict transformation, understood as involving a transformation in the identities of conflict parties. Liberal consociationalists accept that identities are constructed, but they take a position outlined by Varshney, who emphasises that the fact that identities are “constructed does not mean that they are not *deeply* constructed” (Varshney, 2002, p. 34, emphasis in original; cited in Nagle and Clancy, 2012), and Van Evera, who argues that “ethnic identities, while constructed, are hard to reconstruct once they form...the conditions needed for reconstruction are quite rare, especially in modern times, and especially among ethnic groups in conflict” (2001, p. 20; cited in Nagle and Clancy, 2010, p. 15). Similarly, McGarry and O’Leary (2009, p. 17) argue that accommodationists, including consociationalists such as themselves, “think that in certain places and times [identities] may be inflexible, resilient, crystallized, durable, and hard”, rather than “malleable, fluid, soft, or transformable”. Elsewhere, they make the point that “there is a major difference between thinking that some identities are durable and maintaining that they are immutably primordial” (McGarry and O’Leary, 2006, p. 271). As such, consociationalists accept that identities may be constructed rather than primordial, but do not accept that this means that they are as easily amenable to transformation as some of their critics suggest. Consociationalists tend to portray themselves as responsible realists who accept that ethnicity is the source of political mobilisation and work with rather than against this (Esman, 2000, p. 99; McGarry and O’Leary, 2006, pp. 254-61). This position is well summarised by McGarry, who argues:

Reasonable consociationalists...do not claim that ethnic ties are primordial or biological, but that in deeply divided societies they are durable, cannot be imagined out of existence, and must be accommodated in political institutions. The consociationalist argument is that particularly in certain contexts – deeply divided societies, where divisions are long-standing and when there is intra-group violence

– it is more realistic to accept that different groups will continue to exist than to seek the ‘deconstruction’ of group ties. (1998, p. 860, n. 25)

In comparison to consociationalists, advocates of centripetalism and power-dividing approaches embrace a constructivist understanding of identities more wholeheartedly. As noted above, while liberal consociationalists accept that identities are constructed rather than primordial, they generally do not accept that this means they are amenable to easy transformation. By contrast, centripetalists and power dividers are more optimistic about the malleability of identities. Wolff summarises the relationship of the three approaches to constructivist theorising of identities as follows:

Proponents of all three approaches to ethno-national conflict management discussed here broadly fall into the constructivist camp when it comes to their assumptions about ethno-national identities in the sense that they agree that such identities are shaped by both historical experience and their contemporary, contextually dependent and often instrumentalised interpretations. However, beyond this, there are important differences. Liberal consociationalists take the view that once formed in the context of an ethno-national conflict, such identities are relatively hardened and difficult, if not impossible, to change, at least in the short to medium term. Centripetalists and power dividers, on the other hand, consider ethno-national identities, in principle, to be always more malleable, and thus possible to be transformed such that they become politically less salient. (Wolff, 2011a, p. 175)

While, as Wolff notes, a core assumption of centripetalism is that ethno-national identities are relatively malleable, this approach to institutional design draws not only on this strand of constructivist thinking about identities, but also on a more instrumentalist understanding.¹⁸ “As a model of institutional engineering”, McCulloch (forthcoming) argues, “centripetalism hinges on a particular rational-institutionalist argument”.

¹⁸ These three approaches to understanding ethnicity – primordialist, constructivist and instrumentalist – are commonly identified in the literature, though the terminology is inconsistent. Instrumentalism in particular attracts different names, such as circumstantialism and situationalism. See Young (1993, pp. 21-25), Cornell and Hartmann (1998), Brown (2000) and Norval (2001) for useful overviews of the three approaches.

Instrumentalist approaches to ethnicity are sometimes considered synonymous with constructivist approaches (see, for example, Conversi, 2006), or alternatively instrumentalism is classified as one of a number of variants of constructivism (Chandra, 2001; Hempel, 2004), but there are differences between the two that mean that they might reasonably be considered distinct. As Varshney (2007, p. 288) explains, while instrumentalism and constructivism are equally opposed to the essentialism of primordialist approaches to ethnicity, they differ markedly from one another. The instrumentalist account is a rationalist one in which ethnic identities are epiphenomenal to ‘real’ economic and political interests (Kaufman, 2001, pp. 17-22; Varshney, 2003, pp. 87-88; 2007, p. 288), whereas constructivists argue that cognition of phenomena such as ethnic identities “is unselfconscious and quasi-automatic rather than deliberate and controlled” (Brubaker *et al.*, 2004, p. 51). Instrumentalist accounts stress the role of ‘ethnic entrepreneurs’ in shaping ethnic consciousness. While these entrepreneurs may present themselves as altruists acting in the name and interests of a wider group, they are often motivated by personal (psychological or material) interests as much as by any genuine sense of altruism towards their fellow group members (Banton, 2000, p. 493).

This is important in the context of centripetalism because, as McCulloch (forthcoming) notes, quoting Sisk, “it is intended to provide a ‘centripetal spin’ to politics in divided places and is thought to afford ‘electoral incentives for broad-based moderation by political leaders and disincentives for extremist outbidding’” (Sisk, 1996, p. 43). Whereas consociationalism views elite co-operation as the key way to ensure peace in otherwise divided societies, centripetalists’ instrumentalist assumptions about the conflict-generating potential of elite mobilisation lead them to advocate political institutions that encourage moderation. As Reilly notes:

Consociationalism assumes that enlightened elites will not just represent the interests of their own communities but will also act moderately towards their rivals, thus becoming a driving force for inter-ethnic moderation in divided societies. By contrast, centripetalism places less faith in elite moderation – a conviction supported by evidence that elites, not ordinary voters, tend to be the main drivers of political extremism and democratic breakdown. (2012b, p. 265-66)

For similar reasons, centripetalists who associate themselves with the notion of conflict transformation also often advocate casting attention wider than the electoral system. Centripetalist critics of consociationalism often argue that it is too focused on elite-driven, top-down conflict management, rather than bottom-up processes of peacebuilding. Taylor, for example, argues:

Instead of taking ethno-national group identity as the social base for political development, attention should focus on the formation and actions of wider and all-embracing pro-democracy (i.e. pro-people) movements in society – those movements that cross-cut social divisions, and challenge and erode the clash of opposing ethno-nationalisms and create new relationships of mutuality through networking and debate. (2001, pp. 46-47)

A similar argument is made by Simonsen (2005), who, as we saw earlier, argues that there might be two ‘entry points’ into a process whereby the political salience of ethnicity is reduced. One of these is elite-focussed and involves the type of institutional engineering outlined above, but the other should involve, he suggests, encouraging the development of cleavages that cross-cut the existing ethnic divide:

Often, the fault lines are already present; what is required is to make individuals aware of interests that they share with people of other ethnic groups, and to facilitate the crossing of ethnic boundaries so they can pursue their common interests. Already, conflict transformation is taking place when inter-ethnic contacts are developing, with the minimum of trust that requires. But, in turn, the perception of shared interests, of commonality, may contribute towards the generation of a web – albeit a fragile one – of alternative identities that can reduce the salience of ethnicity. (Simonsen, 2005, p. 306)

A number of centripetalists advocate this sort of activity. In this vein, Wilson (2009) advocates a move away from the paradigms of consociationalism and multiculturalism and towards what he terms ‘interculturalism’. He argues that this requires the state to be neutral and to be the guarantor of human rights. Moreover, Wilson argues that interculturalism “recognizes a key role for the associational sphere of civic society where, premised on reciprocal recognition, intercultural dialogue can resolve the problems of daily life in a way governments alone cannot” (2009, p. 231). Similarly, Taylor (2009a, p. 327) advocates the promotion of contact across sectarian or ethnic divisions through the development of cross-community networks, but also a commitment to public policies that reduce inequality and other sources of injustice.

Not all supporters of centripetalism can necessarily be regarded as ‘transformationalists’ in the wider sense, however. As McGarry and O’Leary note in the Northern Irish context, while centripetalists may be sympathetic to the need for social transformation, “they need have no utopian emancipationist beliefs” (2009, p. 22). Indeed, elsewhere they note that Horowitz himself “is what we deem a realist, who has clearly stressed the durability of ethnic divisions, and who denies that catch-all parties or civic associations can easily supplant their ethnic counterparts” (2008, p. 56).¹⁹ Similarly, Chandra notes that Horowitz shares with Lijphart a “foundational assumption...that the ethnic groups in question are fixed and not themselves subject to redefinition through the political process” (Chandra, 2012, p. 138; see also Choudhry, 2008, p. 26). Yet, taken as a group, advocates of centripetalism are clearly much more optimistic about the prospects for reducing the salience of antagonistic identities than are consociationalists, who, as discussed above, instead counsel caution and advocate what

¹⁹ McGarry and O’Leary cite two examples of Horowitz’s ‘realism’, namely Horowitz (1985, pp. 334-42) and Horowitz (1991, pp. 28-30), but see also Horowitz (2004).

they regard as the more realistic aim of managing such antagonisms through carefully designed power-sharing institutions.

Finally, power-dividing approaches draw fairly straightforwardly on constructivist approaches to identity. This manifests itself in a view of identities not simply as pre-existing phenomena that need to be taken account of by constitutional designers, but as at least in part constructed through politics and hence to be potentially malleable in response to institutional design. As Rothchild and Roeder argue, “to the extent that some identities are constructed through politics, power-dividing institutions may even lead to identities that are multidimensional, situation-, or issue-specific, and crosscutting rather than unidimensional, recurring, and cumulative” (2005a, p. 17). Roeder highlights the insights into institutional design that flow from such a constructivist approach:

In the context of ethnically or religiously divided societies the power-dividing or multiple-majorities strategy builds from the constructivist view that often the politicization of ethnic identities (and sometimes even the invention of such identities) is endogenous to the political process...and in the absence of political-institutional constraints identities tend to be more fluid. (2012, p. 73)

Roeder argues that when evaluating alternative institutional designs, we should consider the extent to which these institutions incentivise monopolistic ethnic or religious public identities. He claims that “[b]y not privileging one set of cultural identities in politics, power dividing, unlike power sharing and centripetalism, seeks to give greatest opportunity for individuals to develop multiple, situation specific, cross-cutting identities” (2012, p. 73). Roeder argues that this is the case because of power dividing’s provisions for extensive civil liberties, which “is more likely to empower each individual to develop her or his own identities through individual networks of associations, public expression and public debate”. In comparison with consociational or centripetal institutional designs, it is argued that individuals subject to

power-dividing institutions are more likely to enter into social relationships based on cross-cutting identities because they are required to do so in order to form a temporary majority on a policy issue. Roeder gives the examples of people's identities as "teachers, downstream water consumers, investors or labourers", and suggests that by encouraging the formation of coalitions based on these identities, power dividing offers greater opportunities not only than consociationalism but also centripetalism for reducing the salience of dominant ethnic identities.

While Wolff (2011a) suggests that consociationalism, centripetalism and power dividing are all strategies of conflict management, as the discussion above indicates, advocates of the three approaches have very different attitudes to the possibility of reducing the salience of ethno-national identities in divided societies. Consociationalists, even of the contemporary, liberal variety, are relatively pessimistic about this, at least in the short to medium term. Instead, they advocate institutions that accommodate groups rather than seeking to break down the divisions between them. Centripetalists and power dividers are much more optimistic about the possibilities of reducing the dominance of given group identities in the public sphere – with power dividing arguably being the most optimistic of the two – and offer different prescriptions in terms of how this can be achieved. As such, and if we accept the definition of conflict transformation as involving a reduction in the political salience of group identities advanced earlier in this chapter, then it is possible, I argue, to place the three approaches on a spectrum, with conflict management or regulation approaches at one end and conflict transformation approaches at the other. On such a spectrum, consociationalism would place towards the 'regulation' end, whereas centripetalism and power dividing place further towards the 'transformation' end.

The need for a better understanding of the EU's approach to conflict resolution

As is clear from the discussion above, not only do the practical implications of the consociational, centripetal and power-dividing schools differ significantly, these approaches to conflict resolution are predicated on very different assumptions about the nature of conflict in the first place, and the possibilities for transformation of identities in the context of that conflict. This points to a need to better understand the EU's approach to conflict resolution, given the assumptions made in much of the academic literature outlined earlier in this chapter that the EU's influence is towards the transformation of conflicts, and the challenges that have been made to these assumptions.

The question of the EU's conflict resolution policy preferences is also interesting when we consider how EU policies towards non-member states are legitimised. While there are certainly examples of particular types of institutional design employed to manage diversity to be found within the Union, there are none formalised in EU law that policy-makers can insist on the implementation of. Here, we might point to similarities with the EU's use of conditionality to promote of minority rights policies in the countries of Central and Eastern Europe that joined the Union in 2004 and 2007 – a policy that has been characterised as equating to “do as I say, not as I do” (Johns, 2003; see also Sasse, 2008) because the Copenhagen Criteria applied to prospective membership candidates require a legal commitment to respecting and protecting minority rights that is arguably higher than that to be found in some existing member states .

According to Wilkinson, the promotion of consociationalism represents an even greater contrast between the substance of what is promoted and what is practiced inside the EU since,

he argues, consociational practices are the antithesis of the types of constitutional arrangements found in some member states:

Why do the EU, the OSCE, and the CE propose consociational policies when we have so little data in the way of systematic findings about which policies really do prevent or reduce violence, at least in the long term? This question is especially intriguing given that in some cases the consociational policies proposed for new entrants are at odds with existing practice in many EU member states. (Wilkinson, 2005, p. 253)

Some caution is required here, however, in relation to Wilkinson's claim. While Brusis (2008) also claims that the EU contributed to the development of consociational power-sharing mechanisms via the enlargement process, it can be argued that both Wilkinson and Brusis are engaging in conceptual stretching to describe the policies promoted – either actively or unintentionally – as consociational (see Bieber and Keil, 2009, p. 338, n. 4). Brusis's case for arguing that the EU accession process has led to the development of consociational mechanisms in Bulgaria, Romania and Slovakia rests on the claim that the EU helped to create a context in which coalitions including members of parties representing minority interests could emerge (Brusis, 2008, pp. 242-43). Yet, as Bieber and Keil (2009, p. 338) note, these cases do not fulfil all of the criteria necessary for them to be considered consociations. Indeed, Brusis himself concedes that he employs "a wide definition of consociationalism" (2008, p. 242). Moreover, in the case of Slovakia, the Magyar Coalition Party's participation in coalition ended with the 2006 parliamentary elections (Haughton and Rybář, 2008), bringing to an end what Brusis considers a power-sharing arrangement.²⁰

Wilkinson's argument that the EU, the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe have promoted consociational arrangements in central and

²⁰ See Haughton and Deegan-Krause (2012) for an analysis of Slovak politics that suggests that it is increasingly characterised by four blocs, namely left, right, Slovak national and Hungarian national. Parties representing ethnic Hungarians have only ever formed coalitions with centre-right parties.

eastern Europe relies on the claim that while these organisations have not tried “to push a unified ‘consociational model’ in negotiations, it is still true that many of the policies recommended...are recognizably consociational” (Wilkinson, 2005, p. 243). So, for example, Wilkinson notes that the European Commission’s accession monitoring reports and the recommendations of the OSCE’s High Commissioner on National Minorities (HCNM) include significant numbers of requests for proportionality in terms of political representation and employment. The existence of proportionality is used as a way to judge whether minorities are discriminated against, argued Wilkinson, and countries are praised when they achieve representation of minorities approximately in proportion to their population share, or are regarded as “implicitly guilty of discrimination” (2005, p. 244) if they fail this test. Wilkinson also points to OSCE pressure on countries including Hungary to ensure minority representation in parliament, and to the HCNM’s sponsorship of ‘best practice’ reports on minority rights, which “tend to offer specific guidance only for those consociational-style solutions that emphasize proportionality, formal minority inclusion, and cultural autonomy” (2005, p. 246). As with Brusis’s claims, the evidence of consociationalism offered by Wilkinson suggests that he rather stretches the concept.

Despite these problems with Brusis and Wilkinson’s analysis, we should not dismiss the argument that the EU has, at times, attempted to use membership conditionality to promote consociational arrangements. A case where the EU has tried to promote a much more obviously consociational settlement to a conflict is that of Cyprus. Following the decision to open accession negotiations with Cyprus in 1995, Yakinthou argues that “the subject of Cyprus’s accession necessarily became intertwined with the resolution of the conflict” (2009, p. 130). In particular, UN officials came to realise that the EU’s ability to place conditions on the accession of new member states was a potential resource for resolving the conflict and

they increasingly co-ordinated their efforts with EU incentives. Ultimately, the European Council's decision at Copenhagen in 2002 to allow Cyprus to accede to the Union without the prior resolution of its conflict – with application of the *acquis* suspended in the north of the island – changed the incentives of local actors with regard to that resolution (Yakinthou, 2009, p. 130), and the UN's Annan Plan was rejected by the majority of Greek Cypriots in a referendum held in April 2004.

Had it been adopted, the Annan Plan would have established a constitutional structure based on principles of federalism and consociationalism. The Plan itself cites Switzerland as a model for its proposed Cypriot constitution but, as Bose (2007, pp. 99-100) notes, it also resembles Bosnia's Dayton Agreement and Northern Ireland's Good Friday Agreement. This constitution would have established a bicameral parliament with an upper house (the senate) whose seats would have been divided evenly between Greek and Turkish Cypriots, and a lower house (the chamber of deputies) made up of representatives of each constituent state in proportion to their populations, with each being guaranteed a minimum 25 per cent of the seats. While the Annan Plan foresaw decisions being made on the basis of a simple majority, in the senate this would need to include a quarter of the voting representatives of each state and for certain areas of critical interest, a special majority of at least 40 per cent of the senators from each state would be required. A presidential council was to be established, made up of nine members with the approval of at least 40 per cent of the senators of each state, including at least two members from each state. The president of this council would have acted as head of state and government, and the office of both president and vice-president would have alternated between representatives from the Greek and Turkish Cypriot states every 20 months, such that at any one time one of these offices was to be held by a Greek Cypriot and the other by a Turkish Cypriot (Yakinthou, 2009, pp. 75-76).

While the European Council's decision not to insist on the implementation of the Annan Plan as an absolute condition for the accession of Cyprus to the Union undoubtedly qualifies the degree to which the EU exercised leverage to ensure the establishment of a consociational settlement to the Cyprus conflict, it is nonetheless the case that the Annan Plan represented the EU's favoured solution. Indeed, this was the "universally accepted common ground" of actors including the EU and the US (Anastasiou, 2008, p. 117). The European Council's decision should be interpreted more as a failure of strategy than an abandonment of the EU's support for the Annan Plan. As Yakinthou shows, both the EU and UN prematurely assumed that they could count on the support of Greek Cypriots for the plan, and the European Council's decision "has been seen in retrospect by both UN and EU actors as giving the Greek Cypriots too much carrot and not enough stick" (Yakinthou, 2009, p. 131).

How does this promotion of consociational principles contrast with practice within the Union itself? As noted above, it has been argued that the EU's promotion of minority rights policies in central and eastern Europe during the 2004 and 2007 enlargements revealed double standards since, as Sasse notes, "[t]he EU has tried to promote a norm which remains contested in its member states and still lacks a firm foundation in EU law" (2009, p. 17). Sasse points out that Article 6 of the Maastricht Treaty of 1992 lists the same principles as contained in the Copenhagen Criteria that aspirant member states have to meet, with the exception of respect for minorities. Moreover, during the accession process, the Commission's progress reports used the Council of Europe's Framework Convention on National Minorities (FCNM) as the "primary instrument for translating the minority criterion into practice", and the Commission "frequently reminded the candidate states to sign and ratify the FCNM – despite the fact that several EU member states had not done so" (Sasse, 2008, p. 847). As such, Sasse suggests that we should view the EU's 'minority condition' as a

political and social construct,²¹ “that lacks an internal EU consensus, a firm legal base and clear benchmarks, and is used flexibly over time” (Sasse, 2008, p. 843).

If we accept, as a number of authors discussed above suggest, that the EU has promoted consociationalism as its preferred model of institutional design in divided societies, then it is possible to apply Sasse’s argument here too. As with the promotion of minority rights policies, there is no model of constitutional design that is common to all existing EU member states, much less a legal basis in the Union’s *acquis communautaire* for consociationalism. This is not to suggest there are not precedents within the Union where consociational institutional designs have been employed. Lijphart’s ‘classic cases’ are all European countries, although as was noted above, the divisions that consociational evolved to manage in these societies are qualitatively different to those faced in divided societies where the EU is engaged in conflict resolution efforts. Forms of territorial autonomy, meanwhile, have been employed in a number of European cases, including the Åland Islands (Daftary, 2001b; Anderson and Stansfield, 2010), Corsica (Daftary, 2001b), Northern Ireland (Wolff, 2009) and South Tyrol (Wolff, 2008), and some of these cases also feature consociational power sharing at the regional level to manage conflict – cases that Wolff (2004) refers to as ‘regional consociations’.

Such examples of consociationalism and territorial autonomy are important for our purposes here since they can be drawn upon by policy-makers and politicians as offering lessons that can be applied elsewhere. So, as Kymlicka notes, while European organisations have been reticent to endorse norms of territorial autonomy, in part because some states, including EU members France and Greece, “have traditionally opposed the very idea of self-government

²¹ On conditionality as a construct more generally, Sasse points us to Hughes *et al.* (2004), Brusic (2005) and Epstein (2006).

rights for national minorities, and, indeed, they deny the very existence of national minorities” (Kymlicka, 2008, p. 131), where they have endorsed territorial accommodation of minorities, “they have justified this preference...by citing ‘best practices’ from the Western democracies”. He continues:

The Annan Plan for Cyprus, for example, explicitly drew on strategies used in Switzerland and Belgium to accommodate their substate national groups. Similarly, the EU’s proposals for the former Yugoslavia were based on the model of autonomy for the Germany national minority in Italy. (2008, p. 127)

My point here, then, is that while authors such as Wilkinson are wrong to suggest that, where the EU has attempted to promote conflict resolution through institutional mechanisms such as consociationalism, it has done so without there being a precedent for this within the Union, neither is there an agreed and codified EU norm on this issue. Unlike, for example, with environmental or consumer protection, EU officials cannot simply point to the *acquis* when making demands of potential member states when it comes to questions of constitutional design. If they want to use conditionality to attempt to promote such approaches to conflict resolution, I want to suggest, then they are required to justify such policies, including by pointing to examples such as those discussed above. It is explaining the process by which policy-makers form such preferences – and subsequently justify them – that is one of the key aims of this thesis.

How might we go about studying the EU’s policy preferences and their legitimation? A number of other authors have sought to explain the EU’s conflict resolution policy preferences by reference to the ideas that inform them. Wilkinson, for instance, argues that in the case of the enlargement of the EU to Central and Eastern Europe, consociational practices were proposed by the OSCE’s High Commissioner on National Minorities and by the Council of Europe, and that these institutions were staffed by people who were either from

consociational democracies or from academic circles in which “such policies as proportionality, grand coalitions, and minority vetoes are thought to be the natural solution to ethnic problems” (2005, p. 253). In the case of the Hungarian minorities in Romania and Slovakia, Skovgaard (2007, p. 9) argues that the approach of European institutions has been informed by a view of minorities as “unitary, monolithic entities, defined by their ethnicity”, without regard to internal divisions such as class or ideology. Hayward (2006), meanwhile, outlines how the MEP Nils Haagerup conceived of the conflict in Northern Ireland as a clash of national identities, and how this informed his report’s recommendation of the institutionalisation of this antagonism. In a similar fashion, Hughes (2009a) provides a reading of the *European Security Strategy*, published in 2003 by the European Council, in which he seeks to explicate the strategy authors’ understandings of the drivers of conflict, arguing that “[h]ow the EU conceptualizes the causes and dynamics of conflict should, in theory, shape its policy responses” (2009a, p. 275). In particular, Hughes demonstrates that there is an explicit link made in the strategy between conflict on the one hand, and lack of democratic governance and economic under-development on the other. Studies such as these provide the departure point for the following chapter, which outlines a theoretical framework with which to analyse the EU’s policy preferences, drawing on the literature on the role of ideas in policy-making.

Summary

In this chapter, I have sought to outline the existing literature on the role of the EU in conflict resolution and to identify avenues for further research in this area. I started this task by reviewing studies of the EU’s influence over conflicts through two broad groups of mechanisms, namely those involving EU foreign policy and those associated with the power of integration into the Union itself. I argued that while this literature usefully identifies the

EU's mechanisms of influence and when they are likely to be effective, it fails to sufficiently interrogate the aims of the EU in conflict situations, and thus perhaps prematurely ascribes a transformationalist logic to the Union's role.

In order to explore the question of whether the EU conceptualisation of conflict resolution includes the possibility of the transformation of conflicts, I then turned to consider a number of studies that have recently sought to address this topic. Here, we saw how the literature is divided into those studies that claim that European integration offers a way to transform identity conflicts and those that see the EU's role as being to encourage the institutional accommodation of existing conflictual identities through mechanisms such as consociational power-sharing arrangements. In order to understand the policy options that are available to the EU and other external actors, I then considered three prominent approaches to institutional design in divided societies – namely consociationalism, centripetalism and power dividing – and reflected on how these distinct approaches relate to the aim of conflict transformation. Here, I argued that not only do the three approaches to conflict resolution differ significantly in their policy content, they are predicated on very different understandings of the nature of identity in ethno-nationalist conflicts. It is the centripetal and power dividing approaches that are more optimistic about the possibilities of reducing the salience of antagonistic identities in deeply divided societies, whereas consociationalism is generally portrayed as a more cautious approach that accepts the realities of divisions and seeks to manage rather than to transform them.

This, I suggested, points to the need for further analysis of the EU's approach to conflict resolution. In addition to being worthy of study in its own right, such an analysis can also provide an interesting study of how EU actors legitimise the promotion of particular

approaches to institutional design, when there is not a single approach that applies across the Union itself. I concluded the chapter by briefly outlining ways in which other authors have sought to understand the EU's conflict resolution policy preferences. A number of studies do so by explicating the ideas that underpin the EU's policies in this domain, and it is this literature which provides the point of departure for the following chapter, which seeks to develop a theoretical framework that can be applied empirically to my three case studies.

CHAPTER 2 – THEORY AND METHODS

Introduction

As we saw in Chapter 1, there is an emergent debate about the nature of the EU's approach to conflict resolution. On the one side stand those authors who argue that the EU might have a transformative impact on conflicts and on the other those who argue that the Union's approach is one of managing conflict through the institutional accommodation of antagonistic identities. These two competing visions of the EU's conflict resolution aims reflect, I suggested, different approaches that can be identified in the academic literature on conflict resolution, which in turn hinge on differences in understandings of the nature of conflict, and in particular on the role and nature of ethnicity as a social phenomenon. Whereas proponents of conflict transformation, amongst whom we might include advocates of power dividing and some supporters of centripetalism, view ethnic identities as social constructs that can potentially be transformed through the development of centripetal political institutions and by challenging existing ethno-nationalist discourses, advocates of approaches such as consociationalism, which I have characterised as more concerned with conflict regulation than transformation, are much less sanguine about the possibilities for re-shaping antagonistic identities once they have formed.

Since the aim of this thesis is not only to investigate the EU's approach to conflict resolution in the Western Balkans, but also to explain it and to analyse how it is legitimised, I suggest that the different underlying assumptions of different approaches to conflict resolution might provide a means by which to understand EU policy preferences. That is to say, we can explain why EU policy-makers opt for different approaches to conflict resolution based on an analysis of the ideas and assumptions about the nature of conflicts that underpin EU policy. Against

this background, the present chapter aims to set out a theoretical framework capable of explaining these preferences.

While the existing studies of the EU's approach to conflict resolution outlined in Chapter 1 similarly advocate what might be broadly termed ideational approaches to understanding EU policy preferences, they are primarily empirical studies that do not adopt explicit theoretical stances on the role of ideas. Afforded the luxury of a thesis-length study of the EU's conflict resolution preferences, I am able here to outline a theoretical framework with which to hopefully address the topic in a more robust fashion. In the following pages I outline a specifically constructivist institutionalist framework for understanding policy preferences and then turn to the question of how to apply this to empirical cases through the adoption of suitable research methods.²² I begin this task by considering competing ways in which political scientists have sought to incorporate ideational factors into their frameworks of explanation.

The turn to ideas in political analysis

As Hay (2002, p. 195-97) explains, political scientists have traditionally given little consideration to the causal or constitutive role of ideas when explaining political phenomena. Recently, however, two broad approaches to the incorporation of ideas into political analysis have emerged. The first, rationalist approach seeks to account for the role of ideas by adding ideational factors into existing accounts that focus on the role of material factors. The second, approach, namely constructivism, grants ideas a far greater role. In the following section, I outline these two broad approaches, suggesting that the constructivist approach to

²² It is worth noting that while they may share some philosophical origins, the social constructivist approach to understanding ethnicity referred to in Chapter 1 and the constructivist strand of institutionalism in political science employed here are distinct from one another. One can believe that ideas matter without subscribing to constructivist sociological accounts of ethnicity.

understanding the role of ideas is more ontologically convincing and outlining why, as a result, it forms the basis for a theoretical framework which can be used to understand policy-makers' behaviour.

For much of the rationalist mainstream in political science, actors' behaviour is motivated by their self-interest, which is regarded as material and objectively given, and where the actors exist in a context in which they can know how to maximise these material interests (Hay, 2002, p. 196). While strictly rationalist explanations of political phenomena accord very little importance to the role of ideational factors, more recent and sophisticated rationalist analysis has involved the (albeit limited) acceptance that ideas may matter, independently of material interests, when actors make decisions about their behaviour in the social world. One of the most notable examples is Goldstein and Keohane's approach to analysing foreign policy by incorporating ideational factors (Goldstein and Keohane, 1993).²³ For these authors, ideas should be viewed not as causative, but rather in the manner envisaged by Max Weber, as 'switchmen' whereby they provide options for policy-makers seeking to maximise their material interests (Goldstein and Keohane, 1993, pp. 11-12). Goldstein and Keohane argue that ideas can impact on policies through three pathways. The first of these envisages ideas as 'road maps' which provide actors with a means of selecting paths of action in order to realise their material interests (p. 12). Secondly, ideas may serve as 'focal points' when there is more than one optimal policy option available. Finally, ideas may become embedded in institutional frameworks such that there is path dependence even when underlying interest-based motivations change (p. 13).

²³ Limitations of space prevent me from surveying a broad range of rationalist approaches here. Constructivists have faced criticism that they have failed to look beyond Goldstein and Keohane's incorporation of ideas and thus risk setting up a straw man (see Blyth, 2010), but nonetheless Schmidt argues that Goldstein and Keohane provide "the classic exposition of the RI [rational choice institutionalism] approach to ideas" (2010, p. 6).

A number of authors argue that approaches such as that of Goldstein and Keohane are unsatisfactory. Laffey and Weldes, for example, charge that rationalists “treat interests as distinct from, rather than as significantly shaped or constituted by, ‘ideas’” (1997, p. 199). This is problematic, they suggest, because it treats interests as material and given, rather than questioning where these interests come from in the first place, and because it treats ideas as important only in the sense that they are used by policy-makers to justify already existing interests (Laffey and Weldes, 1997, pp. 200-01). Blyth contends that the effect of Goldstein and Keohane’s approach is to “reduce ideas to ‘filler’ to shore up...already existing research programs rather than treat them as objects of investigation in their own right” (1997, p. 229). Similarly, Gofas and Hay argue that rationalist attempts at the incorporation of ideas suffer from a “context-based ontology” (2008, p. 14) in which ideas only have a role to play at specific times, specifically when there is uncertainty.

The alternative, constructivist approach to the incorporation of ideational factors grants ideas a very different status to modified rationalist approaches such as that of Goldstein and Keohane. Rather than treating ideas as a variable to turn to once material-based explanations have been exhausted, constructivists take them to be more important than this. For constructivists, actors’ interests are not simply externally given:

Their desires, preferences, and motivations are not a contextually given fact – a reflection of material or even social circumstance – but are irredeemably ideational, reflecting a normative (indeed moral, ethical, and political) orientation towards the context in which they will have to be realized (Hay, 2006, pp. 63-64)

In fact, for many constructivists, the very distinction between ideas and interests is problematic. Rather than seeking to explain whether and when ideas matter instead of, or in addition to, interests, we should investigate how ideas are constitutive of those interests. Rather than treating interests as a variable with which to explain actors’ behaviour, it is

interests themselves, constituted by ideas, that need to be explained (Blyth, 2004, p. 702). This suggests that, rather than maintaining that ideas and interests are distinct, as in rationalist attempts at the incorporation of ideas, or suggesting that ideas run “all the way down”, as post-structuralists do, we should view ideas as running “all the way through” interests (Blyth, 2002, pp. 29-30n).

Whereas many rationalists fail to interrogate the source of interests, for constructivists “interests are produced, reproduced, and transformed through the discursive practice of actors. More specifically, interests *emerge* out of the representations that define for actors the situations and events they face” (Weldes, 1998, p. 218, emphasis in original). Ideas matter, therefore, not only in guiding policy-makers’ understanding of what courses of action are most likely to address a particular policy problem, but also in understanding what that problem is to begin with. As Hall explains:

...policymakers customarily work within a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing (1993, p. 279)

For constructivists, then, ideas matter not only when interest-based explanation fails, but everywhere and at all times. They are, in the words of Roe (1994, p. 2), “a force in themselves”. Yet, given the potential vagueness of the term, appealing to ‘ideas’ as explanations requires us to have a more nuanced understanding of the different forms that those ideas might take. In the next section of this chapter, I consider how we can differentiate between different types of ideas and their relationship to policy preferences.

Understanding policy preferences: a constructivist institutionalist framework

The type of constructivist approach to understanding political phenomena outlined above, which has been variously termed constructivist institutionalism (Hay, 2006), ideational institutionalism (Hay, 2001) or discursive institutionalism (Schmidt, 2008), and its predecessors have been developed largely in a political economy context (see Hall, 1993; J.L. Campbell, 1998; Hay, 2004) but there is nothing specific about the claims made about the role of ideas in this literature that limits its application to this sub-discipline. Indeed, recently the constructivist institutionalist approach has informed a range of studies of policy-making in diverse settings (see, for example, Hassan, 2009; White, 2009; Fuller, 2010; Hassan, 2010).²⁴

Types of ideas and their role in policy-making

How do we conceptualise ideas, then, and what forms can they take? For Parsons, ideas “are packages of related causal and normative assumptions that assign costs and benefits to possible actions” (2003, p. 7). As this suggests, at the broadest level we can distinguish between causal (or, more commonly, cognitive) and normative ideas (see also Schmidt, 2008, p. 306). Cognitive ideas specify for actors the nature of the social world and the causal relationships that exist in that world, thus providing guidance as to what strategies are likely to prove successful in achieving particular ends. Normative ideas, by contrast, are oriented towards which actions are considered legitimate morally, ethically and ideologically.

Cognitive ideas influence decision-making by delimiting the range of options that policy-makers consider when formulating policies. As Campell (2002, p. 22) argues, cognitive ideas

²⁴ Dodge (2010), meanwhile, while not employing the label of constructivist institutionalism, takes a similar approach to explaining the American invasion of Iraq in 2003. Arguing against rationalist attempts to explain the decision to invade Iraq, Dodge outlines the applicability of a constructivist approach to understanding foreign-policy decision-making as follows: “A more viable explanation would situate the decision-makers within the Bush administration in a wider socio-political context that both empowers and constrains their ability to make policy. Individuals in the White House or indeed anywhere do not react to neutral, ‘objective’ situations. Instead, the range of choices they consider to be viable have been shaped – limited or widened – by the analytical categories through which they impose meaning on the world” (2010, p. 1271).

are “taken-for-granted descriptions and theoretical analyses that specify cause and effect relationships, that reside in the background of policy debates and that limit the range of alternatives policy makers are likely to perceive as useful”. As noted above, meanwhile, normative ideas differ from cognitive ones in that they specify what policy-makers consider to be acceptable paths of action rather than what they consider likely to be successful. Campbell states that normative ideas:

...lie in the background of policy debates but constrain action by limiting the range of alternatives that elites are likely to perceive as acceptable and legitimate rather than useful means to an end (Campbell, 2002, p. 23)

In the context of policy-making, normative ideas therefore assign value to different options that are available to policy-makers, according to what March and Olsen (1989) term a ‘logic of appropriateness’ (Campbell, 2002, p. 24; Schmidt, 2008, p. 307). This is of crucial importance since, as Schmidt (2008, p. 308) notes, the success of public policies does not depend only on the presence of cognitive ideas that suggest a course of action, but also on these actions being acceptable to both policy-makers and the public.

Campbell (1998, pp. 384-85) suggests that we can further differentiate ideas according to whether they exist in the background or the foreground of policy debates. In the foreground, he sees concepts and theories and in the background underlying assumptions. Cognitive ideas are thus categorised as either programmes or paradigms, and normative ideas as frames or public sentiments (see Table 3).

Table 3: Types of ideas and their effects on policy-making

	Concepts and theories in the foreground of the policy debate	Underlying assumptions in the background of the policy debate
Cognitive level	<i>Programmes</i> Ideas as elite policy prescriptions that help policy-makers to chart a clear and specific course of policy action	<i>Paradigms</i> Ideas as elite assumptions that constrain the cognitive range of useful solutions available to policy-makers
Normative level	<i>Frames</i> Ideas as symbols and concepts that help policy-makers to legitimise policy solutions to the public	<i>Public sentiments</i> Ideas as public assumptions that constrain the normative range of legitimate solutions available to policy-makers

Source: Campbell, 1998, p. 385

For Campbell, the type of ideas he labels ‘paradigms’ “generally reside in [policy-makers’] cognitive backgrounds as underlying theoretical and ontological assumptions about how the world works” (1998, p. 389). Here, constructivist institutionalists are indebted to Hall’s (1993) seminal work on social learning, in which he introduces the concept of the policy paradigm, as outlined above. These paradigms, Campbell argues, “are profound because they define the terrain of policy discourse” (1998, p. 389). In the political economy context that Campbell developed his typology and Hall developed the concept of social learning, policy paradigms might refer to ideas from neo-classical economics about how markets operate, for example. Indeed, Campbell argues that: “Insofar as economic policy is concerned, they are typically revealed in core economics curricula in graduate schools, seminal theoretical texts, and other abstract academic publications written by esteemed scholars” (1998, p. 389). In the present context, by contrast, I suggest that the paradigms lying in the background of policy debates and prescriptions in the realm of conflict resolution are theories and understandings of

conflict and its causes. Since conflicts in the Western Balkans have frequently been understood through the lens of ethnicity, different theories of ethnicity and its conflict potential, are likely to constitute paradigms in this area of policy-making.

In contrast to paradigms in the background of policy debates, programmes are situated in the foreground and take the form of more specific policy prescriptions. These, according to Campbell, are found in documents such as policy briefs and position papers, and “are often technical and professional ideas that specify cause-and-effect relationships and prescribe a precise course of policy action” (1998, p. 386). Such policy programmes are dependent on underlying paradigms for their success, since they need to appear consistent with underlying explanations of policy problems. “When programmatic ideas fit the dominant paradigm”, Campbell (1998, pp. 389-90) argues, “they appear natural and familiar and, as a result, are more likely to appeal to policy makers than alternatives that do not”. For Campbell, these programmes take the form of policies such as supply-side or industrial policy solutions to economic problems which, as this example suggests, are often in competition with one another and may be predicated on different underlying paradigms such as neo-classical and Keynesian economic theory. In the present context, these competing programmes are likely to take the form of the different approaches to institutional design outlined in Chapter 1.

Turning to the normative ideas in Campbell’s typology, we find public sentiments and frames. Campbell argues that “[p]ublic sentiment consists of broad-based attitudes and normative assumptions about what is desirable or not”. Such sentiment “constrains the normative range of solutions that [policy-makers] view as politically acceptable” (1998, p. 392). As an example, he cites public suspicion of ‘big government’ as a constraining factor on economic policy-making in the United States in the context of stagflation, and uses such sentiment to

explain why policy-makers opted for supply-side measures and attempted to balance the federal budget rather than attempting to stimulate the economy through demand-side measures. These public sentiments may, of course, be shared by policy-makers themselves, so rather than constituting a constraint on the limits of the possible, they may in fact define the limits of what policy-makers themselves find acceptable (1998, p. 394).

The final quadrant in Campbell's typology contains ideas in the form of frames. Béland describes the framing process as "a strategic and deliberate activity aimed at generating public support for specific policy ideas" (2005, p. 11). Ideas as frames "provide actors with symbols and concepts with which to frame solutions to policy problems in normatively acceptable terms through transposition and bricolage" and it is those policy programmes that are framed "in ways that most closely coincide with or seem to protect central cultural values" that are the most influential (J.L. Campbell, 1998, p. 394). Examples of this type of ideational activity might include the linking of policy solutions to international or European norms (for example, in the field of minority rights), or attempts on the part of policy-makers to argue that the policy solutions they propose have been tried and tested elsewhere. As Béland notes, "frames are not policy ideas in the strict sense of the term: they constitute a discourse that helps political actors sell policy choices to the public" (2005, p. 11). Campbell originally conceived of frames as belonging solely to the normative level of ideas (1998, p. 385), but he has since suggested that frames can be understood as "normative and sometimes cognitive ideas that are located in the foreground of policy debates" (2002, p. 26). This admission of the possible role of cognitive ideas in framing is perhaps inspired by the view that policy solutions are often justified by reference to their perceived chances of success – 'what works' – as well as on normative grounds.

The role of ideas in policy continuity and change

Having outlined the different forms that ideas take, it is now necessary to focus on how these ideas can be used to explain policy continuity and change. Individual public policies are not static phenomena that can be explained by reference to stable underlying assumptions and perceptions, but rather emerge in specific circumstances, contend with competing policies, assume dominant status, or fall by the wayside. The development of a constructivist variant of the new institutionalism in political science was inspired by the perceived need to account for change in the political and social world, and in particular to go beyond historical institutionalism's "emphasis upon institutional genesis at the expense of an adequate account of post-formative institutional change" (Hay, 2006, pp. 57-60). Such an approach, according to Hay, "thus seeks to identify, detail, and interrogate the extent to which – through processes of normalization and institutional-embedding – established ideas become codified, serving as cognitive filters through which actors come to interpret environmental signals", but is also "concerned with the conditions under which such established cognitive filters and paradigms are contested, challenged, and replaced" (2006, p. 65). Constructivist institutionalists attempt to account for these processes using three concepts: policy continuity is explained through the concept of institutionalisation; evolutionary change is explained through theories of policy learning; and more revolutionary change is explained by the literature on crises and their interpretation. I now briefly discuss these concepts in turn.

The concept of institutionalisation derives from historical institutionalism's focus on explaining institutional equilibrium through the lens of path-dependence – namely the idea "that what has happened at an earlier point in time will affect the possible outcomes of a

sequence of events occurring at a later point in time” (Sewell, 1996, p. 262-63).²⁵ As Pierson explains, the concept of path-dependence is crucially important to historical institutionalism:

This work is historical because it recognizes that political development must be understood as a process that unfolds over time. It is institutionalist because it stresses that many of the contemporary political implications of these temporal processes are embedded in institutions-whether formal rules, policy structures, or norms...Historical institutionalist scholarship often emphasizes critical moments in politics, distinctive developmental sequences, and the rigidities that make it difficult for social actors to escape from established paths. (2000, pp. 264-65)

Constructivist institutionalists build on this approach by broadening the definition of ‘institutions’. As Wincott argues, “institutions, while usually having some ‘material’ presence (buildings, records and so on), are (also) ‘congealed’ discourses (norms, beliefs, standard operating procedures)” (2004, p. 360). Various authors have argued that ideas can become institutionalised or embedded such that they take on the status of what Wincott terms congealed discourses (see, for example, Radaelli, 1995; Yee, 1996, pp. 88-92; Campbell, 2002, pp. 30-31; Crawford, 2006) but it is Hay (2006) who has taken this argument furthest. Hay stresses the importance of both institutional path dependence, as employed by historical institutionalists, and *ideational* path dependence:

In other words, it is not just institutions, but the very ideas on which they are predicated and which inform their design and development, that exert constraints on political autonomy. Institutions are built on ideational foundations which exert an independent path dependent effect on their subsequent development (Hay, 2006, p. 65)

Similarly, Roe argues that policy narratives “often resist change or modification even in the presence of contradicting empirical data, because they continue to underwrite and stabilize the assumptions for decision making in the face of high uncertainty, complexity, and

²⁵ There is disagreement on the extent to which constructivist institutionalism represents a break from or a continuation of historical institutionalist scholarship (compare Hay, 2011; Schmidt, 2011), and whether a ‘new’ new institutionalism is required or whether incorporating constructivist ideas into existing historical institutionalist account is sufficient (Bell, 2011).

polarization” (1994, p. 2). In the present context, I suggest that it is the institutionalisation of ideas about the nature of conflict and its drivers that should be our key focus. If key policy actors share a common understanding of conflict in the Balkans being driven by deep-seated animosities between ethnic groups, along the lines of the primordialist approach to understanding the nature of ethnicity, and this understanding crowds out alternative explanations of conflict, then it is possible to say that such a view has gained a dominant, institutionalised status. Such an institutionalisation of this view of the ‘Balkan condition’ (Hatzopoulos, 2003) is likely, according to the approach taken in this thesis, to inform particular conflict resolution policies – namely those that seek to accommodate rather than to transcend difference. Conversely, a view of ethnic identities as socially constructed and potentially contingent is likely to inform an approach to conflict resolution that stresses the possibility of identity transformation, as we saw in the review of the academic literature in Chapter 1.

A focus on institutionalisation and the importance of discursive structures in constraining policy options lends itself to a relatively static view of the policy-making process, in which policy paradigms persist over time. However, constructivist institutionalists have been keen to explain change as well as stasis and are “concerned with the conditions under which such established cognitive filters and paradigms are contested, challenged, and replaced” (Hay, 2006, p. 65). When applying this approach to the case of conflict resolution policy-making, O’Leary’s concept of ‘ethno-national policy learning’ is of utility, although I suggest that it needs to be refined further before it can be employed for the present purposes. By policy learning, O’Leary is essentially referring to changes in “the definition and understanding of the conflict” (1997, p. 675) in Northern Ireland amongst British policy-makers. “Better prescriptions, and policy dispositions”, O’Leary argues, “have followed better analysis”

(1997, p. 676). This suggests a need to differentiate between learning at the level of policy-makers' understanding of the conflict, and at the policy prescription level. Indeed, as Bennett (1997, p. 225) argues, 'learning' is too broad a concept and needs to be disaggregated into its constituent parts. Perhaps the most influential attempt to do so is that of Hall (1993).

Hall (1993, pp. 279-80) suggests that policy paradigms (which he sees as interpretive frameworks composed of the discursive structure which policy-makers operate within) can be viewed as similar to the scientific paradigms invoked by Thomas Kuhn in his influential work on the philosophy of science (Kuhn, 1962). This enables him to speak of first- and second-order change, in which policy adjusts within a stable overarching policy paradigm, akin to Kuhn's 'normal science', and third-order change in which the whole policy discourse shifts, as in Kuhn's 'paradigm shifts' (Hall, 1993, p. 279). First- and second-order changes involve incremental learning and strategic action, whereas paradigm-shifting third-order change involves battles between competing expert groups and contests over authority, particularly in the context of policy failure (Hall, 1993, p. 280).

While constructivist institutionalists have stressed the contribution of Hall's account of social learning, they nonetheless argue that it is a largely descriptive account and says less about the process of change. It is here that constructivist institutionalists turn to crisis theory in order to explain how policy paradigms emerge, become dominant, are contested and replaced (Hay, 2006, p. 67). Wholesale replacement of policies, as in the case of Hall's shifting third-order change, is likely to occur as a result of the failure of previously successful programmes when they are faced with new or changed conditions. When policy-makers are confronted with evidence that their policies are no longer working, this causes them to question prevailing discourses, for example through being forced to question causal relationships that had

previously been taken for granted. It is in these times of crisis that new ideas are able to enter the policy area. As Hay explains:

It is not that ideas matter *more* in times of crisis, so much that *new* ideas do and that we are particularly interested in their impact. Once the crisis is resolved and a new paradigm installed, the ideas actors hold may become internalized and unquestioned once again, but this does not mean that they cease to affect their behaviour (2006, p. 70, emphasis in original)

In this view, it is not the materiality of the crisis – this represents a necessary but insufficient condition for policy change – but rather the narration of the crisis that matters (Hay, 2001, pp. 203-4). As such, crises themselves do not necessarily cause a change of policy, and indeed they may be interpreted by policy-makers through existing paradigms. As such, under certain circumstances, crises trigger a revival of *old* ideas rather than a search for new ones. If a crisis can be interpreted by policy-makers through the same lens as historical crises (be those crises that have occurred in the same country, or in others), then it is possible that they will turn to policies that are perceived to have been successful in combating those past crises. As Hassan (2009, p. 91) notes, “[s]trategic foreign policy actors attempt to assimilate the meaning of new events in terms of past experience, and therefore confidently maintain beliefs”.

Mapping Hall’s three levels of policy change on to Campbell’s typology of ideas, I suggest that first and second-order changes can be interpreted as changes to what Campbell terms policy programmes. First-order change involves tweaking existing policy prescriptions in order to refine outcomes. For instance, in the context of power-sharing systems, this may involve the changing of the proportion of representatives of each group in parliament, or the population threshold required for groups to be included in multi-ethnic coalitions. Second-order change involves more wholesale changes to policy programmes, in which the institutions of conflict management are significantly revised. An example of this may be the

rewriting of election law to fundamentally change how groups are represented in the legislature. What marks this second-order change out from third order change is that, in the case of the latter, a change of policy prescription follows on from a complete redefinition of the nature of the problem being faced. This, for example, might involve a rejection of one particular understanding of conflict as driven by ‘ancient hatreds’ and its replacement by a theory of conflict that sees ethnicity as instrumental and stresses the role of elites in provoking conflict, or rejects ethnicity as an explanatory factor completely.

Constructivist institutionalism and EU policy-making

As Jupille and Caporaso (1999, p. 430) note, there is a divide in EU studies between approaches dominated by theories drawn from the sub-discipline of international relations, which are used to explain the process of European integration itself, and those drawn primarily from comparative political science, which are used to explain policy-making within a given institutional setting. Here, they cite Hix (1994), who uses the terms ‘integration’ and ‘politics’ to distinguish between these two camps according to their objects of study. The present study sits in the latter of these two camps, being concerned to explain policy preferences within the field of conflict resolution rather than attempting to account for why particular EU institutions such as the Council or Commission might dominate policy-making in this area.

As such, the constructivist institutionalist framework espoused here is not employed as a theory of European integration (which is not to say that it is not possible to use it to explain the history of integration; see Parsons, 2003), but rather as a theory with which to explain the policy preferences of those institutions.²⁶ With this in mind, however, it is useful to briefly

²⁶ For an example of the application of constructivist institutionalism to EU policy-making, see Hassan’s (2010) analysis of EU counter-terrorism strategy.

address the nature of the EU as an organisation before we proceed with analysing its conflict resolution policy preferences.

The character of the EU has been a continuing source of debate in the international relations literature, with the most significant dividing line being between approaches that treat the Union as an intergovernmental organisation and those that consider it a supranational one. This dichotomy has been particularly influential in attempts to theorise the process of European integration (see Bache *et al.*, 2011, pp. 3-20) but it also has clear implications for studying policy preferences since, in order to do so, it is important first to identify the key institutions with competence for policy-making in a particular field. For the purposes of this thesis, then, I consider the EU to be a *sui generis* international organisation that operates through a combination of intergovernmentalism and supranationalism, and which has some, though not all, of the properties of a state (see Manners, 2002, p. 240; Bretherton and Vogler, 2006, pp. 22-23; Bossuyt, 2010, p. 18). As outlined in Chapter 1, the EU's influence over conflicts can be understood as taking two broad forms. The first of these is foreign policy and the second is the power of enlargement and association. Of these two policy arenas, EU foreign policy decision-making is largely intergovernmental in nature (Menon, 2008, p. 105), and is therefore largely the preserve of the member states, although there is also a role for the High Representative of the Union for Foreign Affairs and Security Policy and for the various EU Special Representatives to particular regions and countries (see Gervi, 2007; Dony, 2009, pp. 151-53). When it comes to enlargement, by contrast, while the decision to admit new member states requires the unanimous agreement of existing members of the EU, the Copenhagen Council of 1993 saw the Commission granted the key role of negotiating with potential member states and monitoring and reporting on their progress in fulfilling the conditions of accession.

While it is important to bear in mind the key actors in the conflict resolution policy-making process in order to establish which EU institutions' discourses to focus on in our analysis, questions of the formal structure of decision-making are not the primary concern of discursive approaches to understanding EU policy-making:

Discourse analysis asks whether there is a common procedural (decision-making) discourse which cuts across actors and institutions which might mean that intergovernmentalism (in the case of the CFSP) is not the defining feature of EU foreign policy decision-making. This is a different avenue of research from approaches which study the European foreign policy decision-making process based on the formal structures (intergovernmentality for the CFSP) or the character of the participating actors (primarily states but also supranational actors). (Larsen, 2004, pp. 75-76)

As such, the aim of this thesis is not to provide a detailed account of the internal machinations of EU decision-making in the realm of conflict resolution. Rather, the aim is to identify and explicate the underlying ideas and assumptions that underpin EU policy, the nature of that policy, and its legitimation, regardless of whether it is decided upon in an intergovernmental or supranational manner.

From theory to methods

In order to translate the proposed theoretical framework outlined above into a more concrete research design, it is necessary to consider the implications of this theoretical approach for the methods that need to be employed in order to answer the research questions set out in the Introduction. Given the proposed constructivist institutionalist theoretical framework, the primary purpose of the methods employed must be to render visible the ideas that inform EU conflict resolution policy in the three cases considered. In each case, in other words, we need to be able to understand the form and content of the policy programmes, paradigms, public sentiments and frames that are involved in determining and justifying EU policy.

Campbell suggests that one way to understand how ideas themselves influence policy-making is to focus on political discourse. He cites studies that “maintain that pre-existing discursive structures...contain cognitive and normative elements that mediate which policy programs policy makers can best perceive, understand, articulate, and as a result, which policy ideas they are likely to adopt” (Campbell, 2002, p. 32). Furthermore, Campbell suggests a number of research methods that can be employed to demonstrate the role played by discursive structures. Most appropriate in the present context are the mapping of policy preferences through conducting interviews with policy-makers, and qualitative analysis involving process-tracing and analysis of policy documents in order to determine how policy-makers understand problems in terms of their own cognitive and normative worldviews (Campbell, 2002, p. 32).

The empirical cases examined in the following chapters rely on these two principal qualitative methods. Discourse analysis of key texts and speeches from the relevant actors is supplemented by data from in-depth interviews with EU officials. Combining these methods, I undertake process-tracing in order to reconstruct the policy-making process behind each case. The process-tracing method is perhaps most closely associated with the work of George and Bennett, who state that it “attempts to identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of the dependent variable” (2005, p. 206). Since in the present context these variables are ideas held by policy-makers, this process tracing necessarily involves investigation of the ways in which those policy-makers narrate the policy problems they face.²⁷

²⁷ On combining process tracing and discourse analysis, see Lupovici (2009).

Discourse analysis

As outlined in Chapter 1, a number of authors seek to explain the EU's conflict resolution policy preferences by reference to underlying ideas about the nature and causes of conflict as revealed in EU policy documents. Hayward (2006), for example, analyses the Haagerup report of 1984, in which the Danish MEP went to some length to outline the historical context of the conflict in Northern Ireland in order to support his conclusions that the cause of the conflict was a clash of British and Irish national identities and that it should be managed through the institutionalisation of this binary. Similarly, Hughes's (2009a) analysis of the EU's macro-level conflict management strategy articulated in the *European Security Strategy* reveals a conceptualisation of conflict as driven by lack of economic development. In the cases considered in this thesis, however, no such single document outlining the EU's conceptualisation of conflict exists. Rather, we are required to reconstruct the paradigm underlying EU policy through analysis of multiple sources, including both policy documents and speeches by EU officials. Thankfully, this task is made easier by the abundance of such sources as a result of the region's strategic importance to the EU.

The advantage of including not only policy documents but also speeches in the analysis is that as well as allowing for analysis of the paradigms that inform policy, speeches enable us to analyse how that policy is legitimised. Campbell argues that framing is most frequently found in the public pronouncements of politicians and their advisors, listing sound bites, campaign speeches, and press releases as key locations of framing attempts (1998, p. 394), and so inclusion of such material in the discourse analysis is key if we are to understand how policies are framed.

In order to collect documents for analysis, I relied on a number of sources. These included the EU's RAPID press release database, which includes speeches by key actors such as European Commissioners, and the websites of the various EU institutions and of the EU's presence in the three case-study countries. All of these sources were searched using key terms relevant to the research. These terms included the country names relevant to each of the case studies, along with terms such as 'constitution', 'reform', and 'Dayton' in the case of Bosnia, for example. In total, approximately 300 documents were selected for analysis. In order to conduct discourse analysis of this relatively large number of documents, I employed the computer program NVivo.²⁸ While this software does not automate the process of discourse analysis – requiring the researcher to read through and code each individual document – it does make management of the coded documents easier. Once all documents involved in the discourse analysis have been coded, NVivo allows the researcher to display all text that has been coded against a particular 'node'. This makes it significantly easier for the researcher to map the overall discourse and to select quotes to illustrate it.

The coding performed using NVivo was theoretically informed – that is to say that as I read and coded the material, I looked for explanations of conflict, for example, that we might expect to find based on the academic literature. However, since it is not certain that policy-makers' perceptions of phenomena such as conflict match those of academics, and in order to avoid over-intellectualising the policy process (see George and Bennett, 2005, pp. 98-99), the coding schema was developed as the research progressed. Rejecting a strict distinction between inductive and deductive research, which many regard as a false dichotomy in any case (Grix, 2004, p. 114), the discourse analysis conducted was theoretically informed but open to modification based on the empirical data that I encountered. Whilst coding the texts, I

²⁸ The access dates listed for these documents in the bibliography reflect when the documents were downloaded and imported into NVivo.

had in mind a number of key analytical questions – a technique proposed by Jackson (2005, pp. 25-26) – that were posed of the documents. These included, for example:

- How is the nature of the policy problem at hand narrated?
- What underlying assumptions about the policy problem are evident?
- What ontological claims are made in the text?
- What proposed policy solutions are advanced?
- How are policy prescriptions normatively justified?

With the documents coded using what are referred to in NVivo as ‘free nodes’, these nodes could then be grouped into ‘tree nodes’ according to common themes – for example, different understandings of the causes of conflict. This allowed for comparison of the prevalence and importance of different, competing ideas playing a role in the EU’s conflict resolution policies. It was then possible to select quotes to represent the EU’s conflict resolution policy discourse for use in the empirical chapters that follow.

Expert interviews

There are a number of important reasons why it is necessary to supplement the discourse analysis employed in this thesis with a second qualitative method – that of expert interviews. Hay and Smith (2010, p. 904) note two of these. Firstly, they argue we need to remain mindful of Schmidt’s (2002, pp. 209-56) distinction between ‘communicative’ and ‘coordinative’ discourses. In the case of the former, the discourse employed may not reflect underlying assumptions informing policy (i.e. policy paradigms) but rather may be used to legitimate policy (i.e. frames). In the latter case, the discourse concerned is often private and

concerns the design of policies prior to process of framing and legitimation. Moreover, analysing only publicly available documents is likely to obscure any disagreement within policy-making communities. If policy-making takes place by consensus and only the consensus view is made public, then focusing only on documents will hide any disagreements that took place in their production. Relatedly, analysing policy documents and speeches may not help us understand why certain policy options are foreclosed, unless this is explicitly addressed in public pronouncements. In this context, elite interviews provide a possible means to access private, coordinative discourses.

Secondly, Hay and Smith argue, discourse analysis of public documents alone may simply not yield enough data to come to firm conclusions about policy-makers' understandings of the nature of the policy problems they face. As they argue, "even were we able reliably to infer cognitions from public discourses, we would invariably have too little to go on even if we were to assemble exhaustively all relevant speeches, policy statements and proposals" (Hay and Smith, 2010, p. 904). In the case of this deficiency of the analysis of public sources alone, interviews with policy-makers present the possibility of gaining additional insights into the policy process. These insights might stem from the researcher asking interviewees to further explicate ideas that feature only briefly in speeches or policy documents, or that are notably absent from public sources. Taking into account these potential problems, supplementing discourse analysis of public documents with elite interviews is crucially important.

Interviews, according to Tansey (2007, p. 766), allow us to gain access to elite actors who are crucial sources of data on the processes which political scientists attempt to trace. As May (2011, p. 131) notes, they can "yield rich insights into people's biographies, experiences, opinions, values, aspirations, attitudes and feelings". Whereas the data supplied by policy

documents is likely to be relevant to single, chosen policy outcomes, conducting interviews with policy-makers allows us to pose counterfactuals in order to understand why other policy options were foreclosed (Rathbun, 2008, p. 693), and thereby reconstruct ‘suppressed alternatives’ (Moore, 1978, quoted in Wincott, 2004, p. 359). As such, they allow us to “learn more about the inner workings of the political process, the machinations between influential actors and how a sequence of events was viewed and responded to within the political machine” (Lilleker, 2003, p. 208). Moreover, they allow us to triangulate data so that claims drawn from analysis of documentary sources can be verified through comparison with those drawn from interviews, and vice versa (Davies, 2001), although uncovering differences in perceptions between elites is also a valuable outcome of interviews, particularly in research such as this, where the aim is not necessarily to establish the true version of events, but rather to explicate how they were understood by different policy-makers (Lilleker, 2003, p. 212). Indeed, Richards (1996, pp. 199-200) argues that uncovering these perceptions is one of the key functions of elite interviews. He states:

By their very nature, elite interviewees provide a subjective account of an event or issue. Thus, elite interviewing should not be conducted with a view to establishing ‘the truth’, in a crude, positivist manner. Its function is to provide the political scientist with an insight into the mind-set of the actors who have played a role in shaping the society in which we live and an interviewee’s subjective analysis of a particular episode or situation. (1996, p. 200)

A key challenge associated with elite interviewing is establishing who to interview and how to gain access to them (Lilleker, 2003, pp. 208-9). As Tansey (2007) suggests, employing elite interviews as part of a process-tracing methodology has implications for the way we sample the subjects of those interviews. He argues that rather than employing probability sampling, where the aim is to be able to generalise from the sample to a wider population, we should instead use non-probability sampling, where the aim is to identify and interview the

key actors in a causal chain between independent and dependent variables (2007, pp. 768-69). Since it may not be clear at the start of the fieldwork stage of the research who all of the key actors are, the technique of ‘snowballing’ or chain-referral can be used, whereby interviewees are asked to suggest further suitable potential interviewees and this process is continued until the required sample size is met (Tansey, 2007, p. 770). This method has the additional benefit of improving the chances that a particular individual will consent to being interviewed, because the researcher can give the name of the previous interviewee who referred them on, which is likely to establish that the researcher is serious and worth speaking to.

Aside from sampling, another key issue is the format that interviews should take. Three main options exist: structured, semi-structured and unstructured interviews. With structured interviews, the researcher conducts the interview by following a pre-defined set of questions, not deviating from the list regardless of the answer received. With unstructured interviews, at the opposite end of the spectrum, the researcher goes into the interview with topics for discussion in mind, but without predesigned questions. Semi-structured interviews lie in the middle, and involve predetermined questions that do not necessarily all have to be asked, or asked in the same order in each interview (Grix, 2001, pp. 76-77). When conducting elite interviews, Aberbach and Rockman suggest that a semi-structured format is preferable, since “open-ended questions provide a greater opportunity for respondents to organize their answers within their own frameworks” (2002, p. 674). This format also allows the interviewer to explore unanticipated responses to questions (Berry, 2002, p. 682). These advantages are particularly important in the present context since the very aim of the interviews is to establish the frameworks within which policy-makers understand the world.

Informed by these considerations, the interviews conducted as part of this research were semi-structured in format and conducted with key officials working for the EU and a limited number of other organisations, identified largely through the websites of EU institutions and e-mail communication. The majority of interviews were arranged prior to departure on fieldwork trips, with a smaller number arranged ‘in the field’, largely as a result of chain-referral. A total of 30 interviews were conducted during several periods of fieldwork undertaken between April and November 2010, and these are listed in Appendix 1. Some of the interviews were recorded electronically, allowing me to produce transcripts for later analysis, while others were not recorded, at the interviewee’s request. Where interviews were not taped, I took notes and wrote these up as soon as possible after the end of the interview. The majority of the interviews were conducted anonymously in order to improve the willingness of the interviewees to talk comfortably and in depth about their work, so as to improve the chances that they would provide genuine insights into the policy-making process. Because of the semi-structured nature of the interviews, and because the questions asked varied according to the case that each interview related to and the interviewee’s role, it is not possible to specify a single list of interview questions, but Appendix 2 gives an indication of the typical questions posed.

The role of the case studies and the comparative method

As outlined in the Introduction, the empirical portion of this thesis involves comparative analysis of EU policy with regard to three case studies, namely Bosnia, Macedonia and Kosovo. As such, it is opportune to briefly consider the nature of the comparative method in political science and the role of case studies in the type of research that is being undertaken here. As della Porta (2008, p. 199) notes, comparative political analysis is generally understood as a branch of political science that is concerned with drawing comparisons

between nations as units of analysis. Van Biezen and Caramani provide a more detailed definition, arguing that comparative politics is:

...defined by a combination of *substance* (the study of countries and their political systems, actors and processes) and *method* (identifying and explaining differences and similarities between cases following established rules and standards of comparative analysis and using concepts that are applicable in more than one case or country). (2006, p. 29, emphasis in original)

As Ragin and Zaret (1983; see also Ragin, 1987) note, comparative analysis can be divided into research that is case-oriented and research that is variable-oriented. Case-oriented research “aims at rich descriptions of a few instances of a certain phenomenon”, as opposed to variable-oriented research, which is instead involves “establishing generalized relationships between variables” (della Porta, 2008, p. 198). A similar distinction is made by Gerring, who differentiates between what he terms case-study research and cross-case research:

A *case study* may be understood as the intensive study of a single case where the purpose of that study is – at least in part – to shed light on a larger class of cases (a population). *Case study research* may incorporate several cases, that is, multiple case studies. However, at a certain point it will no longer be possible to investigate those cases intensively. At the point where the emphasis of a study shifts from the individual case to a sample of cases, we shall say that a study is *cross-case*...All empirical work may be classified as either case study (comprising one or a few cases) or cross-case study (comprising many cases). (2007, p. 20, emphasis in original)

In Ragin and Zaret’s terminology, the present research is case-oriented rather than variable-oriented. According to Gerring’s definition, meanwhile, it can be classified as case study research rather than cross-case research since it involves in-depth analysis of three cases in order to shed light on the EU’s conflict resolution preferences in general. While it is not possible to generalise from the three case studies selected, the aim is to further contribute to existing knowledge of the EU’s approach to conflict resolution that comes from single-case studies such as Hayward’s (2006).

While, according to Gerring's definition, the purpose of employing case studies is to shed light on a wider set of cases, case studies are rarely representative in a statistical sense. Indeed, as George and Bennett note, researchers employing case studies "do *not* aspire to select cases that are directly 'representative' of diverse populations and they usually do not and should not make claims that their findings are applicable to such populations except in contingent ways" (2005, pp. 30-31, emphasis in original). Nonetheless, it is still worth reflecting on the choice of case studies for the empirical portion of this thesis.

Given that the literature on conflict resolution regards conflict transformation as a more difficult goal than its mere regulation through institutional accommodation, it is reasonable to assume that if the EU does not attempt conflict transformation in cases where it has the most leverage, then it does not do so elsewhere either. In this regard, I suggest that the three case studies employed in this thesis should reveal the EU's conceptualisation of conflict resolution as a transformative task, if that is indeed the Union's approach, as envisaged in much of the existing literature outlined in Chapter 1. If they do not, then we have significant cause to doubt whether the EU's overall approach to conflict resolution, regardless of location, can be considered transformative.

Summary

In Chapter 1, I identified a key lacuna in the literature on the EU's role in conflict resolution, namely the lack of consideration of the Union's conceptualisation of conflict resolution and the hence aims of EU conflict resolution policy. The few studies that have considered this question have taken a broadly ideational approach to explaining the EU's policy preferences, tracing them back to underlying ideas about the nature of conflict in divided societies. The

aim of this chapter has been to set out a robust theoretical framework with which to extend the study of the EU's approach to conflict resolution to further empirical cases.

In the discussion above, I first considered different approaches to understanding the role of ideas within political analysis, focusing on competing rationalist and constructivist accounts. I concluded here that rationalist attempts to incorporate ideational factors into their explanations of political actors' preferences are problematic because they treat ideas as 'filler', only turning to them when interest-based explanations fail. By contrast, the constructivist approach outlined here views ideas as always and everywhere important, highlighting how, in the form of underlying assumptions about the nature of the social world, they run through actors' interests. Consequently, the chapter then set out a theoretical framework with which to understand EU policy-making towards conflicts, drawing on the recent constructivist institutionalist literature in comparative politics and political economy. This theoretical framework differentiates between different types of ideas according to their role in actors' preferences. Four types of idea were outlined, namely programmes, paradigms, frames and public sentiments. I then turned to explanations of policy continuity and change in the constructivist institutionalist literature, highlighting the role of the institutionalisation of ideas, of social learning and of crises.

After briefly considering how the proposed theoretical framework stands in relation to existing scholarship on the EU, the chapter then turned to consider how this theoretical framework can be operationalised, outlining the methods employed in the empirical chapters that follow. Here, I introduced two methods, namely discourse analysis and elite interviews, and also considered the role of case studies in political analysis. By using these methods, I aim to uncover the paradigms that underpin EU conflict resolution policy in Bosnia,

Macedonia and Kosovo, in order to be able to understand the Union's policy preferences, and to analyse how these preferences are legitimised, and thus to contribute to filling the gap in understanding of the EU's approach to conflict resolution identified in Chapter 1. It is to this task that the thesis now turns, with the following three chapters analysing the EU's approach to conflict resolution in each of the three case studies, starting with Bosnia in Chapter 3.

CHAPTER 3 – BOSNIA: REFORMING AN IDEAL-TYPICAL CONSOCIATION

Introduction

This chapter presents the first of three case studies employed in this thesis: that of the EU's policies with regard to conflict resolution in Bosnia and Herzegovina (hereafter simply Bosnia).²⁹ The chapter's central focus is on the EU's role in the process of constitutional reform in Bosnia – a process that will potentially replace the power-sharing institutions established by the Dayton Agreement of 1995 – and seeks to explain how the Union's conceptualisation of intra-state conflict in Bosnia has shaped the construction of its policies with regard to this issue.

The chapter is arranged into three main sections. The first of these provides the historical background to the Bosnian case, and, as this is the first of the case studies presented in this thesis, it also provides some discussion of the broader dissolution of Yugoslavia, which is also relevant to the other two cases. This section outlines the history of the Bosnian War of the 1990s, followed by a discussion of the conflict management institutions that emerged out of the Dayton Agreement of November 1995. Here, I outline the widespread criticisms that have been made of the constitution established by Dayton, with a particular focus on the way in which the agreement seems to have entrenched ethnic division in Bosnia, and on the impact of Dayton on the functionality of the Bosnian state.

The second section of the chapter outlines the history of EU policy in Bosnia. After reviewing European attempts to resolve the Bosnian conflict prior to Dayton, I then focus on the role of

²⁹ Parts of this chapter have been published in *Comparative European Politics* (Cooley, 2013).

the EU as it has started to engage more with Bosnia, following the 2003 European Council declaration that indicated that all Balkan countries could expect eventual EU membership, and in particular with the issue of constitutional reform. Here, I outline how constitutional reform has come to be a key condition of Bosnia's prospective EU membership, but also how the demands made by European policy-makers in terms of the content of that reform have been scaled back over time, as local political elites have struggled to reach consensus on the issue. As a result, I suggest, any reform that does emerge is likely to leave in place the core tenets of Dayton, namely ethnic power-sharing and territorial devolution of power to Bosnia's two federal entities.

The third and most analytically substantive section of the chapter then seeks to explain the EU's rather conservative approach to reforming Bosnia's institutions of conflict regulation. Here, I start by examining the reasons why EU policy-makers seek constitutional reform, suggesting that their primary concern is with the efficiency of the Bosnian state and its ability to assume the obligations of EU membership, given the eventual goal of integrating Bosnia into the Union, rather than with the reifying impact of the present constitutional arrangements on ethnic identities. I then analyse the conceptualisation of conflict that underlies EU policy in Bosnia, arguing that European officials tend to view the country as characterised by an ongoing identity conflict, whereby its three main ethnic groups are said to hold different visions of the future shape and nature of the state. This view, I suggest, is institutionalised in European thinking on Bosnia and, I argue, can be traced back to European attempts to resolve the Bosnian conflict in the early 1990s. I then outline how EU policy-makers have interpreted nationalist resistance to constitutional reform as reflective of this underlying identity conflict, and how it has therefore moderated their demands for reform. Finally, I analyse how EU officials have legitimised their constitutional reform activities, given the lack of a norm with a

basis in EU law in this field. In particular, I demonstrate how the process of European integration, seen as a successful mechanism for resolving inter-state conflicts in Europe after the Second World War, is portrayed as analogous to Bosnia's internal conflict. I highlight how, in making such a comparison, EU officials contribute to the construction of a positive self-image of the Union through their engagement with Bosnia but also are able to frame consociational conflict regulation approaches as 'European' despite the lack of an EU norm with a firm legal basis in this area.

Historical background

The Bosnian War

In the late 1980s, as the Cold War drew to an end, the future of the non-aligned Socialist Federal Republic of Yugoslavia became increasingly unclear. As socio-economic conditions deteriorated and state structures weakened, the possibilities for nationalist mobilisation increased. Yugoslavia was a federal state composed of six constituent republics (with one, Serbia, having two autonomous regions, Kosovo and Vojvodina), each (apart from Bosnia) nominally representing a recognised 'nation' (*nardoni*) (Kaufman, 2001, p. 167), with the communist parties in each of the republics viewing themselves as representing these national groups (Sekulić *et al.*, 1994, p. 87). Despite this equation, the population of each of Yugoslavia's national groups was territorially and socially intertwined, with significant minorities in each of the republics. When, in the summer and autumn of 1990, elections were held in Yugoslavia's constituent republics, they were the first democratic polls to have been held in the country's post-Second World War history. This pattern of elections, with the first polls taking place at the regional rather than the state level, established "the *optimal* sequence to be followed *if* one wanted to disintegrate the state and heighten ethnic conflict" (Linz and Stepan, 1992, p. 131, emphasis in original). Perhaps unsurprisingly given this sequencing and

the deteriorating social and economic climate in which nationalism had come to be the most prominent form of political opposition to the socialist regime (Cousens, 2001, p. 116), as well as the design of the Yugoslav state with its increasingly strong republics and weak centre (Bunce, 1999, pp. 111-17), nationalist leaders and their newly formed parties were swept to power. Hayden (1999) argues that this electoral defeat of the idea of the Yugoslav state meant that violent conflict would logically follow.

Once in power, nationalist leaders pursued policies that pointed towards the likelihood of outright secession from the federal Yugoslav state. Slovenia and Croatia were the first republics to secede, both declaring independence on 25 June 1991, following referenda carried by large majorities. It is widely acknowledged that, with few Serbs living in Slovenia, the country's politicians had agreed with Belgrade that they would be allowed to secede without significant resistance in exchange for Slovenian acquiescence towards Serbia's territorial designs elsewhere in Yugoslavia (Burg, 1996, p. 55; Silber and Little, 1996, pp. 154-68). While the Yugoslav Federal Parliament failed to recognise Slovenia's independence and Yugoslav National Army (JNA) forces were sent to the country, the conflict that followed was small in scale and when it ended after only ten days, Slovenia's independence was secured.

The Slovenian conflict portended much worse to come, however. Croatia, with its significant Serb minority, was not allowed to secede without triggering a much more significant conflict. In the summer of 1991, Serbs in the Krajina region of Croatia, along the border with Bosnia, proclaimed their own republic and JNA forces attacked Croatian cities such as Vukovar. Within one month of independence, Serb forces held one third of Croatian territory. A UN-backed ceasefire entered into force in January 1992, but sporadic fighting continued until

1995, when Croatian forces reclaimed large swathes of territory in Western Slavonia and overran the vast majority of territory held by the self-proclaimed and unrecognised Republic of Serbian Krajina. Eastern Slavonia, the only part of Croatian territory not reclaimed by the end of the war, was placed under the control of the United Nations in January 1996, and subsequently returned to Croatian control in January 1998.³⁰

Bosnia was the only one of the six Yugoslav republics where no one nation constituted a majority of the population, and hence where there was no titular nation (Burg and Shoup, 1999, p. 6; Hayden, 2005, pp. 234-35).³¹ According to the 1991 census, 43.7 per cent of the republic's population identified as Muslim (now more commonly termed Bosniak), 31.4 per cent as Serb, 17.3 per cent as Croat, 5.5 per cent as Yugoslav and 2.1 per cent as 'others and unknown' (Petrović, 1992; cited in Hayden, 1996, p. 787). As Bringa (1995, p. 83) notes, for most Bosnians, "difference in ethnoreligious affiliation was one of the many differences between people, like the differences between men and women, villager and city dweller". This is not to suggest that inter-ethnic tensions did not exist, but in the aftermath of the Second World War, ethnic nationalism had been kept in check by Tito, in Bosnia as elsewhere in Yugoslavia, through the ideology of 'brotherhood and unity' amongst Yugoslavs (see Donia and Fine, 1994, pp. 147-48; Bringa, 2004). Bosnia had a high proportion of mixed-ethnicity marriages, often taken to be a significant indicator of social integration, resulting in the republic having the highest proportion of mixed-ethnicity children in Yugoslavia in 1981, at 15.9 per cent republic-wide and with higher rates in mixed cities (Hayden, 1996, p. 789).

³⁰ For detailed accounts of the break-up of Yugoslavia and of the wars that accompanied it, see, *inter alia*, Bennett (1995), Woodward (1995), Glenny (1996), Silber and Little (1996), Gow (1997) and Ramet (2002). Ramet (2005) provides a useful 'meta-history' by analysing more than 130 books on the conflicts. Mazowver's (2001) history of the Balkans sets the conflicts in a wider regional and historical context.

³¹ Numerous well-researched English-language histories of Bosnia have been published since the dissolution of Yugoslavia, and provide far more by way of context than is possible to outline here. Particularly notable are works by Donia and Fine (1994), Burg and Shoup (1999) and Malcolm (2002a).

Nonetheless, the end of the Cold War witnessed Bosnian party politics becoming rapidly divided along ethnic lines, with the establishment of the largely Bosniak Party of Democratic Action (SDA) founded in May 1990, followed by the Croatian Democratic Union of Bosnia and Herzegovina (HDZ BiH) and the Serbian Democratic Party (SDS). These parties initially formed an uneasy coalition, but as it became clear that many Bosniak and Bosnian Croat politicians favoured independence for Bosnia, the Serb representatives established their own parliament in October 1991. With the Serb representatives absent, the Bosnian parliament voted in favour of a memorandum proclaiming the republic's sovereignty. Meanwhile, as the conflict raged in neighbouring Croatia, members of Bosnia's Serb and Croat populations had started to arm themselves in preparation for what by this point seemed like an inevitable confrontation. As early as 1990, weapons were sent to Bosnian Serbs from Belgrade (Glenny, 1996, pp. 150-52) and by January 1992 Bosnian Serb JNA troops were being dispatched to Bosnia by Serbian president Slobodan Milošević (Cousens, 2001, pp. 117-18). In January 1992, the Bosnian Serb parliament established the Serbian Republic of Bosnia and Herzegovina (later to become the Republika Srpska) and declared this to be part of the Yugoslav federation, shortly before the independence referendum was held on 29 February and 1 March. Bosnian Serb leaders urged Serbs to boycott the referendum, which they largely did, resulting in a turnout of 63.4 per cent, with 99.7 per cent of votes favouring independence (Commission on Security and Cooperation in Europe, 1992). Bosnia's independence was recognised by the European Community on 6 April 1992, with recognition becoming effective the following day, when the US followed suit. This marked the time that violent conflict began in earnest.

The Bosnian War was initially fought between Bosnian government forces and Serb paramilitaries, who were actively supported by Belgrade (Burg and Shoup, 1999, p. 102;

Andreas, 2004, pp. 33-35) and who sought to establish an independent Serb state, which they hoped to later be able to unite with Serbia (Bideleux and Jeffries, 2007, pp. 344-45). Later in the war, conflict erupted between Bosniak and Croat forces as the latter attempted to gain control of territory in Croat-populated parts of Bosnia, supported by the nationalist political leadership in Zagreb, after the latter ousted the more moderate Bosnian Croat leadership (Gagnon, 2004, p. 50). As such, the conflict was widely interpreted as ethnic in nature and was frequently portrayed as if it were fought as an all-out battle between large swathes of the Bosniak, Serb and Croat populations of Bosnia, who were held to be motivated by 'ancient hatreds' (D. Campbell, 1998; Banks and Wolfe Murray, 1999; Mueller, 2000). As Ó Tuathail (2010, pp. 258-59) notes, however, while this was the dominant discourse of both Western observers and the ethnonationalist participants in the conflict, other narratives of the violence were possible. It is important to note, for example, that organised militia groups were responsible for much of the ethnic cleansing that took place during the break-up of Yugoslavia, rather than it being a case of neighbours killing neighbours (Mueller, 2000; Oberschall, 2000). There are also many examples of inter-ethnic relations surviving on the local scale, particularly in large cities such as Sarajevo. Indeed, the first victims of the war were taking part in a multi-ethnic peace rally in Sarajevo when they were shot at by Bosnian Serb snipers (Silber and Little, 1996, pp. 226-27; Donia, 2006, p. 285). Furthermore, Serbs were represented in the Bosnian army alongside Bosniaks and Croats, particularly in the early stages of the war (Hoare, 2004; Caspersen, 2010, p. 42).

Numerous attempts to establish peace agreements were made by the international community, dating back to before the start of hostilities with the Carrington Plan of 1991, and including the Carrington-Cutileiro Plan of March 1992, January 1993's Vance-Owen Peace Plan, the Union of Three Republics Plan of September 1993, the EU Action Plan of November 1993

and the Contact Group Plan of July 1994 (Campbell, 1999; Trbovich, 2008, pp. 315-22). These plans are discussed in some detail below, when we consider the history of EU policy in Bosnia. It was not until November of 1995, however, that local and international actors were able to agree on a settlement to the conflict.

The Dayton Agreement and its discontents

The Dayton Agreement,³² which was agreed in Dayton, Ohio in November 1995 and signed in Paris the following month, brought an end to the war in Bosnia and Herzegovina that started in 1992. Signed by the Serbian president Slobodan Milošević, Croatian president Franjo Tuđman and Bosnian president Alija Izetbegović, the Agreement was negotiated by the American Richard Holbrooke, assisted by EU Special Representative Carl Bildt and the Russian deputy foreign minister, Igor Ivanov. The Agreement was wide-ranging, but most importantly in the present context, Annex 4 established a new constitution for post-war Bosnia.

The Dayton constitution established a confederal state composed of two entities: the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina. At the state level, a rotating three-member presidency and a bicameral parliament were established. Both of the entities have a president, an entity government and a parliament. The Federation was further divided into ten cantons, each of which with its own parliament. Ethnic representation was guaranteed by quotas at all levels of government and in the civil service. In addition, veto rules were established whereby decisions of the House of Representatives (the lower house of the Parliamentary Assembly) require the votes of at least one third of the representatives of each entity, and decisions of the House of People (the upper house) can be vetoed by a

³² Formally, the General Framework Agreement for Peace in Bosnia and Herzegovina. Available at http://www.ohr.int/dpa/default.asp?content_id=380, accessed 31 May 2011.

majority of any of the Bosniak, Croat or Serb delegates. These three ethnic groups are identified by the constitution as Bosnia's 'constituent peoples'. Additionally, Dayton established the position of the High Representative (HR), an international official charged with ensuring the implementation of the civilian elements of the Agreement. The Agreement has been described as a "classic example of consociational settlement" (Bose, 2002, p. 216), in which "institutions correspond to an ideal-typical consociational democracy" (Belloni, 2004, p. 336). More specifically, Dayton is an example of a corporate consociation in which, as we saw in Chapter 1, groups are accommodated according to ascriptive rather self-determined criteria (McGarry *et al.*, 2008, pp. 61-62).

There are, however, some elements of the Dayton settlement that are less characteristic of consociationalism. Most notable are its provisions designed to enable the return of refugees and internally displaced persons to return home. The Agreement establishes the right of all displaced people to return to their original homes, and to have their property returned to their possession. It has been argued that this set a new international precedent, with its emphasis not only on return to the country, but *home* (Rosand, 1998). This approach has been interpreted as partially counteracting the ethnic nature of much of the rest of the Agreement. Caspersen, for instance, argues that while:

...ethnic autonomy is, to a large extent, the defining feature of the structure...the ethnic autonomy is based on the congruence of ethnicity and territory and *not* on ethnicity itself. This is important since *returns* and people's right to vote in their 1991 residence have the potential for creating greater residential and electoral heterogeneity and thus undermine the ethnic autonomy of the consociational structure. (2004, p. 573, emphasis in original)

Similarly, Black notes that the return of displaced persons has "come to be seen as part of a process of challenging the nationalist dominance of the political system. The aim is to encourage members of the different ethnic and religious communities in Bosnia to 'live

together' in peaceful co-existence" (2001, pp. 183-84). Caspersen also identifies a number of important institutions, such as the central bank and the constitutional court, "that, while...based on ethnic parity, have no veto provisions and decide by simple majority" (2004, pp. 573). Bieber, meanwhile, notes that "[i]n its references to Bosnian citizens (as opposed to just the three nations), and in its commitment to refugee return, there has been some attempt in the Dayton Peace Accords to reverse some of the consequences of the war and the 'ethnification' of all spheres of public life" (2002, p. 206). Nonetheless, the overall thrust of Dayton is indisputably consociational (Weller and Wolff, 2006, p. 4). As such, and given the prominence of the Bosnian case in the international spotlight, Dayton has proved to be somewhat of a lightning rod for criticism of consociational peace agreements (see, for instance, International Crisis Group, 1999; Belloni, 2004; Simonsen, 2005; Aitken, 2007).

Supporters of Dayton and of consociation more broadly have argued that there was, and remains, no real alternative institutional design that can ensure peace in Bosnia (see, for example, Bose, 2007, p. 142). However, while acknowledging that it ended a particularly bloody conflict, critics of Dayton argue that the design of the constitution in 1995 was influenced by the dominant Western understanding of the conflict as stemming from 'ancient hatreds' between Bosnia's various ethnic groups. Kaldor, for example, claims that the Dayton Agreement "was primarily an agreement born of the *realpolitik* approach of high-level negotiators who perceived the world as divided into primordial nations" (2006, p. 69). Similarly, David Campbell (1998, pp. 161-62) argues that while Dayton superficially envisages a 'multi-cultural' Bosnia, this vision of multiculturalism is predicated on a view of cultural identities as fixed, naturalised and inherently conflictual. Such a view of ethnicity has been described as 'mosaic multiculturalism', which one of its critics describes as "the view that human groups and cultures are clearly delineated and identifiable entities that coexist,

while maintaining firm boundaries, as would pieces of a mosaic” (Benhabib, 2002, p. 8). Campbell argues that “things could have been different if the political anthropology of Bosnia – in which the conceptual landscape had been populated only by fixed ethnicity, three constituent peoples, and others – had been differently thought” (1998, p. 162).

This interpretation, which stresses that international actors’ view of Bosnia were deeply influenced by ethnic essentialism does not go unchallenged. As noted above, Bose (2007) points to the lack of viable alternatives to Dayton that local actors would have agreed upon. Similarly, Anderson responds to Campbell’s claim that different outcomes would have been possible had Bosnia’s “political anthropology” been understood through a different lens by noting that “what this would have produced in concrete terms is mostly left unsaid” (2013, p. 75). Nonetheless, whether they would agree that Dayton resulted from essentialism on the part of international actors or whether they would instead stress the strict confines within which those actors were operating, there is agreement amongst a range of commentators that the effect of Dayton has been the establishment of institutions that, in seeking to accommodate conflictual ethnic identities, have either institutionalised, or – for more critical authors – reified them (see, *inter alia*, Bieber, 2002; Belloni, 2004; McGarry and Moore, 2005, p. 87; Simonsen, 2005; Aitken, 2007; Bieber and Keil, 2009; Murer, 2010).³³ Belloni, for instance, argues that:

Ethnic quotas reinforced the salience of ethnic identity and cleavages, entrenched many of the ethnic divisions that international intervention was supposed to soften and eventually overcome, and risked perpetuating instability. (2004, pp. 336-37)

³³ Simonsen claims that “there is now a broad academic consensus that, in terms of long-term peacebuilding, Bosnia today looks much like a failure, and it does so specifically because of the across-the-board institutionalization of ethnicity that was part of the Dayton agreement” (2005, p. 304).

According to this account, Dayton reinforced the dominance of the wartime ethno-nationalist parties, who, with no incentives to appeal beyond their own ethnic constituencies, have presented themselves as the defenders of their own groups, with the result that elections have simply become ethnic censuses (Belloni, 2004, p. 337). As a result, “peace has just been the continuation of war by other means”, according to Carl Bildt (2001, p. 152). At the root of the problem is the fact that “the entire institutional system is based on ethnicity, which is precisely what divides the Bosnian peoples” and that “[i]nstead of creating conditions for softening ethnic identities, the agreement entrenches them by making ethnicity integral to constitutional design” (Belloni, 2009a, p. 360; see also Bieber and Keil, 2009, p. 348).

In building political structures around the accommodation of Bosnia’s three constituent peoples, the constitution also discriminates against those citizens of the country who belong to smaller ethnic groups, who choose not to identify as Bosniak, Serb or Croat, or who are members of one of the three constituent peoples but who live in the ‘wrong’ entity (Guzina, 2007, pp. 226-27; Arvanitopoulos and Tzifakis, 2008, p. 17; Belloni, 2009a, p. 360). The rotating three-member presidency, for instance, consists of a Bosniak and a Croat elected from the Federation and a Serb elected from the Republika Srpska. Bosniaks and Croats from the RS or Serbs from the Federation, along with members of any other ethnic group such as Jews or Roma, are therefore prevented from running for election to this highest office (Alic, 2010).

Furthermore, critics have pointed to the tremendous complexity, and with it inefficiency, of the political system established by Dayton (Kroeger, 2002; Engelbrekt, 2004, p. 53; Arvanitopoulos and Tzifakis, 2008, pp. 17-18). Such criticism has highlighted how, from the very start of the Dayton era in 1995, the consociational provisions of the new constitution

impeded effective domestic governance. A former international judge on the Constitutional Court of Bosnia and Herzegovina, for instance, states that:

On the state level, power-sharing in the ethnically representative institutions did not work. Instead of a positive elite consensus for cooperation, a negative consensus under the principle of *divide et impera* (divide and rule) prevailed. Thus, the Presidency and the Parliamentary Assembly were blocked along ethnic lines and were unable to adopt the necessary decisions and laws for the reconstruction of the state and the war-torn economy. (Marko, 2005, p. 523)

Because representation based on ethnicity had resulted in gridlock in Bosnian political institutions, in 1997 the High Representative was granted increased powers, including the ability to remove obstructionist politicians from office and to impose legislation such as the 1997 citizenship law and laws establishing common national symbols such as the flag and currency (Ebner, 2004, pp. 123-25). The inefficiency of the Bosnian state does not stem solely from ethnic party elites' recalcitrance, however. Even if Bosnia's power-sharing institutions operated as envisaged by advocates of consociationalism, with political elites motivated to compromise, the number of layers of government would still have resulted in significant overlap of functions. In this vein, critics frequently point to the number of legislatures, governments and ministers in Bosnia, which by any comparative measure is disproportionate to the country's size. As Arvanitopoulos and Tzifakis (2008, p. 17) point out, Bosnia is a country with a population of 3.9 million and yet has 14 legislatures and associated governments (one at the federal level, one each for the two entities, one for Brčko District, and ten within the Federation – one for each canton). In 2002, Paddy Ashdown calculated that Bosnia had four levels of government, 13 prime ministers, 1,200 judges and prosecutors, 760 legislators, 180 ministers and three armies (Ashdown, 2002c). As a result of this complexity, some 56 per cent of the Bosnian state budget is spent on financing public administration rather than on providing public services (Belloni, 2009a, p. 366).

Such concerns have intensified in the light of Bosnia's possible future EU membership. The implications of the country's delicate decision-making processes for its ability to quickly adopt the necessary legislation set out in the *acquis communautaire* have been a particular cause for concern (Sebastián, 2007, p. 3). Furthermore, there are concerns that, if and when Bosnia successfully joins the EU, Union-level decision making may be slowed if domestic Bosnian political arguments prevent the country from 'speaking with one voice' on the European stage.

EU policy in Bosnia

While the Dayton Agreement was largely an American initiative, the European Union (and its predecessor, the European Community) was active in trying to bring a negotiated end to the war in Bosnia. As early as September 1991, before the conflict had broken out, EC foreign ministers established two institutions – the Conference on Yugoslavia (ECCY), chaired by Lord Carrington, a former British foreign minister, and the Arbitration Commission, chaired by Robert Badinter, the French Constitutional Council president – in order to assist with the settlement of constitutional issues between the conflict parties (Glaurdić, 2011, p. 208).

The Carrington-Cutileiro Plan, which was developed by Lord Carrington and his advisors alongside José Cutileiro, a diplomat representing the Portuguese EC presidency, who met with local party leaders in Sarajevo in February 1992, proposed a Bosnia that would have been made up of three 'constitutive units'. Had it not been rejected by representatives of Bosnia's three main ethnic groups, the plan would have divided the country into cantons, based upon data from the 1991 Yugoslav census. The definition of the cantons, while taking into account economic and geographic factors (Anderson, 2013, p. 31), was to be primarily based on ethnicity. "The result", as Anderson notes, "was a map of Bosnia that contained

twelve (perhaps thirteen) ethnically defined, but noncontiguous cantons” (2013, p. 76). This map was supplemented by proposals for Bosnia’s constitution that would have seen power sharing between the three groups. Glaurdić characterises the plan as proposing:

...a (con)federalization of Bosnia-Herzegovina into three constituent (and not necessarily contiguous) ethnically defined states which were to have broad political, economic, and administrative responsibilities and de facto powers over foreign affairs, military matters, education, and relations with religious communities. (2011, p. 290)

Moreover, Glaurdić is particularly critical about this plan for Bosnia. He claims that “[t]he damage that the Cutileiro plan did to Bosnia-Herzegovina cannot be overstated”, arguing that by “accepting the ethnic principle for the reorganization of the republic”, it played into the hands of political hardliners and “opened a Pandora’s box of ethnic division that still mars Bosnia to this very day” (2011, p. 290). Regardless of whether we accept Glaurdić’s argument that the problems Bosnia suffers from today can be traced, in part, back to the Carrington-Cutileiro Plan, the key point here is that that plan was based on ethnic principles and that EC thinking on Bosnia did not differ markedly from that reflected in the Dayton Agreement.

The ECCY was succeeded in August 1992 by the International Conference on the Former Yugoslavia (ICFY), established by the UN, the EC and other organisations including the Conference on Security and Cooperation in Europe (CSCE). Its steering committee was initially co-chaired by Cyrus Vance, a representative of the UN Secretary-General, and Lord Owen, representing the presidency of the EC. In May 1993, Thorvold Stoltenberg replaced Vance and in June 1995, Owen was replaced by Carl Bildt. The main outcomes of the ICFY were the Vance-Owen Peace Plan (VOPP) in January 1993, the Union of Three Republics Plan of September the same year, and late 1993’s European Union Action Plan (Campbell, 1999, p. 403). Of these, the VOPP was arguably the most prominent. Starting in August 1992,

Vance and Owen identified a number of possible constitutional options ranging from a centralised state to the partition of the country (Anderson, 2013, pp. 77-8). As Anderson notes, “[t]he VOPP itself went through various iterations and refinements in response to pressure from various sources, but the basic structure remained much the same throughout”. (2013, p. 78). At the core of the plan was a decentralised Bosnia made up of nine provinces plus Sarajevo (Campbell, 1999, p. 411), giving, in the words of Owen, “substantial autonomy to the provinces while denying them international legal character” (Owen, 1995, pp. 94-5). These provinces were to be defined according to criteria including ethnicity (Campbell, 1999, p. 411; Anderson, 2013, p. 78). Decision-making principles outlined by the VOPP were vague, but at the central level would have been a nine-member interim government, with representatives drawn from each group, and decisions taken by consensus (Anderson, 2013, p. 78).

The VOPP was rejected in a referendum by Bosnian Serbs in May 1993. Subsequent plans, including the Union of Three Republics Plan and the EU Action Plan, along with the Contact Group Plan of July 1994,³⁴ were, as Campbell (1999, p. 411) notes, regarded by Owen as “basically of the same family” (1995, p. 190). The Union of Three Republics Plan – as the name suggests – “envisaged three powerful ethnic identities, held together loosely by a central government defined by ethnic power sharing” (Anderson, 2013, p. 79). The EU Action Plan, meanwhile, as Campbell notes, “was a political push designed to get the territorial concessions the Bosnian government required before it could sign” the Union of Three Republics Plan (1999, p. 412). Finally, the Contact Group Plan of July 1994 proposed a territorial split of 51 per cent to 49 in favour of the Federation over the Republika Srpska (Campbell, 1999, p. 414). This, as Anderson notes, “was to form the basis of the map agreed

³⁴ The Contact Group, composed of the United States, Russia, Germany, France and the United Kingdom, had its first meeting in April 1994.

to at Dayton” (2013, p. 80), and itself had its basis in the EU Action Plan (Campbell, 1999, p. 413).

The key elements of the Dayton Agreement are outlined above, but to complete our account of the EC/EU’s role during the Bosnian war, it is necessary to note that Dayton was primarily a US initiative. The American government had largely left the ICFY to lead negotiations throughout 1993, but started to become more engaged in the Bosnian issue in early 1994 (Campbell, 1999, p. 413). The process that led to the signing of the Dayton Agreement in November 1995 “was in essence a US-managed process”, in which the EU was sidelined, despite the presence of Carl Bildt (Chandler, 2005, p. 337; see also Juncos, 2005, p. 95; Rodt and Wolff, 2012, p. 139). This is not to say that the EU had no role at Dayton. As Cordell and Wolff (2009, p. 90) note, the diplomat Wolfgang Ischinger was closely involved in the negotiations as leader of the German team there. Chief negotiator Richard Holbrooke notes in his account of the negotiations that Ischinger was under instruction from Bonn to ensure that “any agreement must encourage the refugees to return home” (1998, p. 275).³⁵

As Cordell and Wolff as note, the EU’s role in Bosnia has been far greater when it comes to implementation and operation of Dayton than it was during its negotiation. Shortly after the agreement reached in Dayton, Ohio, the Madrid European Council in December 1995 committed the EU to contributing to the civilian implementation of the agreement (Juncos, 2005, p. 95). Overseeing implementation of Dayton was initially entrusted to the Peace Implementation Council (PIC), the establishment of which was a European suggestion, but

³⁵ As Black (2001, p. 183) notes, the EU has acted in other ways to encourage return, for example by making funding for reconstruction of houses conditional on a certain proportion of the beneficiaries of such funding being refugees. However, such support can partially be explained by the wishes of Western European governments to reduce asylum numbers (Black, 2001, p. 185), and so we should not necessarily view the enthusiasm that EU countries have shown for refugee return as solely being driven by a belief in its ability to contribute to reversing the effects of the conflict on inter-ethnic relations. Holbrooke (1998, p. 275) suggests that this was the rationale behind German insistence on provisions for return.

over time power has shifted towards the EU. As Chandler notes, prior to 2000 the EU's role was limited to civilian implementation of Dayton, but over time and informally, "Dayton gradually was to become subordinate to the requirements for eventual EU membership" (2005, p. 341). This arguably reflects a change in the goals of the EU and the wider international community in Bosnia, as attention has shifted away from the immediate concerns of first conflict prevention, then the negotiation of a settlement, then peacebuilding, towards what has been described as 'member state-building' (Knaus and Cox, 2005; Juncos, 2012).

External actors, including the EU, are now involved in ongoing attempts to promote reform of the Dayton constitution, in order to improve the functionality and efficiency of the Bosnian state and make it possible for Bosnia to meet the responsibilities of membership of the Union, as part of this process of member state-building. Having been marginalised during the negotiation of Dayton, responsibility for Bosnia has started to swing back from the US, and the EU has come to assume a more important role in the country (Cameron, 2006; Wolff and Rodt, 2008; Bieber, 2011). This is partly due to the attentions of US foreign policy being drawn away elsewhere, initially to Iraq and Afghanistan and then by the Arab Spring (see Rupnik, 2011, p. 18), but also reflects the development of the EU's foreign policy mechanisms since the 1990s and the possibility of the Union exercising conditionality in the region following the declaration of the 2003 Thessaloniki EU-Western Balkans Summit that "[t]he future of the Balkans is within the European Union" (European Council, 2003).

As a result of these developments, and because of Bosnia's location within Europe but outside the EU, the Union is now (in principle) able to use both foreign policy and membership conditionality to promote reform in Bosnia. With regard to foreign policy, in December 2004,

an EU force – EUFOR Althea – took over Bosnian peacekeeping responsibilities from NATO's SFOR and with them the responsibility for the military implementation of Dayton. More important in the present context, however, is the role of the EU's Special Representative (EUSR) to Bosnia. The EUSR was established in March 2002 and was a double-hatted role along with the position of the international community's High Representative (see Gervi, 2007, p. 79-90) until the positions were split and the EUSR post made double-hatted with that of Head of the EU Delegation with effect from September 2011 (European Council, 2011a). In addition to these actors, individual EU member states remain important players in Bosnia and in particular have been involved in convening talks with local political leaders aimed at reaching agreement on constitutional reform, either bilaterally or during their spells holding the rotating EU presidency.

The EU has also attempted to make use of the prospect of Bosnia's future membership prospects to promote constitutional reform. In addition to the Copenhagen and Madrid criteria that all states have to meet before acceding to the Union, EU conditionality towards the Western Balkan states has included conditions related to the implementation of peace agreements such as Dayton (Anastasakis and Bechev, 2003, p. 8). Yet European policy-makers have demanded not only the implementation of Dayton but also its reform, arguing that Bosnia's present constitutional arrangements are not compatible with EU membership (see, for example, Rehn, 2009c). Constitutional reform has therefore assumed a central position in the EU's conditionality demands. As Noutcheva notes:

In essence, the reforms demanded by the EU as conditions for establishing contractual relations with BiH link its membership prospects to changes in the internal state structure of BiH. (2009, pp. 1070-71)

The need for reform was articulated as early as 2002 when Paddy Ashdown took up his post as High Representative and the first EUSR for Bosnia and used his inaugural speech to argue in favour of constitutional reform (Ashdown, 2002b). Efforts at bringing about reform did not start in earnest for several more years, however (Sebastián, 2009, p. 342). In June 2004, the Parliamentary Assembly of the Council of Europe (CoE) requested an opinion from the CoE's European Commission for Democracy through Law (otherwise known as the Venice Commission) on Bosnia's constitutional situation and the powers held by the High Representative. In March 2005, the Venice Commission issued its opinion, highlighting the need for constitutional reform in order for the country to meet the requirements of the EU's accession process, to make decision-making more efficient, to reduce the cost of governing the Bosnian state, and to address problems relating to the political representation of citizens not belonging to one of the country's three 'constituent peoples' (see Council of Europe, 2005). The following month, the European Parliament adopted a resolution on regional integration in the Western Balkans, which characterised Bosnia's institutional architecture as undermining the viability of the state (European Parliament, 2005). In October of 2005, then EU Enlargement Commissioner Olli Rehn echoed this call for reform (Rehn, 2005) and in February 2006 the European Parliament adopted a further resolution stressing the need for constitutional amendments (European Parliament, 2006).

EU policy-makers have consistently made reference to Bosnia's accession prospects when outlining the need for reform of the Dayton constitution.³⁶ Despite this, Bosnian EU membership is not *formally* conditional on constitutional reform. Rather, it has been made clear that Bosnia will be unable to fulfil its obligations as a member of the Union under its

³⁶ It is not only EU policy-makers who have attempted to use the carrot of accession to encourage constitutional reform. US policy-makers have also tied the issue to Bosnia's EU accession prospects (see, for example, English, 2008; Biden, 2009).

current constitutional arrangements (Džihic and Wieser, 2011, p. 1815). Perhaps the clearest (though not the first) statement of this requirement was made by Olli Rehn in July 2009, when he stated:

Constitutional reform is not a precondition for OHR closure. Nor is it required to apply for EU membership. But constitutional reform is a necessary part of the EU accession process. Bosnia and Herzegovina will not be able to join the EU with its present constitution. It is that simple. In fact, we will not even be able to grant candidate status without certain reforms. (Rehn, 2009c)

Despite this, it is notable that none of the suggestions for constitutional reform envisage a challenge to the basic consociational and confederal tenets of Dayton. As Belloni (2009a, pp. 367-68) notes, all of the reform proposals that have been made “endorse some variation of Dayton’s basic compromise”, namely recognition of, and consociational power-sharing between, Bosnia’s three constituent peoples.

Perhaps the most radical approach to reform can be found in the CoE Parliamentary Assembly’s resolution on constitutional reform. The resolution text urges the Bosnian authorities to reform the constitution such as to “replace the mechanisms of ethnic representation by representation based on the civic principle, notably by ending the constitutional discrimination against ‘Others’”; to “find efficient and rational decision-making procedures that are not sacrificed to the principle of involving representatives of each constituent people in any decision”; and to “review the territorial organisation of the State and its division into entities, cantons and municipalities and the repartition of competences between the state and the lower levels with a view to increasing efficiency and sustainability” (Council of Europe, 2006). Echoing the language of the Venice Commission’s report, the resolution makes the case for what is presented as evolutionary reform towards political representation based on civic rather than ethnic criteria:

Although it would probably not be realistic to expect that Bosnia and Herzegovina move quickly from a system based on ethnic representation to a system based on representation of citizens, drafting a completely new Constitution would certainly in the long run be preferable to trying to improve the Dayton one. (Council of Europe, 2006)³⁷

Initially, EU policy-makers seemed to share the Council of Europe's desire for radical, if evolutionary, change to Bosnia's constitutional arrangements. Speaking on the tenth anniversary of Dayton in November 2005, Paddy Ashdown echoed the concerns expressed in the Venice Commission's report of March that year regarding ethnic representation:

But whatever the advantages of Dayton – and there have been many – there are two downsides which it is now necessary also to begin to recognize and correct. The first is reliance on group, rather than individual rights. And the second is the burden of a highly dysfunctional structure of governance. (Ashdown, 2005a)

Over time, however, EU officials have become more conservative in their demands for reform. At the end of Ashdown's mandate in January 2006 he identified efficiency and functionality as the primary goals of constitutional reform, rather than changing the basis of political representation:

The aim is a simple one. To make BiH a functional, cost-effective state, in line with EU requirements and so ready to join Europe. You have to cut the cost of Government, which impoverishes citizens and stifles the economy. Constitutional change, now much talked about is not an end in itself. It is the means to create a State that puts service to its citizens before salaries for its politicians. No country can prosper which spends up to 70% of its citizens' taxes on government, and only 30% on its citizens. (Ashdown, 2006a)

³⁷ The reason why the Council of Europe called for more wholesale reforms than other actors was explained in the author's interview with a senior official, Council of Europe Field Office, Sarajevo, 4 June 2010. The official stated that "there is simply no way we can accept a state which is based on divisions, I mean there are x number of mechanisms whereby you can ensure political representation of minorities, but to have a constitution which *de jure* prevents Jews and Roma – the two peoples which were completely exterminated by the Nazis – which prevents Roma and Jews from standing for election, Jews and Roma and all the other minorities, and the others, are just second-rate citizens. It's intolerable. So the Venice Commission as an advisory body could not do anything else than to recommend to move over to a civic state".

In February 2006, Olli Rehn also stressed that while constitutional reform was necessary, “I do not expect a constitutional *revolution* to take place, rather an *evolution*” (Rehn, 2006b, emphasis in original). Ashdown and Rehn’s comments followed extensive negotiations involving the leaders of the major Bosnian political parties that had taken place over the course of 2005 (Sebastián, 2009). The talks were initially convened by former Deputy Principal High Representative Donald Hays, with the US government becoming increasingly involved towards the end of 2005, and the EU taking somewhat of a back seat until the final phase, when agreement had been reached between the leaders in private. At this stage, Ashdown’s replacement, Christian Schwarz-Schilling, “engaged in an intense and frantic lobbying activity to secure the approval of parliament” (Sebastián, 2009, p. 346). As a result of these negotiations, the parties agreed on a package of reforms, which became known as the ‘April Package’ and was put to the Bosnian parliament in April 2006. These reform proposals would have strengthened the role of the country’s Council of Ministers and given it the power to negotiate, adopt and implement policies required for Bosnia to accede to the EU, and created two new state-level ministries. The April Package, however, was rejected by the parliament, falling short of the two-thirds majority required by a margin of only two votes (Sebastián, 2009, p. 346). Opposition came from the largely Bosniak Party for Bosnia and Herzegovina, for which the reforms did not go far enough, and from a Croat splinter party, HDZ 1990, which wanted reform resulting in the establishment of a third, Croat entity (Sebastián, 2007, p. 6; Belloni, 2009a, p. 361).

The second major constitutional reform talks took place in the northern Bosnian village of Prud in November 2008. These involved the leaders of the country’s three main political parties and concluded with the Prud Agreement, which proposed the establishment of four territorial units between the state and the municipal levels of government, thus eliminating the

cantons of the Federation.³⁸ Whereas the April Package had been an internationally sponsored effort, the Prud Agreement was a domestic initiative, and “took almost everyone by surprise” (International Crisis Group, 2009a, p. 4). However, while agreement had been reached between the parties on the basic tenets of reform, the details still needed to be worked out and by early 2009 any consensus between the parties broke down, following extensive debate about the precise details of the four territorial units (Belloni, 2009a, p. 366). Whereas the leader of the Alliance of Independent Social Democrats, Milorad Dodik, maintained that the Republika Srpska should be one of the four units, Croat and Bosniak party leaders wanted the units to cut across entity lines. Dodik eventually walked out of the talks, stating that he would only return on the condition of the Republika Srpska being granted the right to secede from Bosnia and Herzegovina following a waiting period of three years (International Crisis Group, 2009a, p. 5).

With no agreement forthcoming, EU policy-makers have scaled back their expectations of what might be achieved in terms of substantive constitutional reform. In November 2008, for instance, EUSR Miroslav Lajčák argued that “[t]he radicalisation we have witnessed since spring 2006 means that any reforms that could now be agreed would be far less ambitious even than those offered by the April package” (Lajčák, 2008e). This view has clearly informed EU policy in subsequent negotiations. Following the failure of the April Package and the Prud Agreement, further negotiations were convened by the Swedish EU Presidency and US diplomats at the EUFOR base at Butmir in October 2009. These negotiations aimed to revive the constitutional reform process and involved EU and US officials proposing reforms to Bosnian party leaders. While the items for discussion were derived from the April Package,

³⁸ The three parties were the Party of Democratic Action, represented by Sulejman Tihić, the Croatian Democratic Union of Bosnia and Herzegovina, represented by Dragan Čović, and the Alliance of Independent Social Democrats, represented by Milorad Dodik. Each of these parties is mono-ethnic, representing Bosniaks, Croats and Serbs respectively.

after the initial round of talks failed to result in agreement, the facilitators were clear that any agreement would be more limited in its scope than that achieved previously. Subsequent negotiations focused on four main areas: establishing changes to the constitution required to ensure compliance with the European Convention on Human Rights (ECHR); an 'EU clause' specifying which level of government is responsible for implementing legislation required for EU accession; a number of measures designed to improve the efficiency of decision-making in the presidency and Council of Ministers; and enshrining in the constitution powers that have already been transferred to the state level since the signing of Dayton.³⁹

Following the failure of this third set of talks, hopes for reform have been scaled back further, to the extent that constitutional reform "has come to mean minor tweaks rather than wholesale reform of the governing system's incentives" (Bassuener and Weber, 2010, p. 15). As such, the whole process of constitutional reform is now, in the words of one analyst, "an empty vessel".⁴⁰ EU officials now regard reforms of the scale envisaged by the April Package as impossible to achieve, certainly in the short term. One EU official interviewed by the author, for example, stated that there is "no way that one big-bang package will be agreed", and another argued that reforms on the scale of the April Package are now "unthinkable".⁴¹ Rather, their efforts are focused on two main issues. The first is ensuring Bosnia's compliance with the ECHR, following a decision in December 2009 by the European Court of Human Rights that the exclusion of Bosnians not belonging to one of the three constituent peoples from election to the presidency and House of Peoples breached the Convention. The EU

³⁹ Author's interview with a senior official from an EU member state embassy involved in Butmir talks, Sarajevo, 15 June 2010. See also Council of Europe (2010, pp. 8-10).

⁴⁰ Author's interview with Kurt Bassuener, Democratization Policy Council, Sarajevo, 17 June 2010.

⁴¹ Author's interviews with a political advisor, Delegation of the European Union to Bosnia and Herzegovina, Sarajevo, 8 June 2010 and a senior official, Delegation of the European Union to Bosnia and Herzegovina, Banja Luka, 10 June 2010. Similar views were expressed in an interview with a desk officer, European Commission DG Enlargement, Brussels, 30 April 2010.

Delegation convened talks with Bosnian political parties in order to try to find a solution to this problem in early 2013 (Jukic, 2013). Even here, however, reforms seem unlikely to result in large-scale changes to the system of representation based on ethnicity. An EU member state embassy official who participated in the Butmir talks, for instance, described Serb proposals to remove the ethnicity criteria from the presidency elections and have three territorial representatives instead as “quite neat”, since they would have involved changing the nature of the presidency on paper, but have had no impact in practical terms, because, providing that one member of the presidency was still elected from the Republika Srpska, they would in all probability be a Serb.⁴² Moreover, the existence of the entities in their present form is not judged as inimical to Bosnian accession.⁴³ The second demand relates to the efficiency and functionality of Bosnia’s political institutions, rather than their conflict regulation credentials *per se*, and as such EU officials argue that the “system needs to be carefully fixed within its existing parameters” (Inzko, 2010b).

Understanding the construction of EU conflict resolution policy in Bosnia

Having outlined the history of conflict resolution in Bosnia and the EU’s increasingly important role as an external actor in that process of conflict resolution, the present section attempts to explain the construction of the EU’s policy preferences with regard to constitutional reform. This section examines four key issues relating to the EU’s policy in Bosnia. Firstly, we ask why EU officials have demanded reform of the Dayton constitution, in order to gain an insight into their views on the efficacy of the country’s present conflict management institutions. Following this discussion, we then move on to consider, in turn, the

⁴² Author’s interview with EU member state diplomat involved in the Butmir talks, Sarajevo, 15 June 2010. See also Jukic (2013).

⁴³ Author’s interview with a senior official, Delegation of the European Union to Bosnia and Herzegovina, Banja Luka, 10 June 2010.

EU's conceptualisation of conflict in Bosnia, the understanding of the role of nationalist elites revealed in the European discourse on constitutional reform, and the framing of EU policies.

The changing rationale for constitutional reform

As noted above, there appears to have been a shift in EU actors' attitudes towards constitutional reform in Bosnia over time as they have faced resistance from domestic political elites. Not only has the extent of reform demanded diminished over time, but there has also been a change in the rationales deployed by EU actors when they explain why constitutional reform is required. Initially, EU officials appeared to favour relatively radical reform of the Dayton constitution, whereas latterly they demand only minor changes designed to improve the efficiency of the state rather than change the way in which Bosnian citizens are represented politically. This shift, however, needs to be considered against the backdrop of attitudes towards Dayton as a tool of conflict resolution itself. Indeed, while EU officials have stressed the need for reform, they have also been at pains to praise Dayton for stopping the conflict of the 1990s. So, for instance, in his inaugural speech as High Representative and EU Special Representative, made before the Bosnian parliament in May 2002, Paddy Ashdown stated:

The peace agreement that was drawn up in Ohio in 1995 was designed to end a war, not to build a country. Dayton is vital. Without it there would be no peace. But Dayton is the floor, not the ceiling. It is the foundation for the state we are trying to construct. And like all foundations, it must be built on. (Ashdown, 2002b)

While Dayton may not have been an EU blueprint, as we saw above, it does have European fingerprints on it. Moreover, the Union remains a guarantor of the agreement and its implementation (see Szewczyk, 2010). Furthermore, as outlined above, implementation of the Agreement has been a key condition for Bosnia's progress towards accession even as

demands for constitutional reform have grown. This means that it is difficult for EU officials to publicly criticise Dayton. As one senior Council of Europe source told the author:

It is very difficult for the international community, especially in the first few years after the war, it was extremely difficult for the international community, and remains difficult to this day, to criticise Dayton because they were part of Dayton!⁴⁴

Rather than stressing the deficiencies of Dayton, then, EU officials have instead argued that the agreement is one that provides foundations that must be built upon,⁴⁵ whilst consistently seeking to praise it for ending the war. This is evident in another Ashdown speech, this time reflecting specifically on the lessons of the Bosnian experience, made in December 2003:

In Bosnia, we have the Dayton Peace Agreement. It is fashionable now to say that it is out-of-date, has become a straight-jacket, needs to evolve. That may be true. But what I do know for certain is that the enormous progress Bosnia has made since 1995 would not have been possible without it. It has provided the agreed plan for rebuilding Bosnia. (Ashdown, 2003)

Similarly, in November 2005, Ashdown stated that “[t]he Dayton talks ended three and a half years of carnage”, arguing that: “Even the fiercest critics of Dayton and the process that it launched do not deny that it saved lives. This was its signal achievement” (Ashdown, 2005b).

Nonetheless, early in the constitutional reform process, significant concerns about representation based on ethnicity were articulated by EU officials. For example, speaking on the tenth anniversary of Dayton in November 2005, Paddy Ashdown seemed to echo the concerns expressed in the Venice Commission’s report of March that year towards ethnic representation, as well as highlighting Bosnia’s inefficiencies, arguing that the disadvantages

⁴⁴ Author’s interview with senior official, Council of Europe Field Office, Sarajevo, 4 June 2010.

⁴⁵ The construction analogy is one that was popular with Ashdown (see Ó Tuathail, 2006, pp. 149-51).

of Dayton are “reliance on group, rather than individual rights” and “the burden of a highly dysfunctional structure of governance” (Ashdown, 2005a). Ashdown went on to elaborate:

Dayton encouraged, and has preserved what was, in wartime, a means of survival. But what is in danger of becoming, in peacetime a block to genuine progress on the European road – a reliance on group might, rather than individual rights. (Ashdown, 2005a)

Here, Ashdown articulates the criticism that, as was outlined above, is often made of Dayton: that it has entrenched ethnic divisions in Bosnia’s post-war political landscape. Dayton is described as having “preserved” and “encouraged” the tendency for Bosnians to think of themselves as belonging to communities defined primarily in ethnic terms. The system of representation based on ethnicity that has prevailed since Dayton is portrayed as antithetical to European integration, and that process of integration therefore requires the abandonment of group rights in favour of individual rights, according to Ashdown.

Following the failure of the April Package of 2006, however, EU policy-makers’ statements on constitutional reform have increasingly been narrowly focused on the inefficiency of the current constitutional settlement, or what Sørensen (2008, p. 726) argues are the functional aspects of reform, rather than on arguments about ethnic versus civic representation. In April 2006, after leaving Bosnia, Ashdown told an audience at Oxford University:

Throughout this process we have had to contend with the fact that the state bequeathed by Dayton is a bureaucratic monstrosity. BiH has no fewer than [sic] 13 prime ministers, and that is the tip of a vast administrative apparatus set in place in 1995 when the demands of *representative* government – and by representative we are talking about representation of groups rather than individuals – outweighed the requirements of *efficient and effective* government. (Ashdown, 2006b, emphasis in original)

Here, while making the point that representativeness was understood in group rather than individual terms at Dayton, Ashdown does not highlight the problems inherent in group-based

representation so much as the tension between representativeness and efficiency. The increasing dominance of arguments that prioritise issues of functionality and efficiency over those concerning the impacts of institutionalised ethnic politics is also evident in pronouncements of subsequent holders of the post of HR/EUSR. Lajčák, for instance, stated in February 2008 that, “[t]he process of constitutional reform is adjunct to the SAA process in order to make Bosnia and Herzegovina *work better*” (Lajčák, 2008f, emphasis added), and his successor, Valentin Inzko, stated in front of the Bosnian Parliamentary Assembly in May 2009:

Overarching all these challenges is the issue preceding all others, and that is the issue of constitutional reform – this is necessary first and foremost because *Bosnia and Herzegovina isn’t working efficiently*. The system has to be changed because *the country needs efficient and representative government* that can start helping to raise living standards. (Inzko, 2009b, emphasis added)

Similarly, speaking at the European Forum Alpbach in August 2010, Inzko stated:

...the Dayton construction was meant to build and enforce peace in a war-torn society – through a State with two entities, and with guarantees of communal protection entrenched at various levels of government and administration. Today, 15 years onwards, the resulting reality is that this peace has been successfully enforced, but that this achievement has come at the high price of an inefficient and expensive system where political gridlock more often than not comes in the way of much needed reforms. (Inzko, 2010b)

The Commission has also justified the need for constitutional reform on efficiency grounds. As early as October 2005, addressing a conference in Geneva marking the tenth anniversary of the Dayton Agreement, Olli Rehn, in his then capacity as EU Enlargement Commissioner, spoke of the need to reform Bosnia’s constitutional arrangements. Rehn emphasised the dysfunctional and inefficient nature of the Dayton constitution:

Ten years after we acknowledge the achievements of the Dayton Agreement, it is also time to recognize its limitations. It is time to reflect whether it provides

Bosnia and Herzegovina with such an adequate constitutional and administrative framework that is needed to take the country forward in the process of European integration.

With only a small dose of sarcasm, one may ask: How anyone can call a country ungovernable if it has as many as 13 governments for just over four million people? Which other country of the size of Bosnia and Herzegovina has over 700 members of several parliaments, over 180 Ministers, 13 Prime Ministers and three Presidents?

Bosnia and Herzegovina and its people must now make the choice whether to maintain the current constitution with its functional limitations – or to opt for constitutional changes necessary to make herself a stable and functional country, ready to progress towards the EU. (Rehn, 2005)

Rehn went on to state that: “The debate is not about abolishing entities or rights of the peoples, but about *making the country more viable and functional*, so that every citizen can enjoy real freedom and real rights” (2005, emphasis added). Similarly, giving a speech in February 2006 before the European Parliament, Rehn argued that Bosnia needed a constitution that “ensures full compatibility with the European Convention for Human Rights; allows smooth decision-making and proper governance; [and] streamlines the various levels of government and makes it less costly” (Rehn, 2006b). More recently, Rehn’s successor, Enlargement and Neighbourhood Policy Commissioner Štefan Füle, stated in a March 2010 interview:

The key is in constitutional changes. The key is to come to the end of the OHR chapter and via constitutional changes open the way for the country to run itself [with] a *stable, effective administration*, where the European aspirations are shared by, if not all, then most. (quoted in Barlovac, 2010, emphasis added)

Moreover, the Commission’s website states that:

The Dayton Peace Agreement was instrumental to stop a dreadful war. It also provided Bosnia and Herzegovina with the basic elements for its normalisation, including with a Constitution. But current constitutional arrangements will need to

evolve in order to make Bosnia and Herzegovina a more democratic, functional and viable country, better able to respond to the requirements that the EU integration process entails. (European Commission, 2010b)

The European Commission's 2011 progress report on Bosnia, meanwhile, states:

The Dayton/Paris Peace Agreement put an end to the 1992-1995 war and brought peace to Bosnia and Herzegovina. However, Bosnia and Herzegovina's Constitution, which is Annex 4 to the Agreement, established a complex institutional architecture, which remains inefficient and is subject to different interpretations. The complicated decision-making process has contributed to delay structural reforms and reduce the country's capacity to make progress towards the EU. (European Commission, 2011a, p. 7)

Similarly, when asked by the author in interviews why they considered constitutional reform a necessity, EU officials in both Brussels and Sarajevo generally highlighted two reasons for demanding reform: the present inefficiency of the Bosnian state, and the necessity of compliance with the ECHR following the European Court of Human Rights' judgement in December 2009.⁴⁶ These rationales, and particularly the efficient one, therefore appear to dominate the EU's discourse on constitutional reform in Bosnia, and have crowded out what appeared to be an initial desire to move away from representation based on ethnic criteria and towards a civic constitution. What remains of the EU's commitment to encouraging reform, is an approach that seeks the necessary degree of reform that is compatible with a strategy of member-state building, which, as we saw above, has become the centrepiece of the Union's strategy for Bosnia as the country has moved away from a post-conflict context and towards EU membership, even if accession remains a distant goal.

⁴⁶ This view was expressed, for instance, in the author's interviews with an official, European Commission DG Enlargement, Brussels, 30 April 2010 and a political advisor, Delegation of the European Union to Bosnia and Herzegovina, Sarajevo, 8 June 2010.

Bosnia's ongoing identity conflict

How do we explain this increasingly conservative approach to constitutional reform and hence the EU's strategy in Bosnia? For some, the approach of the international community, including the EU, in Bosnia remains informed by ethnic essentialism. Mujkić, for example, argues that "the three main ethnic communities (constituent peoples) have come to be viewed in essential and absolutist terms" and that "[o]ne of the key errors of the international community's approach to the Bosnian problem is that it accepts such an essentialist view" (2007, p. 117). The EU's approach to constitutional reform, which has increasingly focused on relatively small changes to the Dayton constitution in order to improve the efficiency of the Bosnian political system, might then be said to be the result of viewing Bosnia through an essentialist lens. If EU policy-makers view Bosnia's three constituent peoples as internally homogenous groups with incompatible interests, it is not surprising that they do not seek wholesale reform of a constitution that is premised on such a view of ethnic identities. Mujkić argues that this approach continues to inform European and international policy in Bosnia, more than a decade after Dayton:

This essentialism is clearly visible in the Dayton Agreement as well as in the everyday practices of international institutions such as the OSCE, the European Commission, and the Office of the High Representative. All their efforts have been focused on establishing a stable society by achieving some sort of equilibrium between three self-enclosed, homogenous particularities whose existence was presupposed from the outset. (2007, pp. 117-18)

This approach, if it does drive EU policy in Bosnia, appears to be institutionalised to a considerable extent. While Mujkić traces it back as far as Dayton, earlier attempts on the part of the ECCY to deal with the unfolding crisis similarly sought to establish constitutive units for each of Bosnia's three main ethnic groups, even prior to the outbreak of violent conflict,

as we saw above. This understanding of Bosnia, viewed through the prism of ethnicity, remains in place and dominates much of the debate around constitutional reform.

Indeed, EU policy documents and speeches frequently display an understanding of Bosnia as characterised by an ongoing identity conflict between the three constituent peoples, in much the same way that the Haagerup report conceptualised the Northern Ireland conflict (see Chapter 1). References to the interests and preferences of the constituent peoples, as groups, are frequently made both in speeches and policy documents. In this regard, the EU's discourse on Bosnia is strongly reminiscent of what Brubaker terms 'groupism', namely "the tendency to take discrete, bounded groups as basic constituents of social life, chief protagonists of social conflicts, and fundamental analysis" and "to treat ethnic groups, nations and races as substantial entities to which interests and agency can be attributed" (2004, p. 8).⁴⁷

For example, in a television address to mark the end of 2004, Paddy Ashdown sought to speak to each of Bosnia's three constituent peoples. Addressing what he saw as the concerns of Serbs, he reassured them that "[i]t is no-one's policy to abolish Republika Srpska". To Croats, he stated that he understood that, as the smallest of the three groups, they "fear the annihilation of their culture and their identity". He then went on to argue that Bosniaks "will have to be prepared to make the greatest compromises" in order to achieve their aim of a Bosnian state without the entities (Ashdown, 2004a). Similarly, the OHR/EUSR's report to the European Parliament of March 2007 outlines what are presented as the different visions of the constituent peoples:

Most Serbs want an explicitly federal state composed of three 'national-majority' units, though any effort to define the prospective boundaries of such units

⁴⁷ While Brubaker is highly critical of groupist assumptions about ethnicity and race (possessing instead a thoroughly social constructivist understanding), my use of the term here is intended to be descriptive, rather than critical, of EU actors' conceptualisation of ethnicity.

undermines potential Serb-Croat concord on this point. Bosniaks, on the other hand, continue to favour an integral or ‘civil’ state, the territorial sub-units of which would be merely administrative – and certainly not national or constituent. This is unacceptable to Serbs and Croats because they see it as guaranteeing Bosniak majority rule. (Office of the High Representative and EU Special Representative, 2007)

In a similar vein, in October 2007, then HR/EUSR Miroslav Lajčák stated in a speech given to the Permanent Council of the OSCE that he saw the constituent peoples as possessing different visions of the Bosnian state:

Although majorities of each of BiH’s constituent peoples now accept the country as their common homeland, there is as yet no consensus on how this common state should be organised. Serbs’ loyalty, as Republika Srpska Prime Minister Dodik never tires of telling us, is conditional upon the others’ acceptance of the RS as a legitimate and permanent part of the constitutional architecture. Croats remain fundamentally dissatisfied with a two-entity setup that they feel consigns them to the status of a minority in all but a few Federation cantons. Meanwhile, most Bosniaks want a constitutional order that will do away with the entities and provide for an effective central government, even if it also devolves many powers to multinational regions. (Lajčák, 2007)

Lajčák returned to this theme in his speech to the OSCE the following year, arguing that “each constituent people still has a different vision of the past, the present and the future of Bosnia and Herzegovina” (Lajčák, 2008a).

This view was also reflected in the author’s interviews with EU officials in Bosnia. For example, one EUSR official argued that it would always be difficult to achieve consensus on constitutional reform since “the political views of the constituent peoples are diametrically opposed”,⁴⁸ and an EU Delegation official reported that “the three constituent peoples have different agendas” and argued that “there is a different reality here than elsewhere in Europe” and that international actors are “mistaken if they think state models from the West can apply

⁴⁸ Author’s interview with a senior official, Office of the High Representative/EU Special Representative, Sarajevo, 16 June 2010.

in Bosnia”.⁴⁹ EU officials view any move beyond consociational democracy in Bosnia as unrealistic and see constitutional arrangements as having to satisfy the interests of the country’s ethnic groups, which are perceived to be distinct and mutually exclusive, as articulated by their nationalist representatives. For example, the High Representative for the Common Foreign and Security Policy Javier Solana stated in a newspaper interview in May 2005 that:

The time will come when your politicians will agree that constitutional change is required – but change can only happen through your institutions and with the agreement of all three BiH peoples. (quoted in European Council, 2005, p. 3)

This view that ethnic communities have distinct interests is also articulated in claims made about the lessons of other examples of conflict resolution that are held to be relevant to the Bosnian experience. So, for example, in Valentin Inzko’s invocation of the Northern Ireland experience of conflict resolution as offering lessons for Bosnia, made in a speech in May 2009, he argued:

Some will continue to argue that profound philosophical differences have to be overcome before we can really move the country forward. But here again I think the example of Ireland may be instructive. The political settlement that was achieved in Northern Ireland a decade ago was based on *accepting that the two communities had different aspirations* but that they could arrive at a *modus vivendi*. (Inzko, 2009a, emphasis added; see also Lajčák, 2008d)

The perceived success of the Northern Ireland case therefore seems to bolster the view that conflict resolution succeeds through the institutional accommodation of rival group identities and interests, with those interests understood in groupist terms by EU policy-makers.

⁴⁹ Author’s interview with a senior official, Delegation of the European Union to Bosnia and Herzegovina, Banja Luka, 10 June 2010.

As well as arguing that conflict resolution succeeds through the accommodation of group identities and interests, EU actors also appear to hold a normative commitment to nurturing existing identities. This is clear from speeches by key EU figures going back to Paddy Ashdown's inaugural speech in May 2002, when he noted that "the ethnic tapestry of Bosnia and Herzegovina's proud past" was slowly being restored and stated that "I will never permit any constitutional change that fundamentally threatens the identity or security of any of Bosnia and Herzegovina's constituent peoples". Moreover, he went on to argue:

Our task is not to submerge or destroy ethnic identities. It is, patiently, to build a state that protects those identities, celebrates them and harnesses them for everyone's benefit. A state that enables people to value their Bosnian identity, at the same time as valuing their ethnic identity. (Ashdown, 2002b)

Normative claims about the need to respect, rather than transform, the identities of the three constituent peoples have also been made more recently by the EU's High Representative for Foreign Affairs and Security Policy, Catherine Ashton, who, in a speech given in February 2010, stated:

Let me be clear: Bosnia and Herzegovina can only join the European Union as one country, by speaking with one voice, and by respecting individual human rights and *the different cultures of the constituent peoples*. (Ashton, 2010, emphasis added)

It is not simply that the perception that Bosnia is host to an ongoing identity conflict that means that extensive constitutional reform is viewed as unrealistic, then, but also that EU officials view the supposedly separate and distinct identities of the country's constituent peoples as needing nurturing and respect.

Interpreting nationalist mobilisation

Nevertheless, it is important to note that, contrary to what we might expect if we accept the view that EU actors view Bosnia through an essentialist lens, the public pronouncements of EU officials often attribute ethnic tensions not to ‘ancient hatreds’ between the country’s three main ethnic groups, but rather to the actions of nationalist politicians. Indeed, EU officials have come to place the blame for Bosnia’s lack of progress, with increasing certainty, on domestic political actors. The Commission’s 2008 progress report, for instance, states: “Nationalist rhetoric from political leaders from all the constituent peoples, challenging the Dayton/Paris Peace Agreement and, thus, the constitutional order, remained commonplace” (European Commission, 2008a, p. 7).⁵⁰ This echoes the tone of the OHR/EUSR’s regular reports to the European Parliament, which, since the failure of the April Package in 2006, have frequently noted nationalist political rhetoric. The February-June 2006 report, for instance, notes that the optimism that accompanied the reform talks was replaced by “a subsequent period of political antagonism increasingly underscored by nationalistic rhetoric following the narrow defeat of the constitutional reform package”, which then “coincided with and set the tone for the unofficial start of the general election campaign” of that year (Office of the High Representative and EU Special Representative, 2006). More recently, the Commission’s 2010 progress report notes: “The prospect of elections in October 2010 reinforced the tendency of political parties and government officials on all sides to engage in nationalistic rhetoric” (European Commission, 2010a, p. 8).

EU figures have frequently taken the opportunity to criticise Bosnian politicians for their nationalist stances. In particular, criticism has been made of the Republika Srpska Prime Minister Milorad Dodik. Since being elected in February 2006, Dodik has heightened his

⁵⁰Similar observations about politicians challenging Dayton are made in the 2009 and 2010 progress reports. (European Commission, 2009b, p. 7; 2010a, p. 21)

nationalist rhetoric and has hinted about holding a referendum on the secession of the RS from Bosnia. While Dodik denies that he wants the RS to secede (see Dodik, 2010), his rhetoric has been the focus of significant concern for the EU and other international actors in Bosnia. For example, the OHR/EUSR report to the European Parliament of September 2006 highlights “the increasingly fraught state of inter-ethnic and inter-entity relations”, which is partially attributed to “Prime Minister Dodik’s speculative but inflammatory comments about a possible referendum on secession in Republika Srpska” (Office of the High Representative and EU Special Representative, 2006). Similarly, the October 2009 report states that:

...nationalist, anti-Dayton rhetoric challenging the sovereignty, territorial integrity, and constitutional order of BiH, as well as the authority of the High Representative and the Peace Implementation Council (PIC) Steering Board have continued to dominate politics in BiH. Of particular note have been the frequent attempts by the Republika Srpska government to undermine State institutions, competencies, and laws. Together with provocative statements from, in particular, the Bosniak political leaders, questioning the right of Republika Srpska to exist, this has served to further undermine inter-ethnic trust, creating a cycle where it is more and more difficult for the country’s political leaders to meet each other half way so they can make the decisions needed to take the country forward. (Office of the High Representative and EU Special Representative, 2009)

Valentin Inzko has also personally expressed concern about nationalist rhetoric in the RS:

Notwithstanding the positive achievements that have been made, divisive rhetoric and official resolutions challenging the sovereignty, constitutional order and territorial integrity of Bosnia and Herzegovina all continued during the reporting period, principally on the part of Republika Srpska. That entity has, in official Government and National Assembly documents, on several occasions referred to the possibility of unilateral self-determination. (Inzko, 2009c)

These statements raise interesting questions about whether EU officials view elites such as Dodik as the drivers of nationalism, or as simply reflecting pre-existing divisions. Addressing the tendency of those elites to argue that their ability to agree on constitutional reform is constrained by public opinion, then HR/EUSR Miroslav Lajčák stated at a press conference in

March 2008 that “it is time for the political leadership to stop looking for excuses, stop blaming public opinion – the opinion they themselves have created – or the international community – and start doing their job” (Lajčák, 2008g). Similarly, in an interview conducted by the author, one EUSR official argued that nationalist politicians resist reform in order to maintain their popularity through instilling fear in the electorate, rather than as a reflection of wider nationalist feeling.⁵¹ This link between nationalist mobilisation and electoral success is frequently made in the EU’s discourse on Bosnia. Speaking again in April 2008, Lajčák argued that nationalism was responsible for Bosnia’s lack of progress in terms of constitutional reform and European integration:

What has blocked delivery up to now is *nationalism*, and delivery on the European agenda will remain vulnerable to nationalism. This is not to say that all politicians – or citizens – in Bosnia are purely *ideologically* nationalistic, that political or inter-communal relations are defined only by nationalism. For me, though, it is more about a *practical* brand of ethnic identity and nationalism. There is a mutual recognition amongst politicians of how powerful an instrument it is in Bosnian politics. The simple arithmetic is: nationalism means votes. (Lajčák, 2008b, emphasis in original)

According to Lajčák, Bosnian politicians and citizens are not all, then, inherently nationalistic. This view appears to have been reinforced by a series of ‘town hall’ style meetings at which the HR/EUSR met with ordinary citizens in order to hear their concerns. Lajčák made reference to these in a June 2008 speech, noting that “nationalist politics don’t come anywhere near the top of the list of popular concerns” (Lajčák, 2008c). This view sits uneasily, however, with his assertion that “nationalism means votes”. There appears to be an inherent contradiction between the view that Bosnians’ main concerns are not related to nationalism, and the observation that nationalism remains a powerful electoral force. One explanation of the continuing strength of nationalist politicians seems to be a retreat into a

⁵¹ Author’s interview with a political advisor, Office of the EU Special Representative, Sarajevo, 22 June 2010.

form of essentialism on the part of EU officials, who suggest that Bosnia's status as a multi-ethnic state makes it inherently characterised by nationalism. The combination of blaming political elites for nationalist mobilisation and taking such mobilisation as a given was demonstrated by Lajčák in a speech given at the London School of Economics in November 2008:

...every two years, citizens continue to give their votes to parties and politicians whose basic strategy is to mobilise their separate electorates on the basis of fear of the 'others' and solidarity with one's own. As a multinational state, Bosnia and Herzegovina is *naturally prone* both towards nationalistic politics and periodic re-negotiation of the terms on which its peoples live together. These are '*givens*'. (Lajčák, 2008e, emphasis added)

This view, that Bosnia is inherently prone towards nationalism due to the multi-ethnic composition of its population is, I suggest, characteristic of the 'ethnic conflict' paradigm that underpins the approach of the EU and other international actors in Bosnia and that informs their interpretation of Bosnian politicians' resistance to constitutional reform. While upbraiding politicians for their nationalist rhetoric, which they hold responsible for the state of inter-ethnic relations in the country, most EU officials ultimately see this nationalism as reflecting deeper divisions and as being an inevitable consequence of Bosnia's multi-ethnicity. A good example of this is external actors' view of Dodik. Having initially seen him as a moderate,⁵² international actors have come to view him "as a popular tribune whose nationalism rationally reflects that of his entity", rather than someone whose power stems from the design of the Bosnian state, which fails to reward moderation (Bassuener and Weber, 2010, pp. 11, 15). In this vein, one EU official interviewed by the author argued that while

⁵² For instance, following the 2002 elections, Paddy Ashdown stated that "the party that increased its vote the most – the SNSD – is a non-nationalist party" (Ashdown, 2002c, p. 8; see also Ashdown, 2002a). Bassuener and Weber (2010, p. 11) point out that up until the 2006 elections, "the EU and the US promoted Milorad Dodik as a Serb social democratic alternative who would join with his counterparts in the Federation to democratize the country".

Dodik does “stoke people’s fears”, he “wouldn’t be popular if people didn’t already have nationalist feelings”.⁵³

While European actors are certainly correct in arguing that secessionist rhetoric goes against the principles of Bosnian territorial integrity enshrined by Dayton, and is therefore against the spirit of the agreement, to present this rhetoric as simply a challenge to Dayton ignores the fact that nationalism is, according to many commentators, an inevitable result of the institutionalisation of ethnicity that the Dayton constitution represents. More recently however, despite a reticence to criticise Dayton, EU policy-makers have started to become more critical not only of nationalist leaders, but also of the possibilities for nationalist mobilisation presented by the current constitution.⁵⁴ For example, in November 2008, then EUSR Miroslav Lajčák stated:

The trouble [...] is that the current constitutional disorder promotes extremism, zero-sum games, and stalemate. Advances towards European integration could and should change that dynamic. (Lajčák, 2008e)

Similarly, the Commission’s 2009 progress report, while attributing much of the blame for the country’s lack of progress to nationalist leaders, also acknowledges that “the current constitutional structure [...] still offers too many possibilities for political obstructionism” (European Commission, 2009b, p. 7). Entity voting and the vital national interest clause are singled out as particularly problematic. Moreover, speaking about constitutional reform in April 2010, EUSR Valentin Inzko stated that:

This problem can only be fixed by the political leaders of Bosnia and Herzegovina. So far, they have manifestly failed to come up with solutions. This ought not to be a surprise. We have a chicken and egg situation – because the

⁵³ Author’s interview with a political advisor, Delegation of the European Union to Bosnia and Herzegovina, Sarajevo, 8 June 2010.

⁵⁴ Though when asked why they thought nationalist elites continued to dominate Bosnian politics, none of my interviewees pointed to the incentive structures inherent in the constitution.

present constellation of parties is a direct result of a political system designed to sustain the present constellation of parties. (Inzko, 2010c)

Cognisant of this dilemma, European actors' pronouncements on Bosnia have occasionally involved attempts to bypass nationalist elites and appeal to moderate public voices. This is perhaps most obvious in a tendency to call on civil society groups to play an increased role in Bosnia's political development, which forms part of a wider discourse about the importance of 'local ownership' of the reform process (see, for example, Rehn, 2005, 2006b, 2008d). Speaking about the failure of political elites to agree on constitutional reform, HR/EUSR Valentin Inzko, for instance, stated in April 2010 that "this roadblock will continue to prevent Bosnia and Herzegovina's progress to Europe unless BiH citizens *make* their representatives move it out of the way" (Inzko, 2010a, emphasis in original). Speaking to an audience of civil society activists, Inzko described the aims of those activists as being "to develop a democratic, intercultural and citizens-based society in Bosnia and Herzegovina", which, he argued, "dovetail exactly with the Euro-Atlantic integration agenda". Furthermore, he contrasted the characteristics of Bosnian politics with those of its civil society, arguing that his audience were those who "reject the dominance of ethno-national criteria in politics" and going on to state:

The odds, of course, may be stacked against you; politics in this country are premised on ethno-nationalist criteria rather than on civil society. The only way this will change, however – and the only way the roadblock to European integration will be moved to one side – is if citizens take charge. (Inzko, 2010a)

These views on the importance of civil society and the counterbalance to nationalist politics that it potentially provides have also been expressed by other EU policy-makers. For example, in September 2006, then HR/EUSR Christian Schwarz-Schilling argued that "it's the non-governmental sector that can and should be the driving force behind many of the reforms that

this country requires in order to progress in the coming years” and also highlighted the potential of civil society groups to transcend ethnic division:

I remember very well the conditions in which NGOs in this country had to work in the years immediately after the war. Civil society had been intimidated and distorted by the conflict; in places it had been absolutely crushed. Yet even during the worst of the fighting there were those who stood up for reason, for common sense and decency, for inclusiveness, diversity and civic values. (Schwarz-Schilling, 2006)

In practice, however, it is unclear how the perceived importance of civil society has informed European policy in Bosnia. Consistent with the consociational model (see Lustick, 1979, p. 334), constitutional reform efforts in Bosnia have remained focused on securing agreement amongst elites rather than seeking broad-based civil society input. Talks on constitutional reform have excluded civil society participants and instead only involved party leaders, with initial talks actually taking place in secret (Sebastián, 2007, 2009). Rather than representing a departure from an approach that focuses on elite-level bargaining, the reform process has therefore remained true to the principles of consociational democracy, in which government takes place by elite-level cartel.

An explanation for this disparity between the public pronouncements about the importance of civil society and the lack of any actual involvement of civil society actors in the constitutional reform process becomes evident when the less public views of EU policy-makers in Bosnia are considered. Here, we find views that are clearly reflective of the groupist ethnic conflict paradigm that underpins EU policy in Bosnia. Whereas figures such as the EUSR have suggested that Bosnian civil society is organised on civic rather than ethnic lines and held it up as a potential source of non-nationalist politics, in private policy-makers are sceptical of such a view and see much of civil society as characterised by the same divisions that are evident in Bosnian politics. For example, in an interview one EUSR official told the author

that Bosnian civil society was highly politicised and “divided along entity and ethnic lines” and that if civil society representatives were to be included in talks on constitutional reform, they would be seen by the other participants simply as extra (ethnic) party representatives.⁵⁵ Here, there is a clear parallel with EU policy-makers’ views on the state of civil society in Kosovo (see Chapter 5). As a result of such understandings, constitutional reform efforts remain focused on attempting to secure agreement amongst those same elites that EU officials publicly blame for nationalist mobilisation, even if in public they note the tendency of the Dayton constitution to encourage this behaviour and speak of a greater role for civil society actors.

Framing and legitimisation of EU policies

As we have seen above, the EU’s approach to constitutional reform in Bosnia has thus far failed to challenge the idea that rights should be enjoyed by citizens as individuals rather than as members of their respective ethnic groups. The consociational approach, which, as I have outlined in this chapter, continues to inform EU policy in Bosnia, has precedents within the Union but does not have a firm basis in EU law. Constitutional models vary considerably between EU member states and the balance between individual and minority rights differs across the EU. If anything, the preference within the Union is for individual rights consistent with liberal democracy rather than the group rights approach of consociationalism, even if examples of the latter are found within the EU.

Reflecting on Dayton in 2005, then EUSR Paddy Ashdown noted this contrast between the use of groups rights in Bosnia and what he suggested was a European norm favouring individual rights:

⁵⁵ Author’s interview with a senior official, Office of the High Representative/EU Special Representative, Sarajevo, 16 June 2010.

The basic European principle lies in the fact that an individual's rights are protected individually. BiH's systems, government and even its citizens' ways of thought are based on the idea that an individual's rights are best, perhaps even only, protected within the group; within the collective. (Ashdown, 2005a)

Faced with the lack of a norm with a clear legal basis within the EU, and given that they have not sought to challenge the reliance on group rights in Bosnia, how have European policy-makers sought to legitimise their approach in the country? Here, I want to suggest that one way in which the EU's continuing commitment to consociational democracy has been legitimised has been through rhetorical appeals not to norms that apply in EU member states, but rather to the nature of the Union itself. As part of a discourse that constructs a positive self-image of the EU (see Pace, 2007; Pace, 2008), policy-makers have presented the Union as providing the framework for managing antagonistic relations between European nations in much the same way that consociational structures in Bosnia are intended to accommodate intra-state diversity.

EU officials have made reference to the history of European integration in order to legitimise their involvement in constitutional reform in Bosnia. Perhaps the clearest example of this was provided by Olli Rehn in a speech at the European Policy Centre in Brussels in October 2009:

You might ask: Why these EU-US activities in Sarajevo? Are we entitled to do so in the first place? Is it not an interference into the internal affairs of the country to suggest elements for its constitutional reform? My answer is clear: We are doing this in order to maintain and enhance stability in the country and thus in the region. Providing peace and stability is, after all, the thing – maybe the most important thing – that the EU has done throughout its history, and quite successfully. (Rehn, 2009b)

On a number of occasions, EU officials have also chosen to quote the Northern Irish politician John Hume, who is famously associated with the idea that the EU is a highly successful

conflict resolution device (see Cunningham, 1997). Paddy Ashdown did so during a speech given in Oxford in November 2004, for example:

As the Balkans were plunged into internecine warfare in the 1990s, the European Union was establishing its reputation for being what the Irish politician and Nobel Peace Prize winner, John Hume, has rightly described as “the most successful conflict resolution mechanism in history”. Take France and Germany. War between them is now unthinkable. Why? Because the values they share – an unshakeable attachment to democracy, to an open and plural society, to the rule of law, and to freedom in economic life – are far stronger than anything that divides them. The key revelation of modern Europe is to see diversity not as a problem, but as an advantage. (Ashdown, 2004b)

Similarly, in March 2008 Miroslav Lajčák stated that:

It was the Nobel Peace Prize-winner from Northern Ireland, John Hume, who described the European Union as “the best example in the history of the world of conflict resolution.” He was referring to the way in which the EU had brought together former antagonists after the Second World War and then, in later years, how EU integration helped to reconcile the interests and aspirations of the two communities on the island of Ireland. I believe that Hume’s observation has particular significance for Bosnia and Herzegovina, and not just in the general sense that as the countries of the Western Balkans are integrated in the Union, the bitterness and enmity created by the break-up of former Yugoslavia can be subsumed. (Lajčák, 2008d)

Despite statements such as these, it is not clear that the Northern Ireland example has informed EU policy in Bosnia to any significant extent. While high-profile figures such as the EUSR have drawn parallels between the two cases in public settings, policy-makers are more sceptical in private about whether Northern Ireland offers lessons for conflict resolution in Bosnia. One Commission official working on Bosnia, for instance, told the author that “the differences with Northern Ireland are greater than the similarities” and pointed in particular to the very different security situation in Bosnia compared to that of Northern Ireland during the Troubles.⁵⁶ Similarly, a senior EUSR official argued that he saw Bosnia as “a *sui generis* case

⁵⁶ Author’s interview with an official, European Commission DG Enlargement, Brussels, 30 April 2010.

in many respects” and therefore not comparable to Northern Ireland.⁵⁷ This suggests that the Northern Ireland comparison discourse is not a paradigmatic one that underpins EU thinking on the Bosnian conflict, but rather is a framing discourse. In drawing attention to the role of the EU in the supposed resolution of the Northern Ireland conflict, European actors contribute to the construction of a positive self-image of the Union.

This discourse about the role of European integration in bringing peace and stability to the continent and to Northern Ireland goes further than legitimising the Union as a conflict resolution actor, however, and is also used to frame EU policy in Bosnia as ‘European’ through comparison between the Bosnian experience and the history of European integration or its role in Northern Ireland. This is most obvious in statements by Romani Prodi, the European Commission President from 1999 to 2004. In April 2002, speaking at a ceremony to mark the tenth anniversary of the start of the siege of Sarajevo, for instance, Prodi argued:

The European Union is founded on dialogue, cooperation and mutual respect. Dialogue, cooperation and mutual respect are also vital for the future of Bosnia and Herzegovina. There is no reason why the communities that make up this country cannot cooperate in their common interest – for the sake of a better future for all. Just as many other former enemies are doing so successfully within the Union. (Prodi, 2002)

Interestingly in the present context, Prodi can be seen here as narrating a particular version of the story of European integration, which legitimises a consociational approach to conflict resolution in Bosnia. On numerous occasions during his time as European Commission President, Prodi referred to this vision of the EU variously as an “alliance of minorities”, a “union of diversity” or a “union of minorities” (see Prodi, 2001, 2002, 2004c; a).⁵⁸ For Prodi,

⁵⁷ Author’s interview with a senior official, Office of the High Representative/EU Special Representative, Sarajevo, 16 June 2010.

⁵⁸ This concept is expanded upon in a European Commission booklet entitled ‘Europe in 12 lessons’, which states: “the process of European integration has not smothered the different ways of life, traditions and cultures of its peoples. Indeed, the EU makes its diversity one of its key values” (Fontaine, 2006, p. 7).

“a united Europe is...the best safeguard for national, regional and cultural diversity...the European Union is founded on diversity, not on uniformity” (Prodi, 2002). Therefore, according to Prodi’s conceptualisation, European integration has succeeded in bringing peace to a continent once ravaged by war not by attempting to transcend difference between the national identities of the EU member states, but rather by providing a framework in which they can be expressed peacefully. Such a reading of the history of European integration allows the internal politics of Bosnia, and the relations between its ethnic groups, to be represented as analogous to the inter-state dynamics of the EU. Indeed, Prodi himself makes this very argument when he states that “[t]he history of Bosnia and Herzegovina is like a potted version of Europe’s own. You have squeezed 100 years of history into one decade” (Prodi, 2002).

While this narrative was particularly popular with Prodi during his time as Commission President, it is not specific to him and has been used by other EU officials. More recently, in 2007, then Enlargement Commissioner Olli Rehn made a similar argument to Prodi’s, also in relation to Bosnia:

The history of European integration has shown that it is possible to achieve unity in diversity. The EU is first and foremost a community of values of democracy, human rights and the rule of law – but it is not about one religion or ethnicity. In a similar vein, diversity is at the heart of Bosnia and Herzegovina. (Rehn, 2007a)

As well as presenting Bosnia as analogous to the EU itself, Rehn’s statement points to a similar understanding of the Union to Prodi’s notion of a ‘union of diversity’. Previously, speaking in 2006, Rehn had expanded on this notion further:

Let me be clear: in terms of culture and ethnicity, the EU has certainly never been about homogeneity and members have to acknowledge particularity in order to join. In this specific context, joining the EU has meant that European citizens were

allowed to go beyond the homogeneity imposed by previous regimes to enjoy life under the Union's motto "Unified in Diversity".⁵⁹ (Rehn, 2006a)

Statements such as these, which seek to portray Bosnia as Europe in microcosm, can be seen as instances of the policy 'framing' outlined in Chapter 2. In this instance, the EU's policy of conflict regulation in Bosnia through acceptance and accommodation of distinct group identities is legitimised through reference to the relatively widely accepted notion (or public sentiment, in the terminology of the theoretical framework outlined in Chapter 2) that the EU has helped to bring peace to Western Europe, and that this peace has been achieved through embracing rather than transforming the distinct national identities of member states. As such, the EU is represented in its own discourse as what Costa and Magnette (2003) term an 'inter-state consociation'.

Summary

This chapter has presented the first of three case studies employed in this thesis. It has analysed the EU's conflict resolution efforts in Bosnia, with a particular focus on European demands for reform of the constitution established by the Dayton Agreement at the end of the Bosnian War of the 1990s. After introducing the case with a brief historical overview and a discussion of the criticisms made of the country's existing constitutional arrangements, which seek to ensure power-sharing amongst the country's three main ethnic groups, I considered the development of EU policy towards Bosnia, tracing the EU's approach from the early 1990s, when the then European Community was engaged in attempting to bring peace to the country through its Conference on Yugoslavia and the subsequent International Conference on the Former Yugoslavia, through to the more recent period, when the Union has attempted

⁵⁹ The EU's official motto is "United in diversity", which, according to the Union's website, means that "via the EU, Europeans are united in working together for peace and prosperity, and that the many different cultures, traditions and languages in Europe are a positive asset for the continent" (European Union, no date).

to promote reform of the Dayton constitution by making use of both foreign policy and conditionality mechanisms.

In relation to this process, I argued that, since the need for constitutional reform was first articulated by European officials in 2002, the EU's approach to the issue has been relatively conservative. As Belloni (2009a) notes, proposals for reform have generally not questioned the overall philosophy of the 1995 Dayton Agreement, whereby ethnic divisions are institutionalised in Bosnia's constitution by means of corporate consociational power-sharing and the devolution of considerable power to the sub-state, entity level. Moreover, as time has passed and agreement on reform has continued to elude international actors, EU officials' expectations have been scaled back to the extent that they now only hope for the minimum reform necessary for Bosnia to be able to assume the responsibilities that EU membership entails, in the context of the EU's goal of eventual Bosnian accession. The remainder of the chapter sought to explain this approach by reference to the cognitive and normative assumptions and ideas held by policy-makers that underpin the EU's policy in Bosnia.

The chapter's discussion of the role of ideas and assumptions in the EU's policy towards Bosnia started with an outline of the rationale provided by EU officials for why constitutional reform is necessary. Here, I argued that the primary concerns of those officials have been with the efficiency and functionality of the Bosnian state, rather than with the efficacy of the Dayton-era constitution from a conflict regulation point of view *per se*. Indeed, European diplomats have been keen to stress the achievements of the Dayton Agreement in terms of stopping the war of 1992 to 1995 and have been reluctant to criticise it. As a result, many of the changes to the constitution suggested by EU policy-makers are of a technical nature rather

than wholesale reforms that would involve fundamentally altering the nature of the conflict regulation approach taken at Dayton.

I then went on to argue that European policy-makers have conceptualised Bosnia as characterised by an ongoing identity conflict between its three ‘constituent peoples’, namely Bosniaks, Serbs and Croats. The roots of Bosnia’s continuing ethno-political tensions are seen as lying in the different visions of Bosnia’s history and future that are held by each of these three groups. Such an approach has its roots, I suggested, in earlier European plans to resolve the Bosnian conflict, which similarly tried to accommodate ethnic demands through various proposed arrangements for the future of the state, which shared a commitment to establishing some form of autonomy through territorial means, along with power-sharing between representatives of the country’s three largest ethnic groups. This is the sort of institutionalisation of the cognitive ideas that underpin policy-making that was identified in Chapter 2.

While this may be read as a criticism of EU actors’ assumptions about Bosnia, my aim here, as in the rest of this thesis, is not to critique EU policy but rather to understand how it is constructed. In arguing that EU policy-makers view Bosnia through a ‘groupist’ lens, then, my aim in this chapter has been to explain how this view has informed EU policy, rather than to assess the empirical validity of such a conceptualisation. This conceptualisation, I argue, has two implications for EU policy in Bosnia. Firstly, it suggests that a movement away from the consociational and territorial approach to managing conflict, as represented by the current Dayton constitution, is unrealistic, at least in the short to medium term. While policy-makers view an eventual evolution towards civic rather than ethnic representation as desirable, they view this as unrealistic except in the very long term. Secondly, the EU’s conceptualisation has

normative implications, suggesting that the distinctiveness of the constituent peoples should be respected and indeed nourished, rather than integrated into a single Bosnian identity. It is the combination of these cognitive and normative implications of the 'identity conflict' conceptualisation that mean that the EU's approach is one of accommodating difference and accepting an uneasy ethnic coexistence, rather than building a shared society.

To argue that the EU's conceptualisation of Bosnian society involves viewing Bosnia as characterised by an identity conflict in which the country's three main ethnic groups are unable to agree on a shared vision of the country's future is not to suggest that EU policy-makers have resorted to an 'ancient hatreds' explanation. Nonetheless, the EU discourse here displays a tension. While EU officials argue that Bosnians' political interests are not primarily defined by nationalism, they also recognise that nationalism is a vote winner, and view Bosnia as naturally prone to nationalist mobilisation due to its status as a multi-national state. Similarly, calls for 'local ownership' of the constitutional reform process by civil society organisations, which are often praised by EU officials for the way in which they organise along civic rather than ethnic lines, are undermined by the practice of constitutional reform negotiations, which have excluded civil society voices. Interpreting nationalist resistance to reform as a consequence of a deeper identity conflict, EU officials have responded to this resistance not by attempting to challenge the dominance of nationalism in Bosnian politics but rather by scaling back their expectations of reform.

The way in which European actors have framed the issue of constitutional reform, meanwhile, has also come to support a conservative, minimalist approach. By comparing Bosnia's process of post-conflict peacebuilding with the historical experience of the European integration project and its impact on inter-state relations in Western Europe after the Second World War,

EU officials are engaged in a process of constructing a positive self-image of their organisation, but importantly they also present both processes as underpinned by institutional accommodation of ethnic or national identities rather than any attempt to reconstruct them. As a result, the reading of the EU as a “union of minorities” supports the perpetuation of broadly consociational governance in Bosnia. Similarly, when policy-makers draw parallels between Bosnia and Northern Ireland, which they also hold to be a successful example of conflict resolution from which lessons may be learned, those lessons involve the acceptance of an understanding of ethnicity whereby conflict resolution is seen as succeeding through institutionalising rather than transforming difference.

CHAPTER 4 – MACEDONIA: CONSTITUTIONAL ENGINEERING IN A TIME OF CRISIS

Introduction

This chapter presents the second of three case studies employed in this thesis. The focus of the chapter is the EU's approach to conflict resolution in Macedonia,⁶⁰ where a small-scale armed conflict broke out in 2001, some ten years after the country had declared itself independent from Yugoslavia. Macedonia provides a particularly interesting case since, in comparison with the conflict in Bosnia the previous decade, the EU played a far greater role in negotiating an end to the violence and in the design of the peace agreement that resulted. Moreover, as we shall see later in this chapter, numerous policy-makers and academics have claimed that the institutional design of that peace agreement reflects 'lessons learned' on the part of European and other external actors following the rather problematic experience of the Dayton Agreement in Bosnia.

The chapter is structured as follows. Firstly, it provides an outline of Macedonia's recent history, charting its progress as an independent state since it left the Yugoslav federation in 1991. In order to set the background of the 2001 conflict, this section starts with a brief overview of the circumstances in which Macedonia came to be an independent state, and the experience of its first decade of independence. I then describe the insurgency that afflicted the country during 2001, and reflect on a number of possible explanations that have been advanced for why Macedonia, which was praised as a success story in the 1990s, descended into violent conflict.

⁶⁰ Macedonia's constitutional name is the Republic of Macedonia but, due primarily to Greek objections, it is known internationally as the former Yugoslav Republic of Macedonia (FYROM). For reasons of brevity, I simply use 'Macedonia' in this thesis.

We then turn to consider the European and international response to the 2001 insurgency. Here, I firstly consider the role of the EU as an actor in attempts to resolve the conflict, and its subsequent use of conditionality to promote implementation of the Ohrid Framework Agreement, which ended the insurgency, in the context of Macedonia's potential accession to the Union. I then outline the main provisions of the Ohrid Agreement that was signed in August 2001, comparing it with the Dayton Agreement and considering evaluations of the efficacy of the conflict management institutions that it established.

The following section of the chapter seeks to explain the approach taken in Macedonia. This is achieved through an analysis of the narratives of key EU actors regarding the 2001 crisis. Here, we see how the crisis was initially seen as being provoked by extremists or terrorists, but that as time passed it increasingly came to be viewed through the lens of ethnicity, and could therefore be narrated in relation to the Balkan conflicts of the 1990s. I then consider how this understanding of the conflict in Macedonia informed EU policy and ask whether, as some have claimed, this policy reflected 'lessons learned' from the Bosnian conflict management experience. I then turn to consider how EU actors have legitimised their policy preferences, which deviate significantly from practice within the Union itself, through framing them as 'European'. In particular, this section illustrates how – as in the Bosnian case examined in Chapter 3 – these actors have made reference to a particular reading of the history of European integration, which allows Macedonia's internal ethnic demography to be compared to that of Europe as a whole.

The chapter ends by reflecting on these insights into the Macedonian case and what they tell us about the nature of the EU's conflict resolution policies. I argue that, while there are differences between the approach taken by the international community at Dayton the

previous decade and that taken in the Macedonian case, these differences do not reflect a fundamental reconsideration of conflict management mechanisms. Rather, the differences between Bosnia and Macedonia are more clearly attributable to the differences in the Bosnian and Macedonian conflicts than they are to different understandings of those conflicts and of the most appropriate ways to manage them on the part of external actors.

Macedonia's conflict in context

Avoiding conflict in the 1990s

On 25 January 1991, the Macedonian parliament adopted a declaration stating that the republic was sovereign and had a right to secede from Yugoslavia. A referendum on independence was subsequently held on 8 September and was carried by a majority of 95.3 per cent of voters on a turnout of 75.7 per cent. Macedonia's independence was announced shortly afterwards, although it was not until December 1993 that EU member states recognised the country, after Greece had objected to the recommendations made in January 1992 by the Arbitration Commission that had been set up to advise on legal issues relating to the break-up of Yugoslavia, claiming that Macedonia harboured territorial claims on its territory (Ramet, 2002, pp. 185-87; Caplan, 2005, p. 37). Independence was, according to Ramet (2002, p. 184), an option pursued only reluctantly by Macedonian elites, who would have preferred to have stayed within the Yugoslav federation had other republics not opted to secede. Even the country's first constitution, adopted in November 1991, incorporated the possibility that Macedonia might still join another state.

In the decade that followed independence, Macedonia defied expectations that it would be afflicted with the same sort of conflict experienced in nearby Bosnia, Croatia and, latterly,

Kosovo.⁶¹ A combination of domestic and international factors helped prevent the spread of violent conflict. On the one hand, by making diplomatic recognition conditional on the implementation of specified minority rights guarantees, and with the deployment of a UN peacekeeping force, the international community seemed able to stabilise the country (Ackermann, 1999, p. 84; Grillot, 2003; Caplan, 2005). Domestically, political elites were praised for their responsible leadership (Marks and Fraenkel, 1997). It thus became common for commentators to regard Macedonia as a rare story of successful conflict management in the Balkans (see, for example, Ackermann, 1996; Marks and Fraenkel, 1997; Dobbs, 1999). In what might be seen as a reflection of this confidence, Macedonia became the first country in the Western Balkans to sign a Stabilisation and Association Agreement (SAA) with the EU, in April 2001. However, as Schenker argues, this “was indicative of [a] political gesture, aiming at stabilization of the country, rather than at the conclusion of a reform process in which merit was awarded” (2008, p. 8), and indeed Macedonia was already sliding into crisis. During 2001, the illusion of success was shattered completely by the outbreak of an insurgency by ethnic Albanian paramilitaries belonging to the previously unknown National Liberation Army (NLA). Starting in January 2001, NLA members began to attack Macedonian security forces and this developed into a running conflict between the NLA and government forces.

The 2001 crisis and its explanation(s)

The 2001 insurgency started in February in the small village of Tanuševci, located on the Macedonia-Kosovo border.⁶² The initial fighting was between Macedonian border guards and

⁶¹ See Binder (1992), Traynor and Tran (1992), Williams (1992), Broun (1993) and Ifill (1993) for a flavour of fears that violent conflict would spread to Macedonia, amongst other states in the south-eastern Europe.

⁶² Whereas the conflicts in Bosnia and Kosovo have spawned a significant literature, there is a paucity of detailed studies of the shorter 2001 Macedonian conflict. Rossos (2008) provides a good general introduction to

the NLA after a television documentary had highlighted the lawlessness of the area and the police had responded by sealing the border. By March, fighting had spread to the majority Albanian city of Tetovo and by early June had reached the outskirts of the capital, Skopje. Ethnic relations elsewhere in Macedonia, meanwhile, remained relatively stable (Irwin, 2010, p. 342).

The Macedonian state's response to the insurgency was to treat it as terrorism and to attempt to defeat the insurgents militarily. Whereas the president Boris Trajkovski took a relatively moderate position, prime minister Ljubčo Georgievski and his interior minister Ljube Boškoski were hard-line nationalists who, according to Chivvis (2008, p. 144), "saw the revolt as an opportunity to crush the Albanian minority once and for all and settle the political-rights question in their favour". As a result, Macedonian security forces responded with heavy-handed bombardments, causing civilian casualties in the process. By June, the International Crisis Group estimated that 42,700 ethnic Albanian refugees had fled to Kosovo and that 50,000 Macedonian citizens, regardless of ethnicity, had been internally displaced (International Crisis Group, 2001b, p. 1). In the process, the Macedonian government's response had served to increase support for the insurgents amongst the ethnic Albanian minority.

The international community, meanwhile, attempted to talk the Macedonian government out of crushing the insurgency and stressed the need for a negotiated end to the violence. As a result of international pressure, a coalition between Macedonia's four main political parties, namely the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE), the Social Democratic Union of Macedonia

the history of Macedonia, up to and beyond the conflict, but Phillips's (2004) journalistic account is the only English-language book-length account of the conflict itself.

(SDSM), and the two main ethnic Albanian parties, the Democratic Party of Albanians (DPA) and the Party for Democratic Prosperity (PDP) was formed in May 2001. Over the course of the summer, negotiations took place between these parties and agreement was reached in August on the Ohrid Framework Agreement, the details of which are discussed in the next section. Macedonia's conflict was therefore brief and resulted in relatively few casualties in comparison with those that accompanied the break-up of Yugoslavia. As Cordell and Wolff (2009, p. 55) summarise, "contrary to many predictions, existing inter-ethnic tensions did not escalate into ethnic conflict for a decade; once violence did break out it was brief, and a settlement was quickly achieved".

During and after the 2001 crisis, several competing explanations of its causes circulated. Perhaps unsurprisingly given the recent history of conflict in the wider region, and that the insurgents belonged to the ethnic Albanian minority and made demands that approximated to those of the country's main ethnic Albanian parties (Engström, 2002, p. 7), the Western media's portrayal of 2001's events tended to focus on the state of inter-ethnic relations in Macedonia as an explanation of the violence. For example, writing in the British *Sunday Telegraph*, one journalist explained the conflict thus:

The small but well-organised bunch of guerrillas has brought the former Yugoslav republic to the brink of war. Although Nato has portrayed the gunmen as isolated extremists, we found widespread support for them last week among disenchanted Muslim Albanians, who make up more than a quarter of the two million population.

They claim that they must fight because the Orthodox Slav majority treats them as second-class citizens. After Bosnia, after Kosovo, one would have thought that the people of the Balkans would have learnt that no amount of hurt pride can merit the bloodshed that follows once one community starts killing its neighbours. It would seem not. (Sherwell, 2001, p. 24)

Similarly, the *Washington Post* reported that “[a]lthough the former Yugoslav republic of Macedonia had escaped the ethnic conflict that marked the breakup of Yugoslavia, deep grievances simmered and the ethnic Albanian minority here charged that they were treated as second-class citizens” (Finn, 2001, p. A18). Yet explanations focusing on discrimination against the ethnic Albanian minority and the ‘ethnic’ nature of the violence, according to Daftary (2001a), are only partial ones and the causes of the conflict must instead be viewed as lying in a combination of factors (for a comprehensive survey of these factors, see Cordell and Wolff, 2009, pp. 55-75).

The ethnic Albanian minority in Macedonia, who comprised 21.8 per cent of the country’s population in 1991, when ethnic Macedonians accounted for 65.3 per cent (Ilievski, 2007, pp. 10-11), had been the subject of discrimination dating back before the country’s independence. As a result of the socio-economic structure of socialist Yugoslavia and of the ethnic geography of the country, with minorities tending to live in rural rather than urban areas, there was a significant socio-economic and educational gap between the ethnic Albanian and Macedonian communities. This social divide was further reinforced by the religious and linguistic cleavage between the two groups. The vast majority of ethnic Macedonians are Orthodox Christians, whereas most ethnic Albanians are Muslims. While it is common for ethnic Albanians to speak Macedonian, it is relatively rare for ethnic Macedonians to speak Albanian. Inter-ethnic marriages between the two communities are rare (Hislope, 2003, p. 134). Daftary argues that these cleavages were further reinforced by Macedonia’s political system, in which representation was primarily defined in terms of ethnicity. “Thus,” she explains, “nearly ten years after independence, the picture was that of a country divided along ethnic lines, with virtual parallel societies for ethnic Macedonians and ethnic Albanians, and a lack of communication and interaction between ordinary people from different ethnic

backgrounds” (2001a, p. 295). These divisions were exacerbated by the economic collapse that Macedonia suffered following independence (Engström, 2009, p. 134).

Nonetheless, while it is widely acknowledged that the Albanian minority in Macedonia was the subject of discrimination and that there was a lack of contact between the two communities, it is less clear whether the conflict itself was about inter-ethnic relations and Albanians winning additional rights or whether it had more to do with other factors (Engström, 2002, p. 11). Engström, for instance, argues that “the dispute over rights does not suffice as an explanation of Macedonia’s war” and points to instability resulting from the uncertain status of Kosovo and NATO’s failure to disarm the Kosovo Liberation Army (KLA) as a “significant contributing factor” to the outbreak of violence (2009, p. 133). Similarly, Hislope’s (2003, p. 145) analysis suggests that “Macedonia’s internal conditions set the stage for interethnic tension but in no way preordained conflict or war”. A commonly cited alternative explanation focuses on ‘spillover’ of conflict from neighbouring Kosovo. The NLA had links with the KLA, with the latter supplying both manpower and arms following the failure of NATO forces to collect weapons in Kosovo and the impossibility of finding alternative employment for KLA fighters following the 1999 intervention (Hislope, 2003, p. 140-41). Indeed, according to Phillips (2004, p. 166), it was KLA commanders who established the NLA.

Hislope also points to the role of organised crime and corruption as factors that help explain the outbreak of violence in 2001. The area around the village of Tanuševci was the centre of a large smuggling operation and in the years preceding the conflict, Macedonian police had not patrolled the area (International Crisis Group, 2002, p. 25). The decision not to patrol the area following the pull-out of UN peacekeepers in 1999 was taken as a confidence-building

measure in this largely ethnic Albanian area (Hajdinjak, 2004, p. 17). The border between Macedonia and Kosovo in this area was not demarcated until 16 February 2001 and it was this demarcation, according to Hislope (2001, p. 10), that contributed to the outbreak of conflict since it broke the lifeline of the village's population (see also Berg and van Meurs, 2002, p. 62). Smuggling and other forms of organised crime in Macedonia have their origins in the unilateral trade embargo that Greece imposed on the country in the early 1990s and which lasted until 1995 (Liotta and Jebb, 2004, p. 7). Those involved in such activities had a vested interest in lawlessness, as the International Crisis Group noted in June 2001:

...a borderless criminal network already operates freely in Macedonia, Albania and Kosovo. Keeping Macedonia at risk allows the contraband trade in drugs, weapons, cigarettes, and humans to flourish unchecked. A destabilised Macedonia is profitable both for criminals and for those who dream of a pure Albanian section of western Macedonia. (International Crisis Group, 2001b, p. 6)

Bellamy, writing in April 2001, differentiated between two groups involved in the initiation of violence. He suggests that one of these groups was composed of disenfranchised and poverty-stricken Albanians with genuine grievances against the Macedonian government, and the other was responsible for the financing, organisation and arming of the rebels. While some of this latter group, described as “a very small hardcore” (Bellamy, 2001, p. 11), were fighting to establish a ‘greater Kosovo’ – and eventually a ‘greater Albania’ – these did not have widespread support. Others were simply profiting from instability, which enabled them to control people trafficking and the trade in illicit goods. Bellamy (2001, p. 12) notes that “[t]he establishment of order in the southern Balkans would be very bad for these people's business”.

Other explanations, while highlighting the divisions between ethnic Albanian and Slavic Macedonians, also point to the importance of divisions within these communities (and in

particular, the Albanian community) in explaining the dynamics of the conflict. Cordell and Wolff, for example, argue that “the ethnic conflict in Macedonia is characterized by two sets of relationships – the first between the two ethnic communities of Macedonians and ethnic Albanians and the second between rival factions of Albanian elites” (2009, p. 69). As Bideleux and Jeffries (2007, pp. 424-25) note, this observation was made during the violent phase of the conflict itself, with journalist Jonathan Steele, for example, commenting on 19 March 2001 that:

...the clashes are not just a dispute between Albanians and Macedonians. They are also a dispute among Albanians. The established Albanian politicians of Macedonia, as well as those of Kosovo and Albania itself, have all condemned the gunmen. The Macedonian government, a coalition of Macedonian and Albanian parties, has not fallen. Indeed, apart from four Albanian and two Macedonian MPs, the entire parliament condemned the ‘armed groups of extremists’ yesterday and called for foreign military help. The motion was supported not only by the Albanian party in government but also by the Albanian opposition Party of Democratic Prosperity. (Steele, 2001, p. 18)

Such observations provide an alternative to more groupist assumptions about the internal homogeneity of the ethnic groups that are taken for granted as the basic units of divided societies, in accounts of conflicts such as the Macedonian one that privilege ethnicity as an explanatory factor. Steele himself makes a similar point, arguing that “the latest events in Macedonia provide no reason to abandon normal political analysis in favour of a gloomy determinism which assumes that every Balkan conflict is about ethnicity, and that once tapped lightly on the shoulder, the ethnic genie will always race off to mass murder” (2001, p. 18).

Managing conflict in Macedonia

The role of the EU

The EU played a more comprehensive and leading role in conflict resolution efforts much earlier in the crisis in Macedonia, compared with the Bosnian case. Partly, this reflected the

fact that the country had already started to make progress towards EU membership – as noted above, Macedonia had signed an SAA with the EU as the crisis was brewing – but it also reflected the EU’s growing role in the Balkans in a more general sense, as outlined in relation to the Bosnian case in Chapter 3. Once it became obvious that the initial violence was developing into a full-blown insurgency, and with the Bush administration eager to avoid becoming involved in the Balkans, the EU’s High Representative for the Common Foreign and Security Policy, Javier Solana, and NATO’s Secretary General, Lord Robertson, began shuttle diplomacy starting in April 2001 (Hislope, 2003, p. 142).⁶³ Solana was assisted by then External Relations Commissioner Chris Patten (Ashdown, 2007, p. 157). In late June, the EU appointed the former French defence minister François Léotard as a Special Representative to Macedonia. The Ohrid Framework Agreement (OFA) of August 2001, which eventually brought to an end the insurgency, was negotiated by Léotard on behalf of the EU and James Pardew for the United States, with the EU taking the lead role in these negotiations (Stewart, 2008, p. 277; Ilievski and Taleski, 2009, p. 357). The Union subsequently launched an ESDP mission – EUFOR Concordia – that ran from March to December of 2003 in support of the Ohrid Agreement. Léotard acted as the first EU Special Representative for Macedonia, a position that continues to exist and the mandate of which includes responsibility for ensuring the implementation of Ohrid (Gervi, 2007, p. 92).

In addition to these foreign policy mechanisms, the EU has employed conditionality to insist on implementation of the OFA and the enactment of associated reforms, with compliance with the Agreement constituting a formal condition of Macedonia’s prospective EU membership (Anastasakis and Bechev, 2003, p. 8; Anastasakis, 2008, p. 368; Ilievski and Taleski, 2009). As such, while the EUSR was seen as the lead European actor during the 2001

⁶³ A European official interviewed by journalist Elizabeth Pond reported that “[a]fter Solana visited Macedonia thirteen times, I stopped counting” (Pond, 2006, p. 175).

crisis, because of its mandate from the Council, the Commission has come to assume a more important role as Macedonia has moved away from crisis management and towards accession (Dobbins *et al.*, 2008, p. 58). In 2005, the EUSR was made a double-hatted role with the position of head of the Commission Delegation to Macedonia (Chivvis, 2008, p. 150). The arrangement remained in place until February 2011, when the mandate of the EUSR expired and was not renewed (Center on International Cooperation, 2011, p. 65).

The Commission's 2005 opinion on Macedonia's application for membership, which was submitted in March 2004 (a matter of weeks before the SAA entered into force), made note of the successful implementation of the OFA in recommending that Macedonia be made a candidate country (European Commission, 2005a), and then Enlargement Commissioner Ollie Rehn stated in February 2007 that "the respect of the letter and spirit of the Agreement will remain crucial for the European journey of the country until its accession to the EU" (Rehn, 2007b). In October 2009, having judged that the country had made sufficient progress towards meeting the necessary political criteria,⁶⁴ including on the issue of minority protection, the Commission recommended the opening of accession negotiations with Macedonia (European Commission, 2009c, p. 19). However, because of Macedonia's dispute with EU member state Greece over its constitutional name and because unanimity amongst existing member states is required in order for the EU to open accession negotiations, by the time of the publication of the Commission's 2012 progress report the Council had yet to act on the Commission's proposal (European Commission, 2012c, p. 4).

⁶⁴ As one senior European Commission official explained, "sufficiently" does not imply "completely", and progress is still required in the Commission's view before Macedonia can assume the full obligations of EU membership. Author's interview with a senior official, European Commission DG Enlargement, Brussels, 30 April 2010.

The Ohrid Framework Agreement

The Ohrid Framework Agreement, signed in the lakeside town of Ohrid on 13 August 2001, signalled the end of the conflict between Macedonian security forces and the ethnic Albanian insurgents. The OFA text⁶⁵ was agreed upon by representatives of the four coalition parties (VMRO-DPMNE, the SDSM, the DPA and the PDP). Initially, the main demands of ethnic Albanian parties were quotas for allocating important government posts and jobs in state institutions, the designation of Albanian as an official language, the establishment of a council for ethnic relations with veto power over parliamentary acts and a constitutional requirement that either the president or the vice president should be an ethnic Albanian with the power to veto legislation (Mehmeti, 2001; Karajkov, 2008, p. 475). This final demand, redolent of Bosnia's three-member rotating presidency, would have required separate elections for the offices of president and vice president (Mehmeti, 2001).⁶⁶ Agreement was reached following two rounds of talks in July 2001, the first in Skopje and the second in Ohrid itself.

Unlike Bosnia's Dayton Agreement, the OFA did not specify an entirely new constitution for Macedonia. It did, however, propose the significant amendment of the text of the country's existing constitution, which had been adopted at the time of independence from Yugoslavia. Notably, the OFA specified a new preamble to the constitution, which had previously defined Macedonia as the "national state of the Macedonian people, which guarantees the full civic equality and permanent co-existence of the Macedonian people with the Albanians, Turks, Vlachs, Roma and the other nationalities", such that it would instead only mention "citizens of the Republic of Macedonia" without reference to their ethnicity (Brunnbauer, 2002, pp. 4-

⁶⁵ Available at http://www.coe.int/t/e/legal_affairs/legal_co-operation/police_and_internal_security/OHRID%20Agreement%2013august2001.asp.

⁶⁶ Karajkov suggests (2008, p. 476) suggests that some of the demands, such as that regarding the proposed council for ethnic relations, were made largely to build a good negotiating position rather than being genuinely desired goals.

5).⁶⁷ The revised constitution also specified that any language spoken by over 20 per cent of the population would be considered official. This threshold applies at both the national and the municipal level.

The OFA also specified a number of important institutional changes. Firstly, it introduced a system of so-called ‘double majorities’ in parliament, such that legislation in certain sensitive policy areas requires the consent of the majority of the representatives of minority groups, in addition to an overall majority of the parliament (Bieber, 2005, p. 112). Secondly, the OFA specifies that there should be equitable representation of minorities in public institutions such as the civil service and police. Finally, the Agreement provides for decentralisation of the Macedonian state, through a transfer of power to the local government level, and an accompanying reduction in the number of local municipalities from 123 to 87 (Brunnbauer, 2002, p. 6). In order to facilitate this, the agreement included provision for a census to be conducted under the supervision of the Council of Europe and the European Commission.⁶⁸ The new municipal borders were drawn so as to significantly increase the number of municipalities with an Albanian population of over 20 per cent – the threshold for Albanian to be made an official language at the local level (Reka, 2008, pp. 61-62).

It is tempting to view the Ohrid Agreement through the same consociational lens as Bosnia’s Dayton Agreement (Taylor, 2009b, p. 6), and indeed Štiks argues that:

The Ohrid Agreement transformed Macedonia from a nation-state dominated by its ethnic majority into a state functioning on consociational principles designed to

⁶⁷ The version of the preamble eventually adopted by the Macedonian parliament, however, differed from that suggested by the OFA. This point is discussed below.

⁶⁸ The agreement text makes clear that the purpose of the census is to help determine new municipal boundaries, but ethnicity statistics were also required to set the state institution employment quotas since the previous Macedonian census was held in 1994. The OFA specified that this census should be conducted during October 2001. Due to continuing ethno-political tension, however, it was postponed twice and eventually held in November 2002 (see Patten, 2003).

guarantee a balance between the Macedonian majority and 25 percent-strong Albanian minority. (Štiks, 2011, p. 128)

However, as Bieber notes (2005, p. 109), a number of key differences mark it out both from Dayton and from other ideal-typical consociational arrangements. The constitutional amendments introduced by Ohrid lack provision for strict quotas for ethnic representation in either parliament or government (the Albanian parties' demands regarding the presidency were not met), for fully-fledged group vetoes, and for formal cultural or territorial autonomy (see Daftary, 2001a; Bieber, 2003; Bauböck, 2004, pp. 248-49; Bieber, 2005; Ilievski and Taleski, 2009). As a result, Bieber argues, the agreement "has largely avoided institutionalising ethnicity as deeply as some other peace agreements in the former Yugoslavia, such as the Dayton Peace Accords" (2005, p. 9). In this vein it has been argued that "the Macedonian model struck the right balance between the centripetal and centrifugal forces in its divided society" (Ilievski and Taleski, 2009, p. 359).

Nonetheless, the OFA has still been the subject of criticism. Engström (2002), for instance, argues that while the wording of the OFA suggests that its aim is the creation of a civic, multi-ethnic Macedonian state, the effect of the agreement has been to encourage the development of a bi-national, Macedonian-Albanian state. While the agreement does not single out ethnic Albanians and grant them increased rights, by including provisions such as the 20 per cent population requirement for official languages, it *de facto* only addresses the concerns of the Albanian minority and therefore has done little to improve the rights enjoyed by other minorities such as Turks, Serbs and Roma. Turkish community leaders in particular were said to be disappointed that the agreement did not benefit them, after they had backed the Macedonian side in the conflict (Radio Free Europe/Radio Liberty, 2001a; Engström, 2009, p. 133). The focus on granting rights specifically to Albanians in the aftermath of the

2001 insurgency has also caused resentment amongst ethnic Macedonians, many of whom view the OFA as an agreement imposed on the Macedonian state in response to a conflict caused by the actions of ‘terrorists’ (see, for example, Radio Free Europe/Radio Liberty, 2001b; Brunnbauer, 2002, p. 8). Moreover, Engström notes, the final version of the revised preamble to the constitution that was adopted by parliament is different to that included in the OFA, in that it once again names Macedonia’s ethnic groups rather than referring to Macedonian citizens regardless of ethnicity (Engström, 2002, p. 15; see also Karajkov, 2008, pp. 476-77).

Further criticism concerns the institutionalisation of ethnicity by the agreement. While the OFA may not, as noted above, have institutionalised ethnicity as deeply as Dayton did in Bosnia, Daftary argues that the agreement’s civic language masks provisions based on institutionalising ethnic divisions:

The Framework Agreement is an awkward attempt to combine the civic approach and equal rights for all citizens with elements of consensus democracy. While an attempt is being made to establish a civic state, it perpetuates divisions between the majority and non-majority communities. (Daftary, 2001a, p. 304)

By way of example, Daftary notes that the ‘double majority’ provisions introduced for parliamentary votes on sensitive policy areas require parliamentarians to designate themselves as belonging to either the majority or the non-majority community, and that as a result ethnically based parties will continue to be the norm in Macedonian politics. In a similar vein, Engström is also critical of use of decentralisation as part of the conflict management arrangements in Macedonia. She argues that, through devolving power to communities in which either ethnic Macedonians or ethnic Albanians are in the dominant majority, “decentralization will simply recreate spheres of political dominance by one group or the other, thus creating new possible arenas for conflict” (2002, p. 17; cf. Reka, 2008).

During the first half of 2012, renewed incidents of inter-ethnic violence did break out in Macedonia, though these were on a more isolated basis than the violence that occurred in 2001. The violence included the killing of two ethnic Albanians by an off-duty police officer in March, and of five ethnic Macedonian fishermen in April. Amid speculation that those responsible for the deaths of the fishermen were ethnic Albanians, hundreds of ethnic Macedonians marched in protest in Skopje. According to a Radio Free Europe report, this “sent tensions soaring to their highest level since civil war was narrowly avoided in 2001” (Synovitz and Kuzmanovski, 2012). While the violence led to some criticism of the OFA, on the grounds that it had institutionalised ethnicity and failed to promote trust between ethnic communities (see, for example, Brunwasser, 2012), the European Commission praised local politicians for their “calm and measured” response and for making “statements calling for restraint and mutual respect” and also noted that the Macedonian government adopted a report on the implementation of Ohrid (European Commission, 2012c, pp. 16-17). More broadly, the violence does not seem to have led to a questioning of Ohrid by EU officials. Indeed, following a meeting with the Macedonian prime minister in September 2012, EU Enlargement Commissioner Štefan Füle argued:

More than 10 years after the Ohrid Framework Agreement and 20 years after independence you have established a unique system, a sound basis for different communities to live together. The future lies in a shared vision for your country. The European Union and the Ohrid Framework Agreement are two key elements of that vision and I encourage you all to participate in taking it forward. (Füle, 2012b)

Earlier in September 2012, the President of the European Council, Herman Van Rompuy, stated while in Skopje for talks with the Macedonian president that “domestic stability and reconciliation remain of utmost importance in the former Yugoslav Republic of Macedonia”. For this reason, he argued, “the EU gives weight to the implementation of the 2001 Ohrid

Framework Agreement. The EU remains fully supportive of the spirit and the letter of this Agreement, which is an essential element of democracy and the rule of law” (Van Rompuy, 2012). On the same visit, Füle stressed that “action to further strengthen inter-ethnic relations is needed, on the basis of the full implementation of the Ohrid Framework Agreement” (Füle, 2012a).

Understanding the construction of EU conflict resolution policy in Macedonia

Having outlined the historical background of the Macedonian case, the role of the EU in the country and the mechanisms employed to manage conflict following the 2001 crisis, this section of the chapter now seeks to explain EU policy in Macedonia. It starts by analysing how EU actors narrated the 2001 crisis, before moving on to consider potential explanations of the design of the Ohrid Agreement, include those that stress the role of policy learning on the part of its designers, and then finally how EU policy in Macedonia has been framed as ‘European’.

Narrating the 2001 crisis

In order to understand the EU’s conflict resolution policies in Macedonia, I now turn to consider how European policy-makers interpreted the 2001 crisis. In Chapter 2, we saw that crises are key moments in terms of policy change. Not only do crises take a material form (in this case, an armed conflict) but they also have an discursive aspect as policy-makers seek to make sense of material circumstances either by fitting them into already-existing frameworks of understanding or by searching for new ideas with which to explain events. As such, policy-makers’ narration of crisis is crucial to our understanding of their responses to it. How, then, did European policy-makers understand the conflict in Macedonia in 2001?

As we saw above, a number of different explanations of the outbreak of violence were advanced, and it is clear from analysis of EU documents and speeches and from interviews with EU officials that the 2001 crisis was a time of considerable confusion amongst those actors. Particular uncertainty existed in relation to the actions of the NLA, which instigated the violence by attacking Macedonian security services. Speeches and statements made by senior EU officials at the time of the crisis indicate that several competing explanations of the nature of the NLA, its goals and the wider context of the conflict were in circulation. Broadly, two different narratives can be identified. The first of these portrays the NLA as a terrorist organisation with distinct interests and goals from those of Macedonia's ethnic Albanian community at large. This narrative was used particularly in the early stages of the crisis, but increasingly gave way to an alternative discourse that, while still suggesting that the NLA's use of violence was unacceptable, stressed that ethnic Albanians had legitimate cause for complaint at their treatment by the Macedonian state. This second narrative increasingly adopted the language of ethnicity and ethnic conflict, and situated the Macedonian crisis in relation to the Balkan conflicts of the 1990s.

The EU's initial response to the unfolding Macedonian crisis echoed that of the international community more broadly, which identified the actions of the Albanian insurgents as a form of 'terrorism' and sided squarely with the Macedonian government (International Crisis Group, 2001a, p. ii). Early on in the crisis, on 5 March 2001, the European Council issued a statement by Javier Solana in which the blame for the developing violence in Macedonia was placed on extremists who, in the words of the statement, "should realise that they are doing serious damage to the image and interests of ethnic Albanians in the whole of South Eastern Europe" (Solana, 2001d). The attacks which the statement relates to therefore seem to be understood as isolated incidents and the interests of those responsible are seen as distinct from ethnic

Albanians at large. In the statement, Solana praises ethnic Albanian politicians in Macedonia for distancing themselves from the violence, stating that “I am particularly encouraged that the main ethnic Albanian party leaders in the former Yugoslav Republic of Macedonia have clearly condemned these attacks and distanced themselves from those responsible”. Later in March, Solana told the BBC that “[w]e would be making a terrible mistake to equate the ethnic Albanian people with a few rebels” (quoted in BBC News, 2001). An entry from Paddy Ashdown’s diary dated 21 March notes that the EU Troika, composed of Solana, Chris Patten, Anna Lindh and Louis Michel,⁶⁹ who were visiting Kosovo at the time, went as far as to “[extract] from one of the Kosovo Albanian leaders [Ramush Haridanaj] a very tough statement calling the Albanians in the Macedonian hills ‘extremists’ and calling for restraint” (Ashdown, 2007, p. 156). There also seems to have been considerable confusion on the part of EU and other international actors in the early days of the crisis as to what exactly the NLA’s demands were. An EU official who was present in Macedonia in 2001, for instance, reported that “it took a while to get the message that the NLA wanted rights for ethnic Albanians – political and cultural”.⁷⁰

On 20 March 2001, commenting on a statement by the Albanian political parties in Macedonia that condemned the violence and argued in favour of a return to discussions on reforms intended to improve inter-ethnic relations in the country, Solana pursued a similar line as that employed in his previous statements, outlining the need to end the violence as soon as possible, but added to this by indicating that ethnic Albanian demands for reform were legitimate:

⁶⁹ The Troika, established by the Treaty of Amsterdam, comprised the High Representative for the Common Foreign and Security Policy, the Commissioner with responsibility for external affairs, the foreign minister of the member state holding the rotating presidency of the Council and, when necessary, the foreign minister of the next member state to hold the presidency.

⁷⁰ Author’s interview with a political advisor, Office of the EU Special Representative, Skopje, 5 November 2010.

I hope that further confidence building measures can now be taken by all sides in order to defuse tensions and restore calm. When this has been achieved, legitimate grievances can and should be addressed according to democratic principles. (Solana, 2001a)

On his visit to Macedonia in late March with Solana and Lindh, Patten was reported as stating that “[n]o one should allow armed extremism to provoke extremism by others”, and that “[a]ll that is required is for people to keep their nerve and show continued commitment to solving problems by political means” (quoted in Carroll and Steele, 2001, p. 15). At this stage, the EU’s discourse remained close to that of the Macedonian government, and indeed Bideleux and Jeffries (2007, p. 428) argue that Solana “encouraged the ROM government to take a hard line”, quoting statements he made to the media that suggested that entering into negotiations with ‘terrorists’ was ill-advised.

Responding to further violence in May of 2001, Solana issued another statement. This continued to differentiate between the dangers of violence, now clearly understood in terms of ethnicity, and the possibilities of political dialogue:

I am deeply alarmed by the latest episodes of *ethnically motivated violence* in FYROM. Such incidents risk disrupting the enhanced dialogue under the leadership of President Trajkovski and are seriously endangering the relations between the ethnic communities of the country.

I urge all citizens to remain calm, and to refrain from further inflaming the situation. Intensification of the political dialogue is the only way to find a solution to the current crisis. I encourage all the responsible political leaders in Skopje to continue to pursue the path of dialogue and harmony between all communities. The EU stands behind their efforts. (Solana, 2001c, emphasis added)

Similarly, following the agreement of a coalition government including ethnic Albanian representatives in May, Solana praised the efforts of political leaders and stated that: “Those responsible for terrorist acts must know that they are totally isolated” (Solana, 2001b). By this

stage, then, Solana's statements clearly attribute blame for the crisis to extremists, but at the same time they accept that ethnic Albanians in Macedonia had legitimate grievances and that these required political reforms.⁷¹

As diplomatic efforts continued throughout 2001 and with the eventual signing of the Ohrid Agreement in August, the crisis increasingly came to be seen through the lens of ethnicity, although there is a notable absence of the type of language that characterised Western debates on Bosnia a decade earlier, which tended to rely on explanations of ethnic conflict rooted in notions of 'ancient hatreds'. Indeed, Solana seems to suggest that violence caused by extremists has the potential to cause a deterioration of inter-ethnic relations rather than being the result of the latter. Nonetheless, EU officials do appear to have understood the conflict as having roots in long-standing antagonisms and this allowed them to place the Macedonian crisis in a narrative that linked the 2001 events with those in Bosnian and Kosovo the previous decade.

The EU's lead negotiator during the crisis and the first EUSR for Macedonia, François Léotard, stated in an interview on 10 August 2001, three days before the signing of the OFA:

This violence, which is expressed by targeting religious symbols reflects more closely a form of autism which has continued for too long between the two communities – in other words the refusal to accept each other's different characteristics, individuality, different cultural path, rather than a desire to attack a religion. Unfortunately, it is perhaps what will happen if people fail once again to understand that political negotiation requires acceptance of one another. (quoted in BBC Monitoring, 2001)

Here, the previous emphasis on 'extremists' or 'terrorists' has clearly been replaced by an emphasis on communities. This is also evident in Javier Solana's rhetoric by August. Writing

⁷¹ Such a view seems to accord with that of policy experts, for example at the International Crisis Group (see International Crisis Group, 2001a).

in the *Wall Street Journal* on 22 August 2001 – nine days after the signing of the Ohrid Agreement – Solana departed from his earlier diagnosis, making less mention of extremism or terrorism, and describing the violence in terms more familiar to observers of Western responses to the Bosnian conflict:

Over the last few months, we have confronted the more specific and immediate challenge of facilitating peace and reconciliation in Macedonia. The problems of Macedonia are *a variation on those underlying other recent Balkan conflicts*. They are the product of a *long-standing and deep-seated mistrust between different ethnic and religious groups*. (Solana, 2001e, emphasis added)

Here, as well as identifying the causes of the conflict as lying in deep-seated ethnic antagonisms, Solana clearly situates the crisis in relation to the Balkan conflicts of the 1990s. Somewhat later, Chris Patten also situated the Macedonian crisis in relation to others in the Balkans when reflecting on the conflict before a European Parliament committee in 2003, stating that:

The historical backdrop is one that you are all too familiar with. We all know the potential consequences of ethnic rivalry, stirred up for political advantage, in the former Yugoslavia. In February 2001 we saw many of the same warning signals that we had so tragically failed to respond to in other Balkan countries. Sporadic violent incidents rapidly flared into open hostilities between the ethnic Albanian NLA (National Liberation Army) and FYROM security forces.

The fighting led to a political and economic crisis which polarised the country along ethnic lines, bringing it close to a full-blown civil war. As well as the terrible human and material losses experienced in areas where fighting took place, there was potentially a devastating threat to the stability of FYROM and the region as a whole. (Patten, 2003)

Similarly, in his memoirs, Patten states:

We came closest to a *return to ethnic conflict* in Macedonia, or – as we had to call it to massage Greek sensitivities – the Former Yugoslav Republic of Macedonia, FYROM for short. Tensions between the majority community and the Albanian minority boiled over in 2000-01 as the government went half-heartedly through

the motions of addressing minority grievances. (Patten, 2005, p. 172, emphasis added)

Notably, Patten does not attribute the conflict to ancient or deep-seated hatreds, but rather alludes to the role of elites in nationalist mobilisation – “ethnic rivalry, stirred up for political advantage” – and to the failure of the Macedonian government to sufficiently address minority concerns.⁷² Speaking at an International Crisis Group event during the conflict in Macedonia in which he outlined the EU’s strategy for the Balkans, Patten noted:

There are the cynics who have no hope of ever making any progress in the Balkans. There are those who contend that the region is a vortex of evil; that there is something in the Balkan gene that condemns people to fight and kill one another, and we should leave it well alone – as if that were historically accurate, morally defensible or politically wise. (Patten, 2001)

So, whereas the EU’s discourse on Macedonia initially echoed that of the Macedonian government in describing the insurgents as ‘terrorists’, by the time the conflict was resolved the narrative had evolved and instead focused on the ‘ethnic’ elements of the conflict. Whereas academic explanations of the violence of 2001 have highlighted the complex interaction between a number of factors, including discrimination, corruption, organised crime and the spillover of instability from Kosovo, the EU’s discourse increasingly came to highlight a lack of rights enjoyed by one of Macedonia’s minorities – namely Albanians – and the relations between them and the majority Slavic community as the root cause of the conflict.⁷³ This discourse, however, differs from that employed by Western actors in the

⁷² Patten had shown outright hostility to the ‘ancient hatreds’ explanation of conflict in the Balkans before the Macedonian crisis erupted. Speaking the week after the ousting of Yugoslav president Slobodan Milošević in 2000, he stated that the EU and the rest of the international community had “rejected the view that this was a region in which people were almost genetically programmed to murder one another, and that its problems were too complicated and too distant to matter” (Patten, 2000).

⁷³ For the avoidance of doubt, my aim here is not to question whether minority communities in Macedonia’s grievances were legitimate. Rather, given my claim that what matters when we seek to explain policy-making is not simply some objective reality but rather policy-makers’ perceptions of that reality, the point here is that EU policy-makers came to see minority communities’ grievances as one of the causes of the violence.

Bosnian conflict the previous decade. While the roots of Macedonia's conflict were portrayed as deep-seated, EU actors avoided language stressing the role of 'ancient hatreds' and instead focused on the more immediate political causes of mistrust between ethnic Macedonians and Albanians.

Macedonia continues to be viewed through this ethnic lens some ten years after the 2001 insurgency. Asked for their view of inter-ethnic relations in Macedonia, for example, one senior Commission official described the country's ethnic composition as similar to a mosaic or a salad:

...Macedonia has traditionally been a country, an area, with a high mix of ethnicities – in French there's a phrase 'Macédoine de légumes' and in Italian 'Macedonia di frutta', both of which mean dishes composed of a mosaic of different ingredients, which reflects this mosaic of ethnicities.⁷⁴

That Macedonia is now viewed primarily through the lens of ethnicity is also reflected in the organisation of the EU's representation in Skopje. For example, the division of responsibilities of the three political advisors to the EU Special Representative are along party political and ethnic lines, with one advisor covering the government, one the main opposition parties and one the ethnic Albanian parties.⁷⁵

As a result of this view, there is little expectation from EU officials that Macedonian politics will develop away from its current ethnic basis, and to wish for any such development is regarded as unrealistic. An exception to this seems to be the Commission's 2009 progress report on Macedonia, which notes that for the first time since independence, an ethnic Albanian candidate in the 2009 presidential elections secured significant numbers of votes

⁷⁴ Author's interview with a senior official, European Commission DG Enlargement, Brussels, 30 April 2010.

⁷⁵ Author's interview with a political advisor, Office of the EU Special Representative, Skopje, 5 November 2010.

from beyond his own ethnic group (European Commission, 2009d, p. 8). This candidate was Imer Selmani, leader of the New Democracy party, who was nicknamed ‘Macedonia’s Obama’ during the campaign and who explicitly sought cross-ethnic support (see Agence France-Presse, 2009; Karanfilovska, 2010). Selmani came third in the first round of the election, winning 14.99 per cent of the votes cast (Institut Europeu de la Mediterrània, 2010, p. 368). Nevertheless, while a Commission official told the author that “it was a very interesting development and we wanted to highlight it because we thought that that was a step in the right direction”, the same official also argued that “it was, however, the exception that proved the rule”, noting that the eventual winner of the election, Gjorge Ivanov, did little to appeal beyond his ethnic Macedonian base and that since the election, Selmani had focused more narrowly on ethnic Albanian concerns.⁷⁶ Similarly, a political advisor to the EUSR played down the significance of Selmani’s success in 2009, noting that New Democracy was on the brink of collapse the following year. The same official argued that the development of non-ethnic parties in Macedonia is unlikely because for parties to appeal beyond their own ethnic groups is akin to “turkeys voting for Christmas”.⁷⁷

Understanding Ohrid: Policy learning or the art of the possible?

That the OFA seems to have avoided institutionalising ethnicity as deeply as the Dayton Agreement has in Bosnia has led some to suggest that Ohrid was the result of policy learning on the part of its designers. As one participant in a Project on Ethnic Relations event on the Western Balkans suggested in 2007:

When Ohrid was negotiated, international actors had already learned that Dayton was overly complex and too focused on ethnic and territorial issues, so they focused on a civic approach. (quoted in Project on Ethnic Relations, 2007a, p. 14)

⁷⁶ Author’s interview with a senior official, European Commission DG Enlargement, Brussels, 30 April 2010.

⁷⁷ Author’s interview with a political advisor, Office of the EU Special Representative, Skopje, 5 November 2010.

Similarly, a European official also participating in the event claimed that:

The fact is that we keep learning from each settlement. The Ohrid Agreement was much much better than the Dayton solution, and the Ahtisaari Plan is better than Ohrid. (quoted in Project on Ethnic Relations, 2007a, p. 24)

This possibility of learning on the part of international actors is also reflected in the scholarly literature on Macedonia. For instance, Bieber (2008, p. 18) argues that the details of the OFA “are borne out of a learning process connected with the pitfalls of the Dayton Peace Accords”, and Bieber and Keil (2009) cite policy learning as one of a number of possible explanations of the differences between Dayton and Ohrid. Furthermore, Lantschner *et al.* (2008, p. 377) suggest that “constitutional and political arrangements with double majorities instead of vetoes and the possibility of cross-cutting coalition government formation” reflect ‘lessons learned’ from Bosnia (cited in Ilievski and Taleski, 2009, p. 359). This type of view has resulted in EU actors praising the Agreement as a model for the region, with former EUSR Erwan Fouéré arguing in August 2011 that, “even allowing for continuing problems, [Ohrid] has been rightly hailed as a model for reconciliation and for fostering multiethnic coexistence for the entire Balkan region” (Fouéré, 2011) .

Is it accurate to state that the Agreement reflected a process of policy learning since Dayton? It does seem clear that EU officials had ruled out a strictly consociational settlement to the conflict prior to the signing of the OFA in August. In response to proposals by the DPA and PDP for strong consociational measures such as a guarantee that the vice president would be Albanian and the setting up of a council for ethnic relations with veto powers, Solana was quoted in the Macedonian press in July 2001 as stating that “[c]onsociational democracy is not a reasonable way to state building” (quoted in Karajkov, 2008, p. 475). It seems reasonable to assume that his concerns about the implications of consociational democracy for

attempts at state-building may have been informed by the experience of Bosnia, where the barriers to building an effective state were obvious by 2001, although Solana chose to mention the Lebanese and Cypriot experiences instead, arguing that these “didn’t prove to be the best model” (quoted in Karajkov, 2008, p. 475). Robert Badinter, who acted as an advisor to the Macedonian government during the talks and who had significant previous experience in the Western Balkans having chaired the EC’s Arbitration Commission in the 1990s (see Chapter 3), also reportedly viewed strong consociational arrangements as likely to make government liable to gridlock (Karajkov, 2008, p. 475).

Nevertheless, the negotiators saw the need to provide for improved minority representation in Macedonian political life, in order to counter what was now recognised as the marginalisation of ethnic Albanians in particular. Solana explained in August 2001 that:

...there has to be a recognition that all individuals, of whatever ethnic or religious group, have a stake in the country. That means being free to use their own language. It means all groups being involved in all aspects of government at all levels. It means protection for minorities. Above all it means replacing violence with dialogue. That has been the way of the EU, and we have half a century of peaceful cooperation and stability to show that it works. (Solana, 2001e)

The design of the OFA, therefore, seems to reflect the perceived need to balance support for legitimate and necessary state-building on the one hand, with a requirement that minorities, and in particular the Albanian minority, be protected. Aware of the negative implications of the type of corporately consociational democracy and ethnic federalism practiced in Bosnia, and equipped with a more nuanced and less essentialist understanding of the Macedonian crisis than existed of the Bosnian conflict (albeit one that still privileged ‘ethnic’ explanations over alternatives), European actors were involved in the design of a settlement that avoided some of the mistakes that had been made in Dayton.

However, to attribute the design of the OFA solely or even largely to learning on the part of European and other international actors might, I suggest, be to confuse policy preferences and policy outcomes. This is because, while external actors' understandings of the conflict in Macedonia may have differed from those of the Bosnian conflict, the *conflict itself* also differed considerably. In Bosnia, the Serb leadership wished to secede from the newly independent Bosnian state or to join their kin in a united Serbian state (Ambrosio, 2001, pp. 72-109; Detrez, 2003, p. 120). By contrast, in Macedonia, as Bieber and Keil (2009, p. 345) note, the NLA "did not pursue an outright secessionist agenda" and, on the whole, did not even press for territorial autonomy.⁷⁸ Indeed, their plea was for inclusion in the Macedonian state rather than secession from it. As Bieber argues, "the absence of a protracted conflict and the small number of victims during the conflict in 2001 permitted greater room for non-institutionalized cooperative politics than elsewhere" (2008, p. 18). Moreover, Macedonia had signed an SAA in April 2001, and EU officials were more aware of the potential problems caused by granting representatives of ethnic groups veto powers for the EU accession process – something that was not a consideration six years earlier at Dayton.⁷⁹

While there is evidence of some degree of policy learning between Dayton and Ohrid, we should therefore be wary of thinking that, blessed with the experience they possessed by 2001, the Dayton negotiators would have designed a 'better' settlement for Bosnia. The Bosnian context may well simply not have allowed for this. Moreover, it is important to note that while the design of the OFA may differ from that of Dayton, some of its key provisions rest on a similar understanding of ethnic groups as bounded and having clearly defined group

⁷⁸ Though some prominent figures called for a federal, bi-national state "along the lines of Belgium", in the words of one ethnic Albanian politician (Bideleux and Jeffries, 2007, p. 424), this and more secessionist rhetoric died down over the course of the insurgency (Bellamy, 2002, p. 132).

⁷⁹ Author's interview with a political advisor, Office of the EU Special Representative, Skopje, 5 November 2010.

interests. The differences between Dayton and Ohrid do not, therefore, represent a radical break in terms of conflict resolution policies, but rather reflect a similar approach being applied to the specificities of the Bosnian and Macedonian cases. In the remainder of this section, I illustrate this point by using the example of the OFA's provisions for decentralisation.

While academic analysts have tended to view the provisions for decentralisation agreed at Ohrid as a key part of a framework for regulating ethnic relations in Macedonia (see, for instance, Engström, 2002, p. 17; Friedman, 2009), EU policy-makers have tended to divorce decentralisation from issues of ethnicity, at least in public pronouncements. Bieber notes that the issue “has been largely de-ethnicised and framed to conform to European standards (and especially to the principle of ‘subsidiarity’)” (2005, p. 118). Article 3.1 of the Ohrid Agreement, for instance, specifies:

A revised Law on Local Self-Government will be adopted that reinforces the powers of elected local officials and enlarges substantially their competencies in conformity with the Constitution (as amended in accordance with Annex A) and the European Charter on Local Self-Government, and reflecting the principle of subsidiarity in effect in the European Union.

Analysis of European policy-makers' public discourse on decentralisation in the post-Ohrid period lends support to Bieber's claim about the de-ethnicised nature of the issue. Decentralisation is justified by EU policy-makers largely on efficiency grounds, or as a mechanism for improving public service delivery, and is frequently framed in relation to European norms. Addressing the Macedonian parliament in February 2006, for example, Commission President José Manuel Barroso stated that as a result of “substantial reform, notably through decentralisation, your public services are gradually changing the way they

provide services to the citizens” (Barroso, 2006). Similarly, Olli Rehn stated at a conference on the OFA held in Skopje in February 2007 that:

...decentralization is key for a functioning and stable democracy. It needs to be implemented in such a way that it respond to the citizens’ expectations for further improvements in the management of public services, for instance in education, and local development. Last year we could note improvement in some public services. It is now the responsibility of both the central government and the municipal authorities to sustain their cooperation to allow for promoting local democracy and local development. (Rehn, 2007b)

Speaking again in Skopje in March 2008, Rehn argued that “[i]n the European Union local government is at the heart of our systems of government” and that “[o]ur experience has shown that if relevant decisions are taken closer to the people then they will be more effective” (Rehn, 2008a). EUSR Erwan Fouéré made a very similar argument in December 2008, arguing that “[d]ecentralisation increases contact and communication between policy makers and service users and improves opportunities of citizens to influence decision making” and noting evidence suggesting that the willingness of citizens to pay taxes is higher when they perceive local government to be efficient (Fouéré, 2008, p. 3). As such, Fouéré argues, “decentralisation ...offers advantages to citizens of all ethnicities” (Fouéré, 2008, p. 3). Rehn and Fouéré also present decentralisation as a “European” policy, with the former arguing that “the more progress you make in decentralisation the closer you move towards the European Union” (Rehn, 2008a) and the latter that “[d]ecentralisation reflects the principle of subsidiarity in effect in the European Union” (Fouéré, 2008, p. 3).

Whereas in public discussions, decentralisation is presented as an issue of improving the efficiency of the state and of public service delivery, in private EU officials are more willing to discuss the issue as it relates to conflict regulation. Asked whether decentralisation should

be seen through an efficiency lens or as a mechanism to improve inter-ethnic relations, for instance, a Commission official told the author:

It's about giving communities – it's a bit of both – by giving local communities more power over their own affairs. The fact that you have this diversity in the country means that a centralised government is not, is less likely to be accepted and is therefore less appropriate, whereas if you have these different communities it makes sense to give them more autonomy, more capacity to tailor things to their own liking. This will make it politically more harmonious, the idea is, and at the same time more efficient because the politicians on the ground, the local leaders on the ground would be able to more closely deliver services in the way that people, the community, actually want.⁸⁰

Another Commission official made a similar argument when asked the same question:

It's probably a mixture. I mean I think it is more about bringing the power to the communities to decide about their own affairs but it is very much inter-linked because many of the communities, of course, in some parts of the country, they are dominated by the minority so yes it empowers that minority. So it is inter-linked.⁸¹

The logic that underpins decentralisation is therefore similar to that informing federalism – the idea is to grant local, relatively ethnically homogenous communities jurisdiction over key policy areas, as part of a bargain in which they accept the territorial integrity of the state. Federalism as practiced in the Bosnian case was ruled out as not suitable for Macedonia, but not on the grounds that it is a poor conflict regulation device but rather because it was not demanded by ethnic Albanian parties. As a political advisor to the EUSR in Skopje explained, decentralisation has been pursued as a substitute for other solutions, since the NLA made it clear that they did not want a federal Macedonia but rather a unitary state with improved rights for ethnic Albanians.⁸²

⁸⁰ Author's interview with a senior official, European Commission DG Enlargement, Brussels, 30 April 2010.

⁸¹ Author's interview with an official, European Commission DG Enlargement, Brussels, 21 April 2010.

⁸² Author's interview with a political advisor, Office of the EU Special Representative, Skopje, 5 November 2010.

Framing Ohrid as a ‘European’ settlement

As is widely acknowledged by EU officials, many of the provisions of the OFA do not have a strict basis in EU law. As noted in Chapter 1, while the Copenhagen Criteria demand that prospective member states respect and protect minorities, the way in which this is done varies between existing members – and indeed some member states have not ratified the Council of Europe’s Framework Convention on National Minorities, which the Commission uses to judge minority rights compliance in applicant states. Issues such as the guaranteed representation of minorities in the public administration and decentralisation are controversial within the Union and there is no agreed EU-wide common practice on these issues, with that practice varying widely from one member state to another. This poses a potential problem for EU actors when they insist on implementation of the OFA as a precondition for Macedonia’s future EU membership. This is something that is readily acknowledged by officials in private. For instance, when asked about the problems posed by the lack of a European norm in relation to public administration reform, one Commission official told the author that, “in general, yes, there is a problem that there is not an *acquis*”. However, the same official noted that while Macedonian politicians could theoretically have used this argument to avoid implementing EU demands, in practice it had not proved to be a problem. As the official explained, “I think they are trying to be co-operative and they are trying to be forward-coming and flexible”.⁸³ Another official, based at the EU Delegation in Skopje, pointed out that while the guaranteed representation of minorities in the public sector was not something that was mandated by the *acquis*, there were precedents within the EU for these provisions, citing South Tyrol as an

⁸³ Author’s interview with an official, European Commission DG Enlargement, Brussels, 21 April 2010.

example (on South Tyrol, see Wolff, 2008) and noting that the Delegation had previously organised a visit there for local officials.⁸⁴

When EU officials state that Macedonian politicians and officials have proven to be co-operative in implementing reforms that have been demanded by the EU but that are not in the *acquis*, they often attribute this to the Macedonian parties' acceptance of the supposedly unique demographic make-up of the country. Asked about whether the lack of a common approach to minority rights across the Union had proved to be a problem, for instance, a senior Commission official argued that:

No, no, not with Macedonia. With other countries, yes, but not with Macedonia. They don't tend to use that argument. Because they know that they have their own specific circumstances – as I've said, historically this place has always been inter-ethnic and they know that. The discussion is not *if* there should be minority rights, the discussion is *how*, and how much, in a nutshell. I've never heard a politician in Macedonia say 'Oh but in France they don't recognise minorities'. What they will say is, 'Well, we are doing it...we've done it...we're doing it and we've done it'.⁸⁵

Here we see the EU's demands legitimised in a cognitive rather than normative manner. The need for particular forms of minority protection is not justified by reference to normative standards within the EU but rather by reference to the 'reality on the ground', the EU's understanding of which is reportedly shared by local actors. In devising the appropriate policy for Macedonia, then, a Commission official argued that "you need to devise a structure which is sort of reflecting their historical experience and their way of things, which is at the same time reflecting...EU principles".⁸⁶

While EU officials argue that Macedonian policy-makers have largely proven amenable to their demands regarding implementation of the OFA, there have been occasions when

⁸⁴ Author's interview with an official, EU Delegation to the former Yugoslav Republic of Macedonia, Skopje, 9 November 2010.

⁸⁵ Author's interview with a senior official, European Commission DG Enlargement, Brussels, 30 April 2010.

⁸⁶ Author's interview with an official, European Commission DG Enlargement, Brussels, 21 April 2010.

significant local resistance has been encountered. Perhaps most notable in this respect was a referendum held in November 2004 following the collection of the requisite number of signatures by opponents of laws passed to reorganise Macedonia's internal territorial organisation in line with the requirements of the OFA. The referendum failed to attract sufficient turnout to be valid, but only after EU and US officials had called on Macedonian voters to reject it, with the US making the last-minute announcement that it would start to use Macedonia's constitutional name in order to offer support to the ruling government's decentralisation agenda (Dimitrova, 2004; International Crisis Group, 2005; Marko, 2006). Such incidents reflect the widespread unpopularity of the OFA amongst ethnic Macedonians, which dates back to its signature in 2001 (see Brunnbauer, 2002; Radio Free Europe/Radio Liberty, 2004).

This perhaps explains why EU officials have also sought to legitimate the OFA by attempting to frame it as 'European' despite the fact that some of its provisions – such as proportionality in public sector employment – lack a basis in the *acquis* and, while they may have precedents in some member states, would be controversial in others. We saw this in our discussion of the decentralisation issue earlier in the chapter, with this conflict regulation measure being legitimised by framing it as reflecting the European principle of subsidiarity. We also saw how Javier Solana, outlining the case for Ohrid Agreement, argued that this “has been the way of the EU, and we have half a century of peaceful cooperation and stability to show that it works” (Solana, 2001e). In the remainder of this section, I explore this process of framing Ohrid as 'European' through an analysis of the public statements of a number of key EU actors.

In October 2004, then Commission President Romano Prodi spoke in front of the Macedonian parliament in Skopje. Prodi had addressed the parliament on his first visit to Macedonia in February of the previous year, when he spoke about the relevance of the European integration process for the Western Balkans. Arguing that “[t]he overcoming of age-old divisions is the driving force behind the European integration process” (Prodi, 2003), on this occasion Prodi spoke of the need for a regional approach in the Balkans. In 2004, Prodi returned to the theme of the integration process’s contribution to ensuring peace and stability in Europe, but this time drew parallels not with the regional situation in the Balkans but instead with relations between ethnic groups within Macedonia:

Once again Europe has a chance to turn the page on a painful chapter of our past and open a new era of friendship and peace... You will show that it is possible for all the ethnic communities of your country to leave aside the conflicts of the past and to work together to achieve a common goal. This is the same goal as the goal pursued by all of us who believe in European Integration – peace, prosperity, cultural diversity, cooperation across borders, across ethnic and cultural boundaries, for the benefit of all. (Prodi, 2004b)

As in the case of Prodi’s statements on Bosnia, which, as we saw in Chapter 3, portrayed the EU as a ‘union of minorities’, Prodi here frames the Macedonian case as European through comparing it with the historical experience of European integration. Integration has succeeded in pacifying Europe, Prodi suggests, through the accommodation and nurturing of cultural diversity. Similarly, for the then EU Special Representative and Head of the EU Delegation to Macedonia, Erwan Fouéré, speaking at a public debate in Skopje in September 2010, “Europe is defined by many factors of identity, of cultural heritage, of different history lines”. Fouéré quoted current Commission President José Manuel Barroso, arguing that “Europe’s true identity is made of ‘its different heritages, of its multiplicity of histories and of languages, of its diverse literary, artistic and popular traditions’”. He then continued: “the notion of identity is something sacred reflected in many different facets of our roots and our very being. And

this is what makes the European integration process so unique – united in diversity” (Fouéré, 2010a). Earlier in the year, Fouéré had addressed similar themes in a speech at a graduation ceremony in Skopje:

It is thanks to the vision of Robert Schuman in his Declaration launched in 1950 that we have a European integration process that has led to the longest period of peace and prosperity in Europe’s history bringing together large and small countries in a spirit of solidarity. What makes the European model so unique is the rich cultural diversity of its component parts. As Europe advances on the road towards enhanced integration and expands its membership the preservation of this rich cultural diversity and an increased role for the regions and local communities becomes even more important. (Fouéré, 2010b)

Prodi and Fouéré’s statements above frame the EU’s overall approach in Macedonia as European by comparing it to the process of European integration. On occasion, the structure and organisation of the EU is also used as a reference for more specific details of the Union’s policy preferences. As mentioned above, one of the provisions of the Ohrid Framework Agreement was to prescribe public administration reform in order to guarantee the equitable representation of Macedonia’s various ethnic groups in its public administration. As the European Commission has noted, the implementation of this measure has proved to be problematic, since “recruitment of a large number of employees from the non-majority communities is on a quantitative basis and without matching the needs of the institutions with the required training and qualifications” (European Commission, 2010c, p. 11).⁸⁷ Nevertheless, the EU remains committed to the principle of proportional representation of ethnic groups in public administration, a key feature of consociational democracy identified by Lijphart (1977a), and officials suggest that the problems experienced are not inherent to

⁸⁷ Of the 1,400 ethnic Albanians appointed to the civil service between 2008 and 2010, an estimated 400 have no real job. There is also a tendency for jobs to be awarded to party loyalists (International Crisis Group, 2011a, p. 15; see also Phillips, 2011).

the OFA's design but rather are the result of local policy failures.⁸⁸ Interestingly, in an interview with the author an EU official based in Skopje pointed to the recruitment of staff from the member states to work in the EU institutions as a model of how a representative *and* merit-based system could and should operate.⁸⁹ Thus, we find the EU as a supranational organisation being presented as analogous to the internal politics of a post-conflict state.

Summary

Rather than triggering a search for new ideas and explanations, the 2001 Macedonian crisis was instead interpreted through an already existing cognitive lens – namely, the ethnic conflict paradigm. With the crisis explained through this lens, it has become the primary optic through which Macedonia has come to be understood by European actors. While it may seem obvious that a conflict between ethnic Albanian insurgents and Macedonian security forces should be regarded as an 'ethnic' one, my argument here is that this was by no means an inevitable reading of the conflict. As outlined in the overview of the 2001 crisis provided at the start of this chapter, a number of different explanations have been advanced for why the country descended into conflict having avoided it for the first ten years of its independence, and scholarly accounts tend to emphasise the complex interplay of factors including discrimination against the ethnic Albanian minority, but also organised crime, corruption and the destabilising impact of the Kosovo conflict. My aim in this chapter has not been to assess the empirical validity of any of these accounts, but rather to show how the predominant lens that the 2001 crisis was viewed through has shaped EU policy in Macedonia.

⁸⁸ This point was made in the author's interview with an economic advisor, EU Delegation to the former Yugoslav Republic of Macedonia, Skopje, 9 November 2010. It has been made in more general terms by former EUSR Erwan Fouéré, who has argued that: "The Ohrid Framework Agreement, if properly implemented, can make a real difference in promoting reconciliation and fostering a relationship of trust and mutual respect between the different ethnic communities... But it requires greater dedication and commitment by the country's leaders acting together" (Fouéré, 2011).

⁸⁹ Author's interview with an economic advisor, EU Delegation to the former Yugoslav Republic of Macedonia, Skopje, 9 November 2010.

The reading of the Macedonian conflict as a clash between ethnic Macedonians and the country's ethnic Albanian minority has underpinned an approach that seeks to accommodate the perceived interests of these two groups. While the Ohrid Framework Agreement employs civic language, as we have seen it actually relies on institutionalising the Macedonian-Albanian ethnic divide through a series of measures including public sector employment quotas and decentralisation of power to local municipalities where there is a greater degree of ethnic homogeneity than at the national level. While the design of these measures may, I have suggested, reflect some degree of policy learning on the part of European and other external actors following the 1995 Dayton Agreement in Bosnia, the paradigm that has informed these policies is similar and their specificities are more a reflection of the very different nature of Macedonia's conflict in comparison to Bosnia than they are of a change in approach to conflict resolution. Moreover, they can also partly be attributed to the fact that EU membership was an, albeit distant, prospect for Macedonia in 2001, whereas Bosnia's accession was not something foreseen in 1995. As such, EU officials were keen to avoid the political blockages that Dayton's system of strict vetoes has contributed to.

Finally, given that many of the conflict regulation mechanisms specified by the OFA do not derive from the *acquis* and, in some cases, would prove controversial if applied to existing member states, the chapter has sought to explain how EU policy-makers have legitimised this approach. Here, I have highlighted how the approach taken at Ohrid has been compared not only to practices in select EU regions, such as South Tyrol, where there are precedents for its provisions, but also to the history of European integration itself, portrayed as a process in which rival European nationalities were accommodated through supranational integration, such that the EU is viewed as a 'union of minorities'. Not only has this comparison been used to frame the EU's overall approach in Macedonia, but specific elements of the EU's system of

governance, such as the recruitment of staff to European institutions, are also cited by EU actors as models for managing relations between Macedonia's ethnic groups.

CHAPTER 5 – KOSOVO: ESTABLISHING A ‘MULTI-ETHNIC SOCIETY’?

Introduction

This chapter presents the final of the three case studies employed in this thesis – that of the EU’s approach to conflict resolution in Kosovo. The chapter takes as its core focus the EU’s strategy to establish a democratic and multi-ethnic society in Kosovo. My core argument in relation to this case study is that, while in public EU officials are keen to stress the need for reconciliation amongst Kosovo’s various ethnic groups and for the establishment of a genuinely multi-ethnic society, the Union’s strategy for Kosovo relies instead upon institutionalising ethnic difference and that in private EU officials are much less sanguine about the possibilities for reconciliation than their public rhetoric suggests.

The chapter is structured as follows. Firstly, it briefly outlines the recent political history of Kosovo, as a province of Serbia within the wider Yugoslavia through to its recent independence. In the latter part of this section, I outline the international community’s engagement with Kosovo and the conflict regulation institutions that have been put in place in the state in the context of continued divisions between its ethnic Albanian majority and Serb minority. The chapter then moves on to consider the role of the EU as an external actor in Kosovo. Here, I outline both the institutional presence of the Union in Kosovo and also the role envisaged for it in the context of Kosovo’s supervised independence, explaining the core tenets of the EU’s strategy in the country.

In the third section of the chapter, I consider the EU’s conflict resolution strategy in Kosovo. This strategy is purportedly oriented towards the creation of a multi-ethnic society in Kosovo

and I begin by examining what EU actors mean and understand by the term ‘multi-ethnic’. Here, I argue that despite the EU’s rhetoric stressing the need for reconciliation and integration amongst communities in Kosovo, in practice the Union’s strategy is predicated on a significant degree of social and geographical segregation between those communities. I then illustrate this by outlining the role played by decentralisation of political power in the EU’s strategy, arguing that this is the primary mechanism through which the ‘multi-ethnic’ society concept is to be realised. Finally, I consider the role of funding for civil society organisations in the Union’s strategy. While the EU’s discourse stresses the potential of such organisations to break down barriers between communities, which might suggest the possibility of counteracting policies based on separation, I argue that in private EU officials are notably sceptical about the ability of Kosovo’s civil society actors to play such a role.

In the final section of the chapter, I consider the role of framing in the EU’s discourse on Kosovo. Unlike in the Bosnian and Macedonian cases explored in the preceding two chapters, I find a notable lack of framing in the EU’s Kosovo discourse. I argue that this may be because of the specificities of the Kosovo case, where the EU is envisaged as the lead international actor but where responsibility for the design of conflict resolution policies lies with other organisations and the EU’s role is limited to implementation of these policies.

Historical background

From autonomy to conflict

Occupying a central place in Serbian national mythology but having a majority ethnic Albanian population, Kosovo has long been the site of ethno-political tensions.⁹⁰ As the two largest groups in Kosovo, ethnic Serbs and ethnic Albanians are divided by both religion and language, and the conflict between them therefore appears to be more accurately described as

⁹⁰ Useful histories of Kosovo and its conflict are provided by Malcolm (2002b) and Judah (2002, 2008).

‘ethnic’ than that in Bosnia, where different groups share a common language (Malcolm, 2002b, p. xliv). This is not to suggest that Kosovo has always been the site of conflict, or that contemporary conflict can be explained by reference to ‘ancient hatreds’. Rather, as Duijzings argues, “in a frontier area like Kosovo it is not conflict *or* coexistence that is the hallmark of society; both elements have a history combining in a variety of ways over time” (2000, p. 11, emphasis in original). Indeed, historian Noel Malcolm notes that while there have been many wars in Kosovo, until the 20th century none of them could be characterised as a battle between Serbs and Albanians. Even during the battle of Kosovo in 1389 – which plays a crucially important role in the Serbian national imaginary – Malcolm argues that Serbs and Albanians fought together on both sides of the conflict. However, during the 19th century the divide was politicised as Slavic Christian states expanded and Serbian nationalist ideology elevated the 1389 battle to “some sort of nationally-defining historical and spiritual event” (Malcolm, 2002b, p. xliv). In the 20th century, and in comparison to other parts of the former Yugoslavia, social contact and integration between members of Kosovo’s various ethnic groups was low. Between 1962 and 1989, for instance, the rate of inter-ethnic marriage in Kosovo was the lowest of all the Yugoslav republics and provinces (Botev, 1994, p. 469).

Against this background, while it was in Bosnia and Croatia that the break-up of Yugoslavia was most violently apparent, in many ways events in Kosovo foreshadowed violent conflict in the region. As a saying famous in Yugoslavia in the 1990s went, “the Yugoslav crisis began in Kosovo, and it will end in Kosovo” (Malcolm, 2002b, p. xliii). Slobodan Milošević’s rise to power was made possible largely because of his exploitation of the situation of Serbs in Kosovo. Previously a relatively unknown political figure, Milošević was elected head of the League of Communists of Serbia in May 1986. In April 1987 he was sent by then Serbian President Ivan Stambolić to Kosovo Polje, where, for the first time, he was able to present

himself as the protector of Serbs across Yugoslavia. During a meeting between Milošević and local Serb officials, police attempted to control a large crowd complaining about oppression by ethnic Albanians. Members of the crowd reacted by throwing rocks at the police and, as the situation escalated, Milošević addressed the crowd, famously proclaiming: “No one should dare to beat you” (Silber and Little, 1996, p. 37). The event was not, contrary to appearances, spontaneous, and it remains unclear to this day how deeply Milošević, who had secretly visited Kosovo Polje four days previously, was involved in its planning (Sell, 2002, pp. 2-3). Later in 1987, Milošević was instrumental in organising a coup against Stambolić, and eventually became President of Serbia himself in May 1989. During his rise to power, Milošević had promised to end the autonomy that had been granted to the provinces of Kosovo and Vojvodina under the 1974 Yugoslav constitution, and between autumn 1988 and March 1990 he progressively reduced Kosovo’s autonomy (Gow, 1997, p. 17).

Political opposition to Serbian rule in Kosovo built towards the end of the 1980s, culminating with the establishment of the Democratic League of Kosovo (LDK) in December 1989. The LDK quickly became the focus of this opposition and in July 1990, the overwhelming majority of the ethnic Albanian members of parliament voted in favour of making Kosovo a republic within Yugoslavia. This was rejected by the Serbian parliament but Kosovar politicians had already started to draft a constitution for their self-proclaimed republic and when it became clear that the future of Yugoslavia was increasingly uncertain, they declared outright independence in September 1991, which was confirmed on 19 October following the holding of a referendum. The international community, more concerned with events elsewhere in the region, largely ignored these developments and only Albania extended diplomatic recognition.

Following this failure to achieve independence, while Serbia remained in control of Kosovo, ethnic Albanians in the province pursued a strategy of non-violent, civic resistance that involved the establishment of a parallel state providing, amongst other services, education in the Albanian language that had largely been denied following the province's loss of formal autonomy. This strategy continued throughout much of the 1990s but by 1997, with ethnic Albanian resentments continuing to grow, an armed movement known as the Kosovo Liberation Army (KLA) had come to prominence and started to eclipse the non-violent actions led by the LDK (Stephan, 2006, pp. 71-75).

Beginning in early 1998, with Serbian oppression of ethnic Albanians continuing, tensions in Kosovo came to a head and violent clashes broke out between members of the KLA on the one hand and local Serbs and the Serbian security forces on the other. As 1998 passed, the KLA started to take control of territory across the province. This, however, was met with a counteroffensive by Serbian security forces and, by 3 August, some 200,000 ethnic Albanians had been displaced as a result of their actions (Judah, 2008, p. 82).

Early 1999 witnessed attempts by the international community to broker a solution to the crisis. These culminated in the Rambouillet Accords, signed by the Albanian, American and British delegations to the talks on 18 March 1999 but not by the Yugoslav or Russian delegations. The Rambouillet talks were summoned by the Contact Group, chaired by the British and French foreign ministers, and mediated by Chris Hill on behalf of the US, Wolfgang Petritsch for the EU and Boris Mayorski, representing Russia. The draft of the text drawn up at Rambouillet, as Weller (2012, pp. 226-28) notes, offered autonomy to Kosovo in a wide range of areas, while allowing Yugoslavia to retain its jurisdiction over areas such as foreign policy, monetary and federal tax policy, territorial integrity and federal elections.

While the draft did not propose that Kosovo be classified as an entity, it did envisage that the powers not assigned to the federal state were to be exercised at the communal level. As Weller notes, “much emphasis was placed on local self-government, as one way of ensuring that the ethnic Serb community would benefit from autonomy within autonomy” (2012, p. 226). The draft also foresaw the guaranteed representation of minorities at all levels of government. In the Kosovo Assembly, minority community representatives would have been able to invoke vital interests in order to exempt their constituents from legislation. These communities would also have been able to form institutions providing for non-territorial autonomy. As such, it has been argued that Rambouillet would have seen the Serb community of Kosovo enjoying “its own regional and local territorial autonomy, functional autonomy, consociational power-sharing mechanisms (guaranteed representations, at least soft vetoes), and minority rights additional to the already highly advanced catalogue of human rights rendered applicable in the territory” (Weller, 2012, pp. 226-27).

As a result of continuing violence, NATO intervened militarily in Kosovo between 24 March and early June 1999, launching air strikes on Yugoslav military targets. The end of this mission, code-named Operation Allied Force, was followed by the establishment of a NATO peacekeeping force, KFOR, which entered Kosovo on 12 June. While Kosovo legally remained part of Yugoslavia, effective control of the province passed to the newly established United Nations Interim Administration Mission in Kosovo (UNMIK),⁹¹ which was tasked with the role of developing self-government institutions, prior to the launching of a process to determine Kosovo’s final status (Weller, 2012, p. 227). UNMIK was established with a four-pillar structure: humanitarian assistance was to be led by the United Nations High

⁹¹ As Stahn (2001) notes, the first regulation issued by UNMIK vested legislative and executive authority in the Special Representative of the UN Secretary-General.

Commissioner for Refugees (UNHCR); civil administration by the UN; democratisation and institutional building by the OSCE; and reconstruction and economic development by the EU.

UNMIK set up a Joint Interim Administrative Structure, agreed in December 1999, which involved joint governance between local and UN representatives. This was followed in May 2001 by an UNMIK regulation that established the so-called Constitutional Framework for Provisional Self-Government in Kosovo (see Stahn, 2001), which provided for the transfer of further powers to local actors. The preamble to this document recognised “the need to fully protect and uphold the rights of all Communities of Kosovo and their members”, which it defined as “inhabitants belonging to the same ethnic, religious or linguistic group”. Such communities, the Constitutional Framework specified, had the right “to preserve, protect and express their ethnic, cultural, religious, and linguistic identities” (UNMIK, 2001). As with the draft Rambouillet agreement, the Constitutional Framework provided for power sharing and the guaranteed representation of minorities. While the Framework did not make specific mention of proportional representation, “Article 9.1.3, which lays down the Assembly’s composition, makes it clear that governance must be grounded in a legitimacy that flows from an Assembly that is representative of society” (Taylor, 2005, p. 445). The OSCE Mission in Kosovo, responsible for the institution-building pillar of UNMIK, outlined an electoral system which saw the Kosovo Assembly comprise 100 representatives from a single, Kosovo-wide constituency, an additional 10 elected by the Serb community and a further 10 by other minorities. As such, and because the Constitutional Framework also ensured that the executive would include two ministers from minority communities (more if the government included more than 12 ministers in total), and at least one Serb, Taylor argues that the Framework “was intended to promote ‘consociationalism’” (2005, pp. 446, n. 7), though Weller notes that “in consequence of the experiences with excessive consociationalism under

the Dayton Accord for Bosnia and Herzegovina, there were no hard vetoes or blocking powers” (2012, pp. 228). While the Constitutional Framework allowed minority representatives to challenge legislation on the basis of their vital interests, unlike the Bosnian case, in Kosovo such matters were referred to a panel composed of community representatives and an international representative, in which decisions were taken by majority vote (Caplan, 2004, p. 216). Beyond these questions of institutional design, the Constitutional Framework also established extensive minority rights, including the right to access education and media in minority languages, and to use those languages in front of courts and other public institutions.

Regarding questions relating to Kosovo’s final status, from late 2003 onwards, the policy of the international community and of UNMIK more specifically was known as ‘standards before status’. This implied that the political authorities in Kosovo had to comply with a set of benchmarks before any talks on the future status of the province could begin, therefore effectively kicking independence into the long grass. The benchmarks, or ‘standards’, were proposed by UN Special Representative Michael Steiner in 2002 and covered issues such as democratic representation, ethnic tolerance, the rule of law and dialogue with Serbia. These benchmarks were formalised in December 2003 by a UN document entitled *Standards for Kosovo* and subsequently operationalised by the Kosovo Standards Implementation Plan of March 2004 (Gardner, 2008, p. 544-45).

Towards supervised independence

The events of March 2004, however, when anti-Serb violence erupted in towns and cities across Kosovo, forced the international community to start to address the status question with more urgency. The riots, along with a subsequent report on the situation in Kosovo written by

Kai Eide, who was appointed as a Special Envoy by UN Secretary-General Kofi Annan, made it clear that the ‘standards before status’ policy had failed (Hehir, 2007, p. 247-48; Marko, 2008, p. 441). While ‘standards before status’ was not formally abandoned, Eide’s reports, presented to the UN Security Council in November 2004 and October 2005, indicated that Kosovo was suffering from a period of political stagnation and frustration and that beginning status talks was desirable (see United Nations Security Council, 2004, 2005). Eide also made clear that he thought offering Kosovo the prospect of integration into the EU was part of the solution and would improve the international community’s leverage (see United Nations Security Council, 2005). It was based on this assessment that Martti Ahtisaari was appointed as the Secretary-General’s Special Envoy for the Future Status Process for Kosovo.

In February 2007, Ahtisaari presented his Comprehensive Proposal for the Kosovo Status Settlement, commonly known as the Ahtisaari Plan, and recommended that “Kosovo’s status should be independence, supervised by the international community” (United Nations Security Council, 2007c, p. 2). Whereas the two peace agreements negotiated for Bosnia and Macedonia established a new constitution and amended an existing one respectively, the Ahtisaari Plan did not take the form of a constitution *per se*, although it did resemble Dayton in other respects, setting out general constitutional principles and provisions for a continuing international presence in Kosovo (Marko, 2008, p. 442). The Ahtisaari Plan was not endorsed by the UN Security Council, with several draft resolutions failing to satisfy Russian demands before the resolution was withdrawn completely in July 2007 (Hoge, 2007).

Meanwhile, Kosovo remained under international administration until 17 February 2008, when its parliament adopted a declaration of independence from Serbia. The Serbian government disputed the validity and legality of this declaration and the International Court of

Justice (ICJ) was asked to rule on the matter. On 22 July 2010, the ICJ issued a ruling that the declaration did not violate international law. Secession, however, has not resolved Kosovo's ethno-political question. As is frequently the case with partition or secession as a conflict resolution device,⁹² Kosovo's independence creates new minorities. Whereas once ethnic Albanians in Kosovo were a minority in wider Serbia, Kosovo's Serb population now finds itself as a minority in a newly independent and Albanian-dominated state. While Serbs constitute a much smaller proportion of Kosovo's population than they did before the events of 1999, numbering an estimated 111,300 (5.3 per cent) in 2006,⁹³ their geographic concentration and political organisation presents a significant challenge to the unity of the Kosovo state. The majority of Kosovo's Serb population lives in the northern half of the city of Mitrovica and has little interaction with the Kosovo authorities, instead being supported by 'parallel structures' financed by Belgrade.⁹⁴ Opinion polls show low levels of contact and integration between ethnic Albanians and Serbs in Kosovo.⁹⁵ Reflecting these continuing problems, the Ahtisaari Plan's support for Kosovo's independence is conditional on a

⁹² As Horowitz argues, "the linchpin of all the arguments [for partition] is the assumption that the probable outcome of secession and partition will be more homogeneous states and, concomitantly, a lower ethnic conflict level. If the assumption were correct, the conclusion would follow. But the assumption is wrong: the only thing secession and partition are *unlikely* to produce is ethnically homogeneous or harmonious states" (Horowitz, 1985, p. 589, emphasis added).

⁹³ At the first census for which ethnicity data is available – that of 1948, 176,718 Serbs were recorded as living in Kosovo, constituting 24.1 per cent of the total population. While this proportion steadily fell over the following decades, the absolute number of Serbs actually rose to a high of 228,264 at the time of the 1971 census (Statistical Office of Kosovo, 2008). While the Serb population has been in decline since this time, the majority of the population fall is attributed to displacement resulting from the 1999 conflict and the 2004 disturbances (see European Stability Initiative, 2004).

⁹⁴ As Simonsen notes, geography has played an important role in Kosovo Serbs' attitudes to the Kosovo state and to the international presence there: "The Serbs living in southern enclaves depend on the protection of KFOR and cannot hope for an eventual re-unification with Serbia to solve their problems. Thus, they are also more inclined to cooperate with the UN Mission in Kosovo (UNMIK), and to participate in elections. In contrast, radical nationalists are able to set the tone for politics in North Mitrovica and the other northern municipalities. Fuelled by Belgrade money and rhetoric, and having an eventual de jure division of Kosovo as a fall-back plan, they can afford to be more assertive" (2004, p. 293).

⁹⁵ For instance, a UN Development Programme poll conducted in May-June 2011 indicates that only 15 per cent of Kosovo Albanians and 27.7 per cent of Kosovo Serbs had experienced inter-ethnic contact on more than three occasions in the previous three months. Moreover, significant proportions of both communities are opposed to working with, living nearby or marrying members of the other community (United Nations Development Programme, 2011, pp. 24-27).

constitutional commitment to a multi-ethnic state. In this context, this declaration of independence committed Kosovo to adopting a new constitution, which “shall incorporate all relevant principles of the Ahtisaari Plan” (President of the Assembly of Kosova, 2007). Following work by a constitutional committee and a public consultation process, the International Civilian Representative (ICR), appointed in February 2008 to ensure implementation of the Ahtisaari Plan, certified the new Kosovo constitution as being in compliance with the Comprehensive Settlement Proposal on 2 April 2008 and it was adopted by the Kosovo Assembly on 9 April.

Marko argues that the balance of individual versus community rights in the constitution “show[s] the learning curve of both mediators of the international community and political elites in Kosovo”, citing the avoidance of strict Dayton-style corporate power-sharing and claiming that “lessons were drawn from the ‘success’ of the Ohrid Agreement” (Marko, 2008, p. 450). According to one commentator, the constitution can be characterised as granting “power to the majority and rights to the minority” (Gjoni, 2011, p. 6). The power-sharing institutions established by the new constitution ensure the over-representation of minorities in the legislature. As with 2001’s Constitutional Framework, the 2008 constitution establishes that the Kosovo Assembly should be composed of 120 representatives, with, for the first two electoral terms, 10 seats reserved for Serb representatives and a further 10 for other minorities, with additional minority representatives capable of gaining seats through open election. For subsequent terms, seats will be allocated through open election, but with a minimum of 10 guaranteed seats for Serbs and a minimum of 10 for other minority communities. The constitution also guarantees that one of the five deputy presidents of the Assembly must be selected from amongst the Serb representatives and another from the representatives of other communities. No absolute veto power is granted to representatives of

any group, but rather the constitution, following the Ahtisaari proposals, incorporates a complex double-majority system inspired by the Ohrid Agreement's Badinter mechanism (International Crisis Group, 2007, p. 19 n. 147; Marko, 2008, p. 450). Constitutional amendments are possible only with a two-thirds majority of the Assembly's votes and the votes of two-thirds of the minority representatives. Moreover, a double majority is required in order for the assembly to adopt, amend or repeal specific laws listed in the constitution, relating to minority rights, languages, cultural heritage and education.

Also following the precedent of the Constitutional Framework, the constitution guarantees the right of minority representation in the executive, with one Serb and one other minority representative required in a cabinet of up to 12 ministers, and a third if there are more than 12 members of the government. Representation of minorities is also guaranteed in bodies such as the Supreme Court and the Central Election Commission, and the composition of Kosovo's security forces is also required to reflect the ethnic diversity of the population.

As Lantschner (2008, p. 477) notes, another important provision for the representation of minorities is the Consultative Council for Communities (CCC). This was foreseen in the 2008 constitution, and established in September 2008 by presidential decree. The Ahtisaari proposals suggested that the CCC's mandate should be to act as a mechanism for exchange between Kosovo's communities and its government; to offer communities the opportunity to comment on legislation and policy proposals prepared by the government; and to perform any other functions provided for by law (United Nations Security Council, 2007a, p. 20). The constitution echoes Ahtisaari in this respect, and the Law on Communities expanded the mandate somewhat, as well as allocating the CCC a budget to allow it to fund community organisations (Lantschner, 2008, p. 478). The CCC's statute sets out the functions suggested

by Ahtisaari, as well as additional tasks, including assisting the organisation and articulation of community views on public policy, providing “a forum for coordination and consultation amongst communities”, making recommendations regarding the allocation of funds to community projects, and raising “awareness of community concerns and contribute to harmonious relations between all communities within the Republic of Kosovo” (President of the Republic of Kosovo, 2012, p. 3). The statute also sets out the composition of the CCC. A minimum of two-thirds of the members of the Council must be from minority communities, with the others being representatives of the Kosovo government or public bodies. The Serb community is represented by five CCC members, Bosniaks and Turks by three each, and the Roma, Egyptian, Ashkali, Gorani, Montenegrin and the Croat communities by two each. Other communities can seek representation by one Council member, with the decision to grant such representation in the power of the Kosovo president (President of the Republic of Kosovo, 2012, pp. 4-5).

Kosovo’s constitution also includes provision for extensive minority language and educational rights. Both Albanian and Serbian are official languages at the state level and at the municipal level all languages spoken by more than five per cent of the local population can be recognised as having official status (Lantschner, 2008, pp. 468-69). In the educational system, students at all levels have the right to learn in either the Albanian or Serbian languages and smaller minorities may be educated in their own language up to secondary level, even if that language is not official (Lantschner, 2008, p. 462-65). Furthermore, the constitution provides for the decentralisation of power to municipalities with boundaries redrawn so as to favour minority communities. In relation to this, in the months following the declaration of independence, the Kosovo government also drew up an action plan setting out how to achieve decentralisation, which in turn created an inter-ministerial decentralisation

group, co-chaired by the ICR, tasked with coordinating legislation setting up six new municipalities with ethnic Serb majorities (Gjoni *et al.*, 2010, p. 304).

Since declaring independence, the Kosovo government has been unable to exercise sovereignty in the northern parts of the newly independent state, where significant concentrations of Serbs live. In an attempt to resolve this situation, in late 2009 a number of international actors, including the International Civilian Office (ICO) and the US embassy, in consultation with the EU rule of law mission EULEX and “several EU missions”, drafted the ‘Strategy for the North’. This strategy envisaged the extension of Kosovo institutions of municipal government to the north, and to “use them to funnel generous funds to communities and build a cadre of skilled, respected local leaders, culminating in new elections” (International Crisis Group, 2011b, p. 9). However, despite receiving the backing of the Kosovo government, these measures failed to deliver the desired results, partly due to local opposition, and northern Kosovo remains out of the control of the Kosovo state (International Crisis Group, 2011b, pp. 9-11).

EU policy in Kosovo

As is clear from some of the discussion above, the EU has played a significant role in Kosovo following the 1999 conflict. The Berlin European Council held on 24-25 March 1999 stressed that “[o]n the threshold of the 21st century, Europe cannot tolerate a humanitarian catastrophe in its midst. It cannot be permitted that, in the middle of Europe, the predominant population of Kosovo is collectively deprived of its rights and subjected to grave human rights abuses”, and that the EU member states were “under a moral obligation to ensure that indiscriminate behaviour and violence...are not repeated” (European Council, 1999). While the NATO intervention that started while the European Council was meeting was led by the Americans,

Operation Allied Force “persuaded many in the EU finally to face up to the expectations and responsibilities set out in the Common Foreign and Security Policy (CFSP)” (Shepherd, 2009, p. 513). In the years following the 1999 conflict, the EU played a significant role in UNMIK, being the organisation responsible for the reconstruction and economic development pillar of the UN mission.

By early 2005, with the departure of UNMIK anticipated, demands for an enhanced EU role in Kosovo started to grow stronger (Papadimitriou and Petrov, 2012, p. 755). In February of that year, the European Council mandated High Representative for the CFSP Javier Solana and Enlargement Commissioner Olli Rehn “to explore the EU’s possible contribution to the international community’s efforts to implement UN Security Council Resolution 1244, including the evaluation of the Kosovo Standards and the process towards a settlement of Kosovo’s Status, as well as the EU’s role in the later stages in Kosovo” (European Council and European Commission, 2005, p. 1). Solana and Rehn issued four reports between June 2005 and March 2007. These “acknowledged that, whatever the outcome of the status negotiations, the EU was likely to play a leading role in Kosovo” and, following input from the EU Planning Team, which was sent to Kosovo in May 2006, “pointed to the imperative of the EU becoming the driving force behind the international presence in Kosovo” (Papadimitriou and Petrov, 2012, p. 755-56). This was to be achieved through the deployment of a civilian mission headed up by the ICR, who would also serve as EU Special Representative, and of a European Security and Defence Policy rule-of-law mission. As set out in the fourth Solana/Rehn report, the ICR and the rule-of-law mission were to support implementation of the Ahtisaari Plan and support the Kosovo authorities with upholding the rule of law. The Commission, meanwhile, would “focus in particular on assisting the

authorities to increase their capacities to govern Kosovo with a long-term European perspective” (European Council and European Commission, 2007).

During 2007, the EU was also engaged in the question of resolving Kosovo’s status via the troika, composed of the EU along with the US and Russia and established by the Contact Group. Working to a UN-set deadline of 10 December, the troika convened 120 days of talks with Serbian and Kosovan representatives, which were intended to find “a mutually acceptable outcome” on the issue of Kosovo’s status. In this regard, the troika noted that “while the Ahtisaari Settlement was still on the table, we would be prepared to endorse any agreement the parties might be able to reach” (United Nations Security Council, 2007b, pp. 2-3). The talks were led by the EU representative Wolfgang Ischinger, who, as discussed in Chapter 3, had previously represented the EU at the Dayton negotiations that brought to an end the war in Bosnia in 1995.⁹⁶ In addition to the status issue, Ischinger called on the parties to consider practical issues such as economic cooperation (Weller, 2008a, p. 1227). However, the parties to the talks failed to reach agreement, with the troika reporting to the UN that “[n]either side was willing to yield on the basic question of sovereignty”. Nonetheless, the troika did note that there was broad agreement “on the need to promote and protect multi-ethnic societies and address difficult issues holding back reconciliation, particularly the fate of missing persons and the return of displaced persons”, and that “Belgrade and Pristina reaffirmed the centrality of their European perspective to their future relations, with both sides restating their desire to seek a future under the common roof of the European Union” (United Nations Security Council, 2007b, p. 4). Shortly after the failure of these talks, as noted above, the Kosovo Assembly adopted a motion declaring the country independent.

⁹⁶ Reflecting on the Bosnian and Kosovan situations in 2005, Ischinger argued that “[i]n retrospect, it was a mistake not to include the Kosovo problem in the Dayton talks” and noted that he had been instructed to demand this inclusion. However, given the difficulty of reaching agreement on Bosnia alone, “many believed that adding Kosovo to the Dayton agenda would make success impossible” (Ischinger, 2005).

Starting in March 2011, the EU has been engaged in facilitating renewed dialogue between Belgrade and Pristina, chaired by Catherine Ashton. These talks began with technical issues, in the hope that “solving practical issues would build confidence and familiarity and pave the way toward a more substantial, political rapprochement” (International Crisis Group, 2013, p. 1). Slowly, these talks have started to yield results, with an agreement on the integrated management of border crossings reached in December 2011, and implementation of this agreement starting in December 2012. The facilitation has attempted to make use of EU leverage in the context of Serbia and Kosovo’s membership prospects (Serbia was granted official candidate status in March 2012). As the International Crisis Group notes, “[t]he EU approach in the dialogue is to shore up Kosovo’s territorial integrity, while remaining formally neutral on its independence and sovereignty”, but “[i]ncreasingly...the dialogue has focused on the normalisation of bilateral relations” (International Crisis Group, 2013, p. 12; see also Barlovac, 2013b). At the time of writing, while the talks have resulted in some progress, other issues remain to be resolved, with Kosovan representatives demanding that Serbia dismantle the parallel structures that it funds in northern Kosovo, while Belgrade insists that all Serbs in Kosovo must be offered more extensive autonomy as a precondition for this (Barlovac, 2013a).

With regard to issues of institutional design, the EU has also played a significant role in ensuring the establishment of mechanisms for minority protection and representation in Kosovo. It bears repeating that the EU was responsible for one of the pillars of UNMIK, the body that imposed the Constitutional Framework, with all its provisions for power sharing and guaranteed representation of minorities. Moreover, the Contact Group, which includes EU member states France, Germany, Italy and the UK alongside Russia and the US, had pressed for the creation of the Minority Consultative Council in order to include minority

communities in Kosovo's status process. This body was a predecessor of the Consultative Council for Communities (Lantschner, 2008, p. 477), which, as outlined above, plays a significant role in ensuring the participation of minority communities in Kosovo's political processes. Moreover, and perhaps most significantly, the constitution that was adopted in 2008 was drafted with assistance from experts from the EU and US and in particular, "[t]he [Kosovo] Albanians came under strong pressure to adhere fully to Ahtisaari's recommendations for the 'highest standards' of minority protection", including the provisions for minority representation in Kosovo's government and assembly and decentralisation (Hughes, 2009b, p. 299).

The role of the EU in post-independence Kosovo presents something of a paradox. In comparison with the two other case studies explored in this thesis – Bosnia and Macedonia – the Union's role in Kosovo is arguably greater, both in absolute terms and in relation to other actors. The Ahtisaari Plan of March 2007 envisaged a transfer of power from the previous UN administration in Kosovo towards an enhanced EU presence. As Hughes (2009b, p. 298) notes, Ahtisaari himself viewed Kosovo as "primarily a European issue", and saw this as an opportunity for a "UN exit and an EU takeover". Yet at the same time, EU member states remain divided over the issue of recognising Kosovo's independence, hence significantly complicating the ability of the Union to have a single policy towards the region's newest state (see Hasselbach, 2012). As a result, as Štiks (2011, p. 127) argues, "the EU effectively runs the place but cannot speak or act unanimously since five EU Member States still refuse to recognise an independent Kosovo".

When the Kosovan authorities formally declared independence from Serbia in February 2008, the European Council, bound by the principle of unanimity, noted that the declaration of

independence “commits Kosovo to the principles of democracy and equality of all its citizens, the protection of the Serb and other minorities, the protection of the cultural and religious heritage and international supervision”, but also that “Member States will decide, in accordance with national practice and international law, on their relations with Kosovo” (European Council, 2008a). Subsequently, five of the 27 EU member states (namely, Cyprus, Greece, Romania, Slovakia and Spain) failed to extend diplomatic recognition, in the majority of cases for fear of setting a precedent that might subsequently be used as an argument for secession by representatives of their own significant national minorities (see BBC News, 2008).

As a result of this lack of agreement amongst member states on recognising Kosovo, the EU’s stated policy is one of “diversity on recognition, but unity in engagement” (European Commission, 2009f, p. 4). While EU officials report that the non-recognising member states do not object to their actions on the ground in Kosovo,⁹⁷ the recognition issue does constrain the possibilities for the EU to engage with the newly independent state. For example, the Union was not able to establish a Delegation to Kosovo, as it had to other states in the region, following the coming into force of the Lisbon Treaty. Instead, until February 2012, there was a European Commission Liaison Office (ECLO) in Pristina, which performed some of the functions as EU missions elsewhere.

As foreseen by the Solana/Rehn reports discussed above, the EU’s institutional presence in Kosovo also consists of EULEX, the rule of law mission launched in December 2008 under the CSDP and replacing the majority of the functions previously performed by UNMIK, and an EU Special Representative, whose function was double-hatted with that of the International

⁹⁷ Author’s interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

Civilian Representative until 30 April 2011, after which a temporary EUSR was appointed (Center on International Cooperation, 2011, p. 70). The EUSR's role is defined as follows:

The mandate of the EUSR shall be based on the policy objectives of the Union in Kosovo. These include to play a leading role in strengthening stability in the region and in implementing a settlement defining Kosovo's future status, with the aim of a stable, viable, peaceful, democratic and multi-ethnic Kosovo, contributing to regional cooperation and stability, on the basis of good neighbourly relations; a Kosovo that is committed to the rule of law and to the protection of minorities and of cultural and religious heritage. (European Council, 2010)

This post was held by Pieter Feith until it was split off from that of the ICR, with Feith remaining as ICR and Fernando Gentilini appointed as an interim EUSR (see Collaku, 2011). Subsequently, in September 2012, the International Civilian Office that had been led by the ICR was closed, after he and the ICO's steering group judged that the Ahtisaari Plan had been substantially implemented (see International Civilian Office, 2012; International Crisis Group, 2012).

As had been anticipated by EU officials for some time,⁹⁸ in February 2012 the EUSR was merged with the ECLO to form an EU Office in Kosovo, with a double-hatted leadership under former Slovenian foreign minister Samuel Žbogar. The office does not carry the name of a Delegation, given that this would imply diplomatic recognition (Gross and Rotta, 2011, p. 6), but the arrangement is consistent with the provisions of the Lisbon Treaty, which established EU Delegations as the single EU presence in third countries. Because of the lack of unanimous recognition of Kosovo's independence amongst EU member states, EU institutions in Kosovo remain 'status-neutral'. Indeed, only the ICO was 'status-supportive', since it was an *ad hoc* institution established by states that support independence (Visoka and Bolton, 2011). Nonetheless, in February 2012, the European Commission declared its

⁹⁸ Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010. See also European Council (2011b; c).

intention to launch a feasibility study for a Stabilisation and Association Agreement (SAA) with Kosovo. In October of that year, the Commission published its study, which noted that no legal barrier to the agreement of an SAA between the EU and Kosovo exists, since “[t]he possibility for the Union to conclude international agreements is not limited to generally recognised independent states or international organisations” (European Commission, 2012b, p. 3).⁹⁹

Central to the EU’s strategy in Kosovo is the creation of a democratic and multi-ethnic state in the former Serbian province. This is made clear in European Council documents on Kosovo, for example:

In Kosovo the best way to move towards European integration is by creating a democratic and multi-ethnic Kosovo with full respect for the rule of law, cooperating peacefully with its neighbors and contributing to regional and European stability. (European Council, 2008b, p. 1)

In this regard, the language of EU actors largely mirrors that of the Ahtisaari Plan, which states that “Kosovo shall be a multi-ethnic society, which shall govern itself democratically” (United Nations Security Council, 2007a). Indeed, the EU’s rhetorical focus on establishing a multi-ethnic society in Kosovo can be traced back to statements of other external actors in the province following the 1999 NATO intervention. Simonsen (2004, p. 294), for instance, points out that while UN Security Council Resolution 1244 of June 1999, which authorised the international military and civilian presence in Kosovo, was preoccupied with security concerns and facilitating the return of refugees and other displaced persons, the situation of minority groups quickly became a key focus. Simonsen illustrates this point by reference to the OSCE Permanent Council’s decision of July 1999 that the OSCE Mission in Kosovo “will

⁹⁹ ECLO officials argued in 2010 that the Commission was unable to negotiate an SAA with Kosovo given the disagreement between member states over recognition. Author’s interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

in its work be guided by the importance of bringing about mutual respect and reconciliation among all ethnic groups in Kosovo and of establishing a viable multi-ethnic society where the rights of each citizen are fully and equally respected” (OSCE Permanent Council, 1999, p. 2).

The EU’s stated commitment to a multi-ethnic Kosovo is evident in the Commission’s April 2005 Communication, titled ‘A European future for Kosovo’, which states that: “The creation of a stable, secure and multi-ethnic society in Kosovo is at the heart of the EU’s political conditionality” (European Commission, 2005c). EU officials have consistently stressed this need. For example, then Enlargement Commissioner Olli Rehn stated shortly after Kosovo’s declaration of independence that: “We need to help Kosovo to help itself. Kosovo on its part needs to ensure its commitment to a democratic and multi-ethnic society” (Rehn, 2008c). Such a commitment, according to Rehn, is contained within Kosovo’s constitution and it is the role of the EU to support this principle:

Kosovo’s commitment to a democratic and multi-ethnic society is enshrined in the recent Constitution. The EU supports Kosovo to stand on its own feet and wants to help Kosovo to help itself. (Rehn, 2008b)

More recently, Rehn’s successor as Enlargement Commissioner, Štefan Füle, has argued that “[d]ialogue and reconciliation between communities and the protection and integration of minorities requires further attention” (Füle, 2010a).¹⁰⁰ Rhetorically, then, there appears to be a commitment to the task of reconciliation in order to establish a genuinely multi-ethnic society in Kosovo.

¹⁰⁰ The importance of integrating Kosovo’s minorities is a theme that frequently appears in the EU discourse, but the term ‘integration’ appears to have a different meaning to that used in the academic literature. As Choudhry notes, in the sense implied in the literature, “[i]ntegrationists reject the idea that ethnic difference should necessarily translate into political differences. They argue for the possibility of a common public identity, even in the midst of considerable ethnocultural diversity” (2008, p. 27; see also McGarry *et al.*, 2008). In the way that it is used by EU actors in relation to Kosovo, by contrast, ‘integration’ seems to imply simply the participation of minorities in Kosovan politics.

In more concrete terms, the EU's strategy towards Kosovo takes up where the UN's standards before status policy left off. In 2006, the standards that the UN had insisted be implemented became part of the European Partnership Action Plan, which is a requirement of Kosovo's European Partnership and is subject to annual monitoring by the EU (Tansey, 2009, p. 158). This document proclaims that "the values and principles of the Standards process will be firmly imbedded in to Kosovo's European integration work" and that "[t]he International Community will, regardless of Kosovo's status settlements, require from Kosovo to keep up with its reform process" (UNMIK and Office of the Prime Minister, 2006, p. 9). The European Commission's regular progress reports on Kosovo track compliance with these standards, even though the Commission is not able to recommend opening accession negotiations with Kosovo, as it is able to with other potential member states, due to the recognition issue.

Despite this focus on multi-ethnicity, based on a first reading of the EU's policy towards Kosovo as articulated in documents such as its European Partnership, it would be easy to get the impression that that policy has a tendency to avoid issues relating to inter-ethnic relations and the status of the country's Serb minority. Indeed, Hughes (2009b, p. 301) suggests that the EU's strategy since 2007 has shown more of a focus on economic development and institution building than on questions of ethnic reconciliation.¹⁰¹ This was also reflected in the author's interviews with EU officials working in Pristina. When asked what the EU's main priorities should be, for instance, a European Commission Liaison Office official pointed to the importance of embedding the Euro-Atlantic integration process in the domestic political agenda, fighting corruption and improving the rule of law, and consolidating the Kosovan state. Issues relating to minorities or inter-ethnic relations, on the other hand, were not

¹⁰¹ As noted above, the EU's responsibility within UNMIK was for the reconstruction and economic development pillar, which might partially explain this continuing focus.

mentioned.¹⁰² Similarly, in a speech given to the European Parliament's Foreign Affairs Committee in December 2010, then EUSR Pieter Feith argued that "the fundamental challenge [in Kosovo] is socio-economic" and that "Kosovo is no longer a security issue, but a development issue – of governance, economy and society" (Feith, 2010a). This should not be read as evidence that EU officials expect inter-ethnic issues to resolve themselves as a function of Kosovo's socio-economic development, however. In fact, I would suggest that rather than seeing inter-ethnic relations as being subordinate to economic issues, EU officials have come to regard them as simply too difficult to be tractable, as we shall see in the following section.

Understanding the construction of EU conflict resolution policy in Kosovo

Having outlined the role of the EU as an actor in Kosovo, and its stated aim of building a multi-ethnic society, in the sections that follow I outline and then analyse this priority, unpacking the 'multi-ethnic society' concept and arguing that rather than encouraging genuine reconciliation, it is predicted on a view that Serb communities in Kosovo can only be persuaded to participate in the country's political institutions by granting them a significant degree of autonomy through the process of decentralisation. Multi-ethnicity in this context does not mean integration between groups but rather peaceful co-existence ensured through the institutionalisation of the conflict. While the EU's official discourse stresses the importance of civil society organisations in breaking down barriers between communities, the Union's more concrete actions with regard to civil society also bely an approach that is sceptical of genuine reconciliation.

¹⁰² Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

Unpacking the ‘multi-ethnic society’ concept

As noted above, the EU’s self-described strategy in Kosovo is the creation (or recreation) of a democratic and multi-ethnic society. This approach has been criticised by some for being unrealistic given the ‘conditions on the ground’ in Kosovo. Hughes, for instance, notes that Kosovo is a largely homogenous society of ethnic Albanians and that the minority Serb population has reduced in size significantly since 1999. As was noted above, the Serb population in 2006 was estimated to stand at only half its peak of 1971. Post-conflict property restitution to Serbs has been very slow, and Hughes notes that the Serb birth rate is also very low, with only seven children born to Serb mothers in 2007 (2009b, p. 300).¹⁰³ He argues that “Kosovo is not ‘multiethnic’ and the strong probability is that it never will be in any meaningful sense”, and that “a major issue is whether [the EU] accepts the segregated nature of Kosovo, admits that the ‘multiethnic’ concept has failed under the UN, or whether it actively seeks to break down the societal divisions” (2009b, p. 300). A key question here, however, is what EU policy-makers understand by the term ‘multi-ethnic’, especially when it is used in combination with ‘democratic’. Very few, if any, states can accurately be described as mono-ethnic and there are clearly many that successfully combine the presence of multiple ethnic groups on their territory with democratic modes of governance.¹⁰⁴ What differentiates these states, though, is variation in the particular institutional arrangements that they employ to manage ethnic diversity. Hughes’s reading of the term implies that multi-ethnicity involves the breaking down of divisions between groups, as opposed to accepting them and attempting to accommodate group interests. Official EU documents appear to also offer this reading. As early as May 2001, for instance, in relation to the Constitutional Framework, a declaration of the EU presidency stated that the Union was willing “to assist in the effort to build a

¹⁰³ By 2010, this figure had risen, but still remained very low at 23 births to Serb mothers out of a total of 33,751 live births (Statistical Office of Kosovo, 2011, p. 20).

¹⁰⁴ In semiotics, the concept might be regarded as an empty, or floating, signifier.

democratic and prosperous society where violence is shunned and genuine reconciliation can be achieved” (European Council, 2001). More recently, documents such as the European Partnership, list as a key priority the need to:

Create a climate for reconciliation, inter-ethnic tolerance and sustainable multi-ethnicity which is conducive to the return of displaced persons. Ensure the respect, security, freedom of movement and participation of all communities. Explicitly condemn all manifestations of anti-minority sentiment. Vigorously prosecute all inter-ethnic crime. (European Council, 2008c)

Similarly, Commission financial assistance to Kosovo through the Instrument for Pre-Accession Assistance (IPA) includes amongst its priorities the promotion of “a climate of inter-ethnic tolerance” in order to facilitate refugee returns, and to “create conditions for growth and sustainable development of all communities” (European Commission, 2007, p. 14; see also European Commission, 2008b; 2009e). Moreover, in interviews with the author, some EU officials were keen to point out that Kosovo remains a multi-ethnic society despite the forced or voluntary emigration of significant numbers of Serbs. For instance, one Commission official spoke of intra-group diversity, exemplified by religious divisions amongst ethnic Albanians, and of the importance of smaller groups such as Roma in addition to the Serb minority.¹⁰⁵

Yet there appears to be considerable disagreement amongst EU and other international actors in Kosovo about the substantive meaning of the ‘multi-ethnic society’ concept. The contrast between an integrated, multi-ethnic society and mere cohabitation, for instance, was clear in the comments of one European official, who told the author that:

¹⁰⁵ Author’s interview with a desk officer, European Commission DG Enlargement, Brussels, 19 May 2010 (2).

I think we need to be careful talking about a multi-ethnic society, but rather focus on peaceful cohabitation, as a step towards integration and a multi-ethnic society, but that's in the longer term.¹⁰⁶

Others were more supportive of the idea of establishing a multi-ethnic society, but it was clear that they held a different understanding of the concept. Whereas the official quoted above contrasts a multi-ethnic society with one in which there is merely peaceful cohabitation, other officials did not see these as necessarily being exclusive. Indeed, for some, the multi-ethnic concept does not preclude a significant degree of separation between communities. As one ICO/EUSR official reported, “basically the two communities live side-by-side, but they’re not killing each other”.¹⁰⁷

EU officials therefore seem to either regard the aim of creating a multi-ethnic society in Kosovo as unrealistic, or they support the concept but do not take it to imply genuine integration but rather coexistence of communities with a necessary degree of separation. Indeed, Hughes, who himself regards the development of a truly multi-ethnic society in Kosovo as an unrealistic aim given that the return of Serbs who were the victims of ethnic cleansing in any significant number is highly unlikely,¹⁰⁸ and argues that the Union might be better advised to instead focus on ‘socio-economic stabilisation’, notes that “the EU informally tried to stop Ahtisaari’s emphasis on a ‘multiethnic’ Kosovo”, instead preferring “the more vacuous term ‘coexistence’ of communities and more diluted constitutional provisions for minorities” (2009b, p. 300).

¹⁰⁶ Author’s interview with an anonymous European official, Pristina, 22 November 2010.

¹⁰⁷ Author’s interview with a senior official, International Civilian Office/Office of the EU Special Representative, Pristina, 18 November 2010. Similar sentiments were expressed in an interview with a senior official, European Council Secretariat, Brussels, 4 May 2010.

¹⁰⁸ Arguing that international forces in Kosovo have failed to provide the security conditions that would allow for the safe return of Kosovo’s ethnic Serb population, Hughes states that: “The return of the Serb minority on any significant scale is very unlikely as it would require a major security operation, with a KFOR troop increase to many tens of thousands, and would in any event most probably be violently resisted by the Albanians. The return of Serb property on a large scale would also probably lead to an Albanian revolt” (2009b, p. 300).

When it comes to the institutional accommodation of Kosovo's minority communities, the EU places significant emphasis on the importance of representativeness. As noted above, the EU played a role in the establishment of Kosovo's power-sharing institutions through UNMIK, the Contact Group and through providing expert support to the Kosovo government during the drafting of the 2008 constitution. Since 2008, the European Commission's yearly progress reports on Kosovo regularly make reference to the representation of minorities in government institutions. In particular, the section of the reports that review respect for and protection of minorities and cultural rights frequently make reference to the Community Consultative Council. The 2011 report, for instance, notes:

The work of the Communities Consultative Council has continued. Its members have contributed to the review of government activities and policies affecting communities, especially via its working groups on education and on issues concerning the Roma, Ashkali and Egyptian communities. During the reporting period, a Kosovo Croat was appointed to the Council, thus making the forum more representative. The Council is increasingly consulted by executive bodies. (European Commission, 2011b, p. 19)

Moreover, the 2012 report notes the representation of minorities in the Kosovo Assembly and that "persons belonging to minorities are also well represented in the government" (European Commission, 2012a, pp. 13-14). As such, the representativeness of Kosovo's institutions appears to be a key concern of EU actors with regard to questions relating to the country's minority communities.

Integration through decentralisation?

If the EU's strategy commits the Union to the establishment of a multi-ethnic society in Kosovo, then arguably the key institutional mechanism employed towards the end of integrating the country's minority communities is decentralisation. Indeed, decentralisation is "[t]he principal strategy of the Kosovo government and the international community for

promoting Serb integration” (International Crisis Group, 2009b, p. 1). In the present section of this chapter, I briefly outline the history of the decentralisation strategy before moving on to consider why it has become the preferred institutional means through which to achieve the EU’s stated goal of a multi-ethnic Kosovo.

Decentralisation of political power to the municipal level in Kosovo was first mooted in 2002 by then Special Representative of the UN Secretary-General Michael Steiner, who saw the establishment of ethnically defined municipal self-government as one of a number of measures that could help resolve the status of the northern Kosovan city of Mitrovica (see Steiner, 2002). Such an approach “entailed a bargain with the Serb population of North Mitrovica and a promise of the formation of self-governing municipal units if they were to take part in the general election” (Monteux, 2006, p. 177-78).

Decentralisation was subsequently a key element of the Ahtisaari negotiations. According to Stefan Lehne, who represented the European Council at the status talks,¹⁰⁹ officials from both Pristina and Belgrade accepted the rationale for decentralisation, although they differed on the precise approach to be taken. While they were “ready to accept that local self government could be a good way to allow the Kosovo Serbs to run their daily lives themselves” (Lehne, 2009, p. 5) and accepted the possibility of the creation of Serb-majority municipalities, Kosovan representatives wanted decentralisation to be ethnically neutral in the sense that power would be devolved to municipalities regardless of their ethnic composition. Serbian representatives, meanwhile, demanded a far greater number of majority Serb inhabited municipalities, based on pre-war populations and enjoying extensive autonomy from Pristina and links to Belgrade. “Ideally”, Lehne (2009, p. 5) notes, “Belgrade would have carved out

¹⁰⁹ Lehne, an Austrian diplomat, was director for the Balkans, Eastern Europe and Central Asia at the General Secretariat of the Council of the European Union between 2002 and 2008.

an extensive ‘entity’ with vast competencies closely linked to and supported by Serbia and almost completely separated from the Pristina institutions” (see also Weller, 2008b, pp. 35-36). Despite these differences, Lehne does, however, point out that there was agreement between the sides with regard to an important aspect of the strategy:

Both of them aimed for a decentralisation model based on municipalities with overwhelming majorities of either Kosovo Albanians or Kosovo Serbs. Both understood that in the existing climate of mistrust and hostility a genuine integration of Albanians and Serbs was not a realistic alternative. Peaceful coexistence between two communities largely minding their own business and with limited contacts with each other seemed the only realistic solution. (Lehne, 2009, p. 6)

The Ahtisaari Plan makes clear that the decentralisation agenda is intended to satisfy the demands of the Serb minority in Kosovo. Enhanced local government is described as required in order to “address the legitimate concerns of the Kosovo Serb and other Communities that are not in the majority in Kosovo and their members, encourage and ensure their active participation in public life, and strengthen good governance and the effectiveness and efficiency of public services throughout Kosovo” (United Nations Security Council, 2007a, p. 22). In this vein, not only did the Plan envisage the establishment of new, Serb-majority municipalities but it also specified that certain named municipalities such as Mitrovica North should have enhanced competencies, and that all municipalities with a majority Serb population should enjoy responsibility for issues such as cultural affairs.¹¹⁰

Decentralisation has subsequently come to form a key tenet of the EU’s approach in Kosovo. Both the second and third European Partnerships for Serbia, including Kosovo, of 2006 and 2008 endorse decentralisation. The 2006 Partnership lists “the reform of local self-government taking into account the views and interests of all communities in Kosovo” as a

¹¹⁰ As well as these enhanced competencies, the 2008 constitution provides for power-sharing institutions at the local level, in addition to the national-level institutions discussed above (Lantschner, 2008, pp. 484-85).

key short-term priority and notes that this should include “the allocation of appropriate budgetary resources and increase administrative capacity to facilitate the decentralisation process” (European Council, 2006). This is reiterated in the 2008 Partnership (European Council, 2008c). According to EU officials, decentralisation offers the best solution to Kosovo’s ethnic divisions, given the relatively small size of its minority communities. As a senior official working at the Commission Liaison Office in Pristina explained to the author, the type of confederal model employed in Bosnia would not suit Kosovo, but decentralisation along the lines of that employed in Macedonia is a more appropriate device for managing relations between ethnic Albanians and Serbs, in the view of the EU.¹¹¹

Decentralisation, employed as a conflict management device in Kosovo, is intended to result in the replacement of the Serbian-supported parallel structures. For example, former EUSR Pieter Feith argued whilst in office that while Serbian parallel structures in Kosovo “should gradually disappear”, these should be replaced by official links with Belgrade that “would assure the Kosovo Serb community that it can maintain its traditional way of life and that [ethnic Serbs] can receive resources to support education and health” (quoted in Radio Free Europe/Radio Liberty, 2010). Similarly, asked whether parallel structures represented a significant threat to the unity of the state, one Commission official interviewed by the author responded:

It’s...look, it’s a reality. The threat, it’s just a reality which is there. For me, personally, I don’t see a way that these structures will suddenly disappear. More I think a gradual approach of recruiting into the central Kosovo authorities, which is difficult – we don’t have to make illusions here – but it’s not a threat as such because the parallel structures are an example of organised political, social life, which is precisely what you want any community to have.¹¹²

¹¹¹ Author’s interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

¹¹² Author’s interview with a desk officer, European Commission DG Enlargement, Brussels, 19 May 2010.

The approach of EU actors is not, therefore, to push for the immediate elimination of parallel structures but rather, appreciating the need for service provision to Kosovo's Serb minority, to suggest that these structures need to be gradually integrated into the Kosovan state as legally established institutions envisaged in the Ahtisaari Plan. The European Partnership envisages improvements to the quality of public services as reducing the demand for those provided by parallel structures (see European Council, 2006, 2008c). Decentralisation and the Ahtisaari Plan's provisions for municipalities to have a privileged relationship with Belgrade are seen as offering the best way of giving Serbs the maximal amount of autonomy without compromising the integrity of the state. In this vein, former EUSR Pieter Feith argued that "I think we could get progress in areas where Serbia should, because of its substantial cultural, social and economic attachment to Kosovo, have links to Kosovo but where its links are currently underground and unofficial" (Feith, 2010a). Discussing this issue, a Commission official told the author that "a lot of hopes are pinned on decentralisation" and that:

I think the flavour of the month is decentralisation, hoping that this will somehow entice the reluctant communities such as the Kosovo Serb communities to accept some kind of co-operation with the central authorities, on the premise that this is a small ask given what you are offering in exchange.¹¹³

The same official explained that this bargain involved leaving core policies such as defence, security and the judicial system to the central state, but allowing for local control over matters where citizens have more frequent interaction with the state, citing labour, education, welfare as examples of policies that could be dealt with by local administrations that reflect the wishes of their communities. In this respect, the rationale behind EU policy towards decentralisation in Kosovo resembles the Union's approach to the same issue in Macedonia, as we saw in Chapter 4, though in Kosovo there is the additional complication that the minority concerned

¹¹³ Author's interview with a desk officer, European Commission DG Enlargement, Brussels, 19 May 2010.

is supported by a neighbouring state, namely Serbia. This rationale is described by one commentator as follows: “In exchange for political integration into new Kosovo structures, a high degree of autonomy is offered to these municipalities without demands being made on Serbs to abandon their Serbian citizenship and the ties with Belgrade” (Štiks, 2011, p. 127). Similarly, Gjoni *et al.* argue that:

The decentralization policy advocated by international actors is asymmetric, providing more authority and fiscal resources to municipalities with a Kosovo Serb...majority on the premise that such concessions by the central government will assuage Serb concerns about receiving sub-par treatment in an independent Kosovo. (Gjoni *et al.*, 2010, pp. 291-92)

This premise is clear from speeches given by Pieter Feith during his time as EUSR. For example, addressing the European’s Parliament’s Committee on Foreign Affairs ahead of the 2009 municipal elections in Kosovo, Feith stated:

The 2009 Elections are being organized at a time when important local government reforms are ongoing. These reforms aim at the inclusion and participation of all communities in the institutions of Kosovo, thereby securing a secure and sustainable living for them. The establishment of five new Kosovo Serb-majority municipalities in Kosovo and the extension of a sixth has continued at a rapid pace over the past period. This will provide them with extensive self-governing rights and encourage active Kosovo Serb participation in the municipal administration.

The process of establishing these new Kosovo Serb-majority municipalities is part of a broader process of decentralization in Kosovo. But of course, in its core it is a key effort of the Kosovo authorities to reach out to the Kosovo-Serb community. From my perspective, its success is of key importance for a sustainable, multiethnic Kosovo; decentralized governance also brings Kosovo closer towards integration and reconciliation with the minority communities. A broader representation of Kosovo Serbs at the municipal level would allow the second largest community living in Kosovo to have more responsibility for the management of its own affairs. This would include issues which are key for the daily lives of people, like health and education as well as the protection of the religious and cultural heritage of the Serb Orthodox Church. (Feith, 2009)

Feith stated that the elections “represent an important step forward for Kosovo in its transition towards a multi-ethnic society as part of Europe”, and expressed his hope that “the future representatives at the municipal level will provide leadership and move towards reconciliation between the communities in Kosovo” (quoted in European Union Special Representative in Kosovo, 2009). Reflecting on the elections in front of the same committee the following year, Feith stated:

In the newly established municipalities, the elections made possible the participation of the Kosovo Serb community. The new municipalities of Gracanica, Klokot-Vrbovac and Ranilug and the existing municipality of Strpce are now being directed by elected Kosovo Serb representatives thanks to the voters that took the opportunity to have a say over their own affairs... We live in a new era of cooperation instead of boycott and a growing number of Kosovo Serbs are ready to embrace their rights to decide matters of their concern themselves. (Feith, 2010a)

Yet officials acknowledge that successfully replacing parallel structures with greater autonomy for municipalities remains a difficult task. One senior official, for instance, told the author that there is no obvious way to bring parallel structures in, such is the commitment to Belgrade in the north, and that the international community, including the EU, “is really struggling with this issue”.¹¹⁴ Similarly, material released through *WikiLeaks* confirms that Robert Cooper of the EU Council Secretariat told US diplomats in July 2009 that decentralisation was unlikely to succeed (*The Guardian*, 2010a). In relation to the ‘Strategy for the North’, meanwhile, the US ambassador reported in January 2010 that “there is a greater degree of commitment and resolve in member capitals than may be the case in the Commission and the Council officialdom in Brussels” (*The Guardian*, 2010b).

In this vein, while EU officials are relatively upbeat about progress integrating the smaller Serb communities in the south of Kosovo, they are noticeably more pessimistic about the

¹¹⁴ Author’s interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

larger, more territorially concentrated Serb population in the north. A senior official at the European Commission Liaison Office, for instance, told the author that while Serbs in the south had begun to show signs of being willing to participate in Kosovo's political institutions, the gap between the north and the south had continued to widen over the course of 2010 and that the "north is very different and is drifting away even further".¹¹⁵ Enlargement Commissioner Štefan Füle has argued that: "While the integration of Kosovo Serbs has improved in the South, tensions in northern Kosovo have increased" (Füle, 2011). A similar distinction between the situation in the north and in the rest of Kosovo was reflected by then EUSR Pieter Feith in December 2010, albeit in a more optimistic tone:

The defining issue for the country and for the international community, however, is northern Kosovo. We see very significant challenges. But I draw your attention to the remarkable progress in the Kosovo Serb role in the rest of the country. It was strongly predicted that the new minority municipalities would not work and that Serbs would not participate. They do work and Serbs are participating. This work is a long way from being finalized, but a positive sign that Kosovo is on the right track. (Feith, 2010a)

Similarly, the European Commission's 2011 progress report on Kosovo states the following:

During the reporting period, Serb communities south of the River Ibër/Ibar have increased cooperation with Kosovo authorities and participation in their representative institutions. Their turnout in elections was higher and they also participated in the census. In northern Kosovo, integration has not progressed. Serbia-supported municipalities in the north did not cooperate sufficiently with UNOPS and the Commission to allow a census to proceed in this part of Kosovo. Serbs in the north supported by local political leaders also challenged the authority of EULEX. (European Commission, 2011b, pp. 3-4)

With EU officials viewing the strategy of decentralisation as difficult to fulfil, particularly in the north, it is clear that the official rhetoric of reconciliation and genuine multi-ethnicity is divorced from actual EU policy 'on the ground' in Kosovo. The decentralisation strategy is

¹¹⁵ Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

predicted on a vision of bringing lasting peace and stability to Kosovo through institutionalised coexistence, but European policy-makers are sceptical whether this can be achieved, let alone whether more genuine reconciliation can be achieved.

Counteracting segregation? The role of civil society

The EU's role in Kosovo is not, however, limited to supporting the development of state institutions. In addition to this role, the EU also acts as the largest financial donor to Kosovo. As part of this funding, the EU supports civil society organisations not only through the IPA but also the European Instrument for Democracy and Human Rights (EIDHR) and the ECLO's own funds.¹¹⁶ The ECLO has spelled out the importance of such funding:

A strong civil society sector is of crucial importance to strengthen the democratic process and bring Kosovo closer to European best practices. Its ever-growing relevance has been reflected also in the decision of the European Commission to include the support to civil society into its IPA 2008 financial programme. Through EIDHR, the European Commission has been helping a number of actors in Kosovo since 2008. The key objective of the EIDHR grant scheme is strengthening the role of civil society in promoting human rights and democratic reform, in *supporting the peaceful conciliation of group interests* and in consolidating political participation and representation. (European Commission Liaison Office to Kosovo, 2010, emphasis added)

Similarly, the EUSR stated in September 2009 that:

The goal of full inclusion of the minority communities in the political life will still require substantial outreach and dedicated work by the Kosovo authorities – in partnership with the international society and, of course, the civil society in Kosovo, which will be *an indispensable partner for achieving broader political inclusiveness*. (Feith, 2009, emphasis added)

Such statements make clear that civil society organisations have a role to play in achieving the EU's stated goal of reconciliation between Kosovo's ethnic communities. As in Bosnia, however, EU officials are more sceptical in private about the potential of civil society in

¹¹⁶ Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

Kosovo to contribute to more positive inter-group relations than the EU's official discourse suggests. A European Commission official whose remit included relations with civil society actors, for instance, told the author that while civil society had an important part to play in Kosovo's future, it remained a problematic topic. The official argued that "civil society figures make the same mistakes as political leaders and are internally divided", noting that "only a small number of NGOs are multi-ethnic in their composition and therefore are not ready to help build a multi-ethnic society". By way of example, the official showed the author a letter from several NGO representatives complaining about a number of issues faced by Serbs in northern Kosovo, noting that all of the signatories had Serb names.¹¹⁷ A senior official at the ECLO, meanwhile, stressed the importance of civil society actors, but not so much because they could contribute to inter-group relations but rather as important independent monitors of Kosovo institutions' progress towards European integration, such as through contributing to the Commission's regular progress reports on Kosovo.¹¹⁸ EU statements on the role of civil society organisations are frequently concerned with the latter's role in scrutinising Kosovo institutions (see, for example, European Commission Liaison Office to Kosovo, 2011c; a).

Moreover, as the quote from the ECLO report above indicates, the EU's understanding of the role of civil society relies on a groupist understanding of ethnicity. As in the Bosnian and Macedonian cases, the interests of Kosovo citizens are understood primarily through their group affiliations, with funding for civil society organisations aimed at "supporting the

¹¹⁷ Author's interview with a desk officer, European Commission DG Enlargement, Brussels, 19 May 2010 (2). In this respect, to the extent that such groups are engaged in conflict resolution, they can be characterised as undertaking 'single-identity work' as opposed to cross-community peacebuilding (see Church *et al.*, 2004 on this distinction).

¹¹⁸ Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

peaceful conciliation of group interests”. Kosovo’s ethnic groups are seen as having distinct interests, then, and civil society is regarded as being able to help reconcile these.

The lack of real commitment to providing funding for initiatives that might help to establish a genuinely multi-ethnic society in Kosovo is, as Hughes notes, also reflected in the allocation of funding through the IPA. In 2008, for example, funding for the return and reintegration of refugees and other displaced people amounted to €4 million out of a total IPA budget of €184.7 million (Hughes, 2009b, pp. 300-1). Kosovo’s Multi-annual Indicative Planning Document for 2009 to 2011 envisages that 27 to 40 per cent of funding under the ‘transition assistance and institution-building’ component should be spent on interventions concerning the EU’s political criteria, but only 2 to 5 per cent of this total is dedicated to civil society funding. By contrast, 45 to 60 per cent is allocated to economic criteria and 8 to 15 per cent to initiatives aimed at fulfilling European standards (see European Commission, 2009e, p. 24). Again, this suggests that while the EU’s declared policy in Kosovo stresses reconciliation between ethnic Albanians and the Serb minority, its actions speak of a more conservative approach in which antagonistic relations between groups are accepted, and the EU’s approach is more about managing these relations rather than transforming them.

Moreover, the example of an EU-funded project that European representatives most commonly cite as an example of their support for reconciliation does not involve the Serb minority, but rather smaller minorities in the northern city of Mitrovica. The ECLO has helped fund efforts to close camps inhabited by members of the Roma, Ashkali and Egyptian

minorities that are contaminated by lead, due to the history of mining in the city. Feith mentioned this during a speech given in Dublin in April 2010:¹¹⁹

There is steady progress in addressing concerns of minority communities and the delicate but necessary process of reconciliation. A fine example of this is the recent launch of a 30 month, 5 million euro project by the European Commission Liaison Office (ECLO) to close lead contaminated camps in northern Mitrovica. This enables 90 Roma, Ashkali and Egyptian families to move from these camps to south Mitrovica Roma Mahalla and other areas and to healthier lives. The project will also offer educational and financial support so that these communities can integrate fully into lives in south Mitrovica. (Feith, 2010b, p. 2)

Similarly, the Commission's 2011 progress report notes that "there has been some progress on integrating minority communities". As an example, it cites the following:

Kosovo has achieved good results by closing the lead-contaminated camp of Česmin Lug/Česmin Lug and increasing civil registration of the Roma, Ashkali and Egyptian communities. These efforts need to continue to foster their socio-economic integration. (European Commission, 2011b, p. 21)

While lead contamination is clearly a crucial public health issue, the extent to which efforts to close lead-contaminated camps can be considered to constitute part of a reconciliation or integration strategy is questionable. The Ashkali and Egyptian minorities are relatively well integrated into Kosovo society, even if the Roma are less well integrated (Humanitarian Law Center, 2008), and the main community relations issue in Mitrovica is undoubtedly the state of relations between Serbs, who live primarily in the northern part of the city, and the ethnic Albanian majority inhabiting the southern districts, with the two communities divided by the river Ibar (O'Neill, 2002, p. 45; Beaumont, 2008). The EU's funding for projects in Mitrovica and other northern municipalities is overwhelmingly focused on economic development and reconstruction, however, rather than on civil society initiatives (see Björnsson, 2011).

¹¹⁹ For other examples of this project being mentioned by EU officials, see European Union Special Representative in Kosovo (2010, 2011) and European Commission Liaison Office to Kosovo (2011b).

The EU's main support for initiatives aimed at improving community relations in Kosovo is its recent funding, under the 2009 IPA, of a Project on Ethnic Relations (PER) project entitled 'Confidence Building Measures in Kosovo', which has been running since 2005 (see Project on Ethnic Relations, 2007b).¹²⁰ The objective of the project is "[t]o strengthen inter-ethnic confidence building between communities and promotion of interethnic reconciliation in order to further foster their integration within Kosovo society" (European Commission, 2009a, p. 95). The ECLO envisages that such an aim will be achieved through engagement with moderate Serb political leaders, with a particular focus on Serb-majority municipalities in the Gjilan/Gnjilane and Pristina areas. In this respect, the PER project might be regarded as part of a transformational agenda, supporting as it does political moderates at the expense of ethnic nationalists, but it is important to note that it does not involve civil society activities designed to promote wider social transformation and remains largely elite-focused. Moreover, there is no specific focus on northern Kosovo, although the ECLO's project fact sheet states that inroads with northern Kosovo Serbs "will be attempted".¹²¹ Privately, however, while praising the work of the PER, EU officials are sceptical about whether such inroads can be made. As outlined above, the situation in the north of Kosovo is regarded as too challenging to be amenable to transformation.¹²²

Framing conflict resolution policy as European

The framing envisaged in the theoretical framework employed in this thesis – and which is evident in the Bosnian and Macedonian cases presented in the preceding two chapters – is noticeably absent from the EU's discourse on Kosovo. Whereas in the Bosnian and Macedonian cases we find frequent attempts to frame conflict resolution policy preferences as

¹²⁰ Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

¹²¹ This document, while not confidential, is not in the public domain. A copy is in the author's possession.

¹²² Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

‘European’, for example through comparing the ethnic demography of Bosnia to that of Europe as a whole or through references to the principle of subsidiarity in relation to decentralisation in Macedonia, analysis of EU policy documents and speeches by key actors on Kosovo does not reveal similar attempts to frame conflict resolution mechanisms as European.

This is perhaps surprising because, as in Bosnia and Macedonia, the conflict resolution institutions employed in Kosovo provide protection for minority communities that goes well beyond European norms and standards (see Lantschner, 2008). Indeed, Hughes argues that “[t]he standards are so high and the population thresholds for minority rights are so low that they have no match in any other European country” (2009b, p. 299). Similarly, referring to the minority rights set out in the Constitutional Framework of 2001, Caplan notes that these rights “are denied to minorities in European states that are promoting respect for them so vigorously in Kosovo” (2004, p. 216). That this is the case is acknowledged by EU officials. One Commission official, for instance, told the author when asked about Kosovo’s minority rights provisions:

If you read the constitution, the language provisions, the minority rights and so on, give it to a Spanish guy, or to a Danish person for that matter – the Danish constitution is pretty scarce on human rights – or to a British person and they are, ‘oh this is far-reaching’.¹²³

Given that the minority rights provisions of the Kosovo constitution go beyond those enjoyed by minority communities within the Union itself, EU officials cannot simply point to EU norms and standards in order to legitimise their insistence on such a high level of protection. While this is also the case in Bosnia and Macedonia, in those cases EU actors have still engaged in a process of framing whereby the historical experience of European integration,

¹²³ Author’s interview with an official, European Commission DG Enlargement, Brussels, 19 May 2010.

presented as a process whereby national interests were accommodated through supranational institutions, is cited to offer legitimacy to such an approach. This framing is largely absent from the EU's discourse on Kosovo. Where it occurs, it takes a very general form whereby the need to respect minority rights, for instance, is identified as an essential European value. For instance, then EUSR Pieter Feith stated in front of the European Parliament's Foreign Affairs Committee in December 2010 that "respect for cultural heritage and minority rights...are so essential to the European values that we're trying to nurture" (Feith, 2010a, p. 1).

Similarly, in the Macedonian case in particular, the process of decentralisation prescribed by the Ohrid Agreement and supported by the EU has been framed in largely economic terms through references to the importance of the principle of subsidiarity that exists within the Union. Again, such references are absent from the EU's discourse on Kosovo, despite the fact that decentralisation is arguably the key tenet of the conflict management strategy employed in the newly independent state. EU officials do point to the subsidiarity principle in private (one EU official in Pristina told the author that "decentralisation is good anyhow", regardless of its importance as a conflict management strategy, "reflecting the principle of subsidiarity"),¹²⁴ but such references are missing from public pronouncements.

Why are such attempts at framing conflict resolution policies as somehow 'European' despite their lack of a basis in EU norms absent in the Kosovo case? The answer to this question, I suggest, reflects the status of the EU as an actor in Kosovo. As noted above, whereas the Union is the lead international actor in the country and is explicitly identified as such by the Ahtisaari Plan, and the Union has played an important role in designing Kosovo's conflict management institutions, it has done so in different circumstances than in Bosnia or

¹²⁴ Author's interview with a senior official, European Commission Liaison Office, Pristina, 18 November 2010.

Macedonia. Following its declaration of independence, Kosovo's political institutions were established by its constitution rather than by a peace agreement, and were influenced heavily by the UN's Ahtisaari Plan (albeit with significant input from the EU). Whereas in Macedonia the EU had a direct role in establishing conflict management institutions at Ohrid and in Bosnia it is engaged in attempting to promote the reform of the Dayton-era constitution, in Kosovo its role has been more behind the scenes. Moreover, there remains significant disagreement between EU member states, with a number not formally recognising Kosovo's independence.

Nonetheless, while there has been a lack of the sort of policy framing witnessed in relation to the Bosnian and Macedonian cases, we do find references to the role of the EU as a force for good in the Union's discourse on Kosovo. For instance, in April 2009 Olli Rehn addressed the European Parliament and, discussing a parliamentary report on Kosovo, stated that:

...I very much welcome Mrs Ibrisagic's report. It rightly emphasises the fundamental importance of offering the Western Balkans a European future. It is the main driving force of much-needed reform and greater stability in the Western Balkans. Ten years after the horrific events in Kosovo, we should remind ourselves of the power of the European perspective. It still helps today to consolidate stability and peace in a region that is, effectively, our own front yard – not back yard, but front yard. (Rehn, 2009a)

Similarly, referring to a UN resolution acknowledging the ICJ's ruling that Kosovo's declaration of independence did not break international law and welcomed the role of the EU in mediating between the Serbian and Kosovan governments (see Krastev, 2010), Rehn's successor as Enlargement Commissioner Štefan Füle argued in a speech given at Columbia University in New York in November 2010 that "[t]he recent UN General Assembly Resolution on Kosovo was a marked success for the European Union, and showed that the process of European Union enlargement is a powerful driver for peace, stability and

reconciliation in the region” (Füle, 2010b). As we also saw in Chapters 3 and 4, then, the EU’s discourse towards Kosovo serves to construct the Union as a force for peace and stability in Europe, and hence to legitimise it as a conflict resolution actor.

Summary

This chapter has surveyed the EU’s strategy towards Kosovo, focusing particularly on the aim of establishing a multi-ethnic society in the newly formed state and on the institutional mechanisms that have been employed to this end. In comparison with the other two case studies employed by this thesis, the EU’s scope for pursuing its own policy in Kosovo is more circumscribed. While the EU is now the lead international actor in Kosovo, in practice its ability to act is constrained by disagreement amongst member states over recognising the state as independent from Serbia. Perhaps more importantly from a conflict resolution perspective, however, the political institutions intended to manage ethnic conflict in Kosovo were established not through the involvement of the Union but rather by that of the UN and the efforts of domestic constitutional engineers, albeit under the influence of the EU and other external actors.

Nonetheless, the EU has played an important role in the operationalisation of conflict management institutions in Kosovo, particularly with regard to the decentralisation process. Moreover, since the March 1999 Rambouillet Accords, the Union has also shown a preference for consociational power-sharing institutions for Kosovo, stressing the importance of the representation of minority communities in the country’s assembly and government. This preference is visible in UNMIK’s Constitutional Framework of May 2001, and also in EU support for the very high level of minority rights enshrined in the 2008 constitution. The EU has consistently stressed the importance of the representation of minority communities not

only in Kosovo's assembly, but also through institutions such as the Consultative Council for Communities, which is a successor body to the Minority Consultative Council established under pressure from the Contact Group.

My central argument in this chapter has been that while EU actors have publicly stressed the need to establish a genuinely multi-ethnic society in Kosovo through a process of reconciliation between members of the country's various ethnic groups – a discourse that suggests an agenda reminiscent of conflict transformation – in practical terms the policies pursued by the EU are predicated on the acceptance of a certain degree of separation between communities through strategies such as the decentralisation of power to local municipalities where there is greater ethnic homogeneity than at the state-wide level. Such policies are seen as the most realistic way to bring the parallel structures that exist in Serb-inhabited areas of Kosovo into the new state structures, by offering a high degree of autonomy to municipalities in exchange for a minimal level of engagement with the authorities in Pristina.

While EU actors stress the importance of integrating Kosovo's Serb population, their vision of integration is therefore a minimalist one in which Serbs are expected to accept their place in an independent Kosovo in exchange for autonomy over local affairs. Similarly, the EU's rhetorical commitment to encouraging reconciliation is undermined both by a lack of financial support for the civil society organisations that are publicly identified by EU officials as being key to the reconciliation process, and by a private view that such organisations are themselves ethnically divided and are therefore less well placed to encourage reconciliation than the EU's official discourse suggests. Moreover, even the EU's public discourse on the importance of civil society relies on a similar groupist understanding of the nature of ethnic communities,

where these are seen as the basic building blocks of Kosovan society, with distinct interests that civil society organisations can help reconcile, as opposed to transform.

Finally, the chapter revealed that while EU officials make reference to the role of the EU as a force for good in Kosovo, there is a distinct lack of the type of framing of specific policies that is visible in the EU's discourse on Bosnia and Macedonia. Because the EU's role in Kosovo is more circumscribed than in other countries in the Western Balkans, due to the fact that not all member states have recognised the country's independence, I argued that the Union has less power to set the direction of conflict resolution policy and instead its role is largely one of supporting the implementation of strategies that stem from the Ahtisaari Plan. As a result, I have suggested, there is less need for the Union's representatives to justify their policy preferences through the type of framing that we saw in relation to policy in Bosnia and Macedonia.

CHAPTER 6 – RETHINKING THE EU’S APPROACH TO CONFLICT RESOLUTION

Introduction

In Chapter 2, I argued that there was a need to more systematically consider the EU’s approach to conflict resolution. This need stems from the gap between two parts of the literature on the EU’s engagement with conflicts. On the one hand, the literature that seeks to model the EU’s influence in the realm of conflict resolution appears to assume that the Union’s approach is a *transformative* one – that is to say, it assumes that the aims of the EU are to transform antagonistic identities in divided societies. On the other hand, a number of authors who have studied particular cases of EU engagement with conflicts suggest that its approach can best be characterised as one of conflict *regulation* or *management*. The central aim of this thesis has therefore been to develop a framework with which to understand the EU’s approach to conflict resolution and then apply it to three case-study countries, namely Bosnia, Macedonia and Kosovo.

Having applied this framework to the case studies in the preceding three chapters, the role of the present chapter is to bring together the key findings of this analysis and relate it back to the research questions. As such, it considers in turn EU actors’ conceptualisation of conflict in the three cases, how these conceptualisations underpin EU policy, and how this policy is legitimised. My central argument is that EU policy in the three cases is underpinned by a common view of conflict as stemming from fundamental incompatibilities between the interests and identities of different ethnic groups. Such an understanding informs an approach to conflict resolution that seeks to institutionalise ethnic difference rather than transforming it. Given the lack of a conflict resolution norm with a basis in EU law, such an approach is

legitimised instead through comparison to specific examples within EU member states, such as South Tyrol and Northern Ireland, but also to the historical process of European integration, which is held to involve the accommodation of distinct national identities, such that the EU can be understood as a ‘union of minorities’ or a form of inter-state consociation.

Understanding the EU’s conceptualisation of conflicts: The role of the ‘ethnic conflict’ paradigm

In Chapter 2, we saw how policy paradigms, defined by Hall (1993, p. 279) as frameworks of ideas that define the nature of problems faced by policy-makers and therefore the policy goals and instruments that they view as effective, are a key concept in constructivist institutionalist approaches to explaining policy-making. This concept was applied in the three case-study chapters, where I reconstructed the paradigm underlying EU policy through analysis of multiple sources including policy documents, speeches and elite interview data. Informed by this analysis, I conclude that EU policy-makers’ understandings of the causes of conflict in each of the three case studies exhibit specificities but are, I suggest, united by a shared policy paradigm. I label this the ‘ethnic conflict’ paradigm, following a number of other authors who have used the term in relation to other specific cases (see for example Roy, 1999; Edwards, 2007; McGrattan, 2010a) or in more general terms (see Gilley, 2004).

This paradigm manifests itself in a number of different ways. Firstly, ethnic difference is viewed as the cause of conflict in and of itself. This is best illustrated by the Macedonian case, where, as discussed in Chapter 4, the EU’s discourse on the 2001 conflict clearly highlighted the role of ethnicity as a causal factor, despite the existence of competing academic and political discourses that instead stressed that conflict may have had more to do with organised crime and corruption. Illustrating Brubaker and Laitin’s (1998, p. 444) argument that “[t]he

‘ethnic’ quality of violence is not intrinsic to the act itself; it emerges through after-the-fact interpretive claims”, EU actors initially condemned the actions of the insurgents, labelling them acts of terrorism, but over the course of the conflict those same EU officials increasingly stressed the legitimate grievances of Macedonia’s ethnic Albanian community and came to attribute the violence to these grievances. The EU’s narrative also served to situate the Macedonian conflict in relation to other in the region in the previous decade, linking these conflicts by reference to a single cause, namely ethnic difference.

Secondly, antagonistic ethnic identities are viewed as a relatively immutable phenomenon. While EU policy-makers do not attribute conflict to ‘ancient hatreds’, as was the case with many commentators and politicians during the Bosnian war of the 1990s, they do nonetheless understand ethnic identities and relations as relatively fixed. This is well illustrated by the Bosnian case, where, as outlined in Chapter 3, resistance on the part of nationalist elites to reform of the constitution established by the Dayton Agreement at the end of the war in 1995 is interpreted by EU officials as reflecting much deeper ethnic divisions in Bosnian society. Rather than viewing elites as the source of nationalism, as in instrumentalist accounts of ethnicity, then, the EU’s discourse owes more to the essentialist idea that the actions of nationalist politicians are a symptom rather than a cause of wider nationalism. This discourse also frequently attributes interests and agency not to individuals but rather to Bosnia’s three constituent peoples as groups. In this regard, it is strongly reminiscent of what Brubaker terms ‘groupism’, namely “the tendency to take discrete, bounded groups as basic constituents of social life, chief protagonists of social conflicts, and fundamental analysis” and “to treat ethnic groups, nations and races as substantial entities to which interests and agency can be attributed” (Brubaker, 2004, p. 8). Such a characterisation of the EU actors’ understanding of

conflict is not meant as a criticism of that understanding, but is rather advanced here as an explanation of why they have the policy preferences they do.

This groupist paradigm, stressing that the causes of conflict in the Western Balkans lie in the incompatible interests and identities of the region's ethnic groups, appears to be institutionalised in the thinking of European and other international actors. When faced with nationalist mobilisation, as in the Bosnian case, or with an insurgency with causes that are contested amongst scholars and analysts, as in the Macedonian case, EU officials appear to favour explanations that privilege 'ethnic' explanations where the causes of conflict are viewed as lying in fundamental disagreements between ethnic groups, which are viewed as almost inherently antagonistic. This view, in the terminology of the theoretical framework employed in this thesis, appears to have become institutionalised in EU policy-making circles – an observation that is perhaps clearest if we recall from Chapter 4 then High Representative for the Common Foreign and Security Policy Javier Solana's description of the violence that afflicted Macedonia in 2001 as "a variation on those underlying other recent Balkan conflicts" (Solana, 2001e), or then EU Commissioner Chris Patten's subsequent reflections on the possibility of "a return to ethnic conflict" (Patten, 2005, p. 172) following the violence in Bosnia and Kosovo the previous decade. As such quotes illustrate, the 2001 crisis in Macedonia was interpreted by EU policy-makers through the pre-existing cognitive lens of the ethnic conflict paradigm.

In addition to this cognitive view that ethnic difference is a cause of conflict and that ethnic identities are relatively stable and bounded, the Union's discourse also suggests that EU actors have a normative commitment to protecting existing identities. This is particularly clear in the case of Bosnia, where, as we saw in Chapter 3, senior EU figures such as Paddy

Ashdown, in his former role as EU Special Representative (EUSR), and current High Representative for Foreign Affairs and Security Policy, Catherine Ashton, have stressed that it is important that the views, identities and culture of the country's three 'constituent peoples' are respected in the context of a constitutional reform agenda. This lends support to Nagle and Clancy's (2010, pp. 26-27) claim that the EU has attempted to reduce the potential for intra-state conflict by encouraging not only the recognition but also the nourishment of ethnic identities.

Explaining EU conflict resolution policy preferences

How do such understandings of conflict influence the EU's policy preferences with regard to conflict resolution, then? In this section, I first consider how EU actors' understandings of the nature and causes of conflict inform their policy preferences with regards to that conflict, and then move on to consider whether EU policy-making towards the conflicts in Bosnia, Macedonia and Kosovo exhibits signs of policy learning.

Institutionalising difference

With the conflicts in Bosnia, Macedonia and Kosovo understood as being primarily ethnic in nature, and ethnicity understood in relatively fixed terms, the EU's preferred methods of conflict resolution have involved the institutionalisation of difference. This observation stands in contrast to the assumptions of much of the existing literature on the EU's impact over identity conflicts, which has tended to assume that the Union's influence is oriented more towards transformation of identities (Diez *et al.*, 2006; Tocci, 2008, p. 875).

In Bosnia, where the EU seeks the reform of a constitution that has deeply embedded ethnic divisions in political institutions, the Union's preference nonetheless seems to be for the continuation of group rights-based mechanisms of conflict regulation. While EU policy-

makers have been critical of the way in which the Dayton constitution has deeply institutionalised ethnicity in the country's political system, over time EU demands for reform have been scaled back in the face of opposition from domestic nationalist elites. Whereas once EU officials seemed to favour fairly radical reform of the constitution along the lines suggested by the Council of Europe's Venice Commission, which has called for a move to be made from political representation based on ethnicity towards civic representation, faced with nationalist resistance to this they now advocate only relatively minor changes designed not to change the basis of political representation but rather to improve the efficiency of the Bosnian state and to enable it to assume the demands of eventual EU membership, which has become the ultimate goal of the Union's policy. This scaling back of expectations and demands, I suggested in Chapter 3, reflects the predominant view of EU officials that nationalist rhetoric in Bosnian politics is the symptom rather than the cause of deeper divisions between the country's Bosniak, Serb and Croat populations. As such, the continued employment of relatively corporate consociational arrangements is viewed as the only realistic way to manage conflict. The interviews conducted to inform this research, meanwhile, reveal that while, in public, EU officials often praise civil society organisations as agents of social transformation who can offer a counterbalance to nationalist elites, in private they are more sceptical about the role of civil society and view it as divided on ethnic lines in a similar manner to party politics.

In Macedonia, EU actors' understanding of the conflict as being driven by the legitimate concerns of the marginalised ethnic Albanian population led them to convene talks between the country's main political parties in order to reach a power-sharing agreement designed to meet the demands of ethnic Albanian parties. This contrasted significantly with the initial response of the Macedonian government, which was to treat the insurgents as 'terrorists' and

to crush them militarily. While EU officials such as then High Representative for the Common Foreign and Security Policy Javier Solana were keen to avoid the type of heavily consociational institutions established in Bosnia some six years previously, the resultant Ohrid Framework Agreement nonetheless draws inspiration from consociational theory, for example introducing a system of so-called ‘double majorities’ in parliament whereby legislation in certain sensitive policy areas requires the consent of the majority of the representatives of minority groups, as we saw in Chapter 4.

In Kosovo, while EU actors have publicly stressed the need to build a multi-ethnic society and encourage reconciliation between communities, in private officials are much more circumspect about the prospects for anything more than the peaceful but parallel coexistence of ethnic Albanians and ethnic Serbs. This was illustrated in Chapter 5, where we saw how two competing visions of a multi-ethnic Kosovo are held by policy-makers. In the first, multi-ethnicity is held to involve genuine integration and reconciliation between communities – a vision viewed as unrealistic by many EU officials. In the second, multi-ethnicity does not preclude a significant degree of institutional separation between communities – a view that is regarded as much more realistic by policy-makers. Furthermore, as in the Bosnian case, EU officials working in Kosovo have been keen to stress the opportunities for reconciliation presented by civil society organisations, but in practice EU funding for such organisations is limited and financial support is instead focused largely on activities in fields such as economic development and reconstruction. European officials do not see these socio-economic initiatives as likely to solve inter-ethnic tensions in Kosovo; rather, they view the latter as too difficult an issue to resolve through civil society initiatives.

The EU has also been involved in the design and implementation of consociational institutions in Kosovo. This dates back to the Union's involvement in the Rambouillet Accords of March 1999, and the preference for consociational structures can also be seen in UNMIK's Constitutional Framework for Provisional Self-Government in Kosovo of May 2001. Moreover, as Hughes (2009b, p. 299) notes, the EU put pressure on ethnic Albanian representatives to include the strong minority rights provisions of the Ahtisaari Plan in 2008's constitution, including provision for minority representation in Kosovo's government and assembly.

In both Macedonia and Kosovo, the EU has stressed the importance of decentralisation as a strategy for managing conflict. While decentralisation is often presented as a more flexible alternative than the federalism practiced in Bosnia, I have argued in this thesis that the assumptions underpinning this method of conflict regulation are not so far removed from those informing the design of Bosnia's political institutions. Decentralisation in both the Macedonian and Kosovan cases has taken an ethnic form, with the aim being to offer autonomy to geographically concentrated minorities while allowing for maintenance of the territorial integrity of the state. This is viewed as a way of giving communities the power to run their own affairs as part of a trade-off in which they then accept the authority of the central state. In the Kosovo case specifically, decentralisation is seen as a way to coax the Serb minority away from reliance on so-called 'parallel structures' supported by Belgrade, and towards participation in Kosovo's own political institutions.

Explaining policy variation: Learning or context?

In the existing comparative literature on the design of conflict regulation institutions in the Western Balkans, it is often claimed that some degree of learning characterises external

actors' policy-making (see, for example, Bieber, 2008, p. 18; Lantschner *et al.*, 2008, p. 377; Bieber and Keil, 2009). Such claims also occasionally feature in the EU's own discourse. As we saw in Chapter 4, for example, a European official participating in a Project for Ethnic Relations event held in 2007 claimed that "we keep learning from each settlement" and that "[t]he Ohrid Agreement was much much better than the Dayton solution, and the Ahtisaari Plan is better than Ohrid" (quoted in Project on Ethnic Relations, 2007a, p. 24).

Assessing whether such policy-learning has occurred is one of the most challenging aspects of this thesis. This is partly because of the differences between the conflicts experienced in Bosnia, Macedonia and Kosovo (Bieber and Keil, 2009, p. 357), which mean that the local context competes with learning as a potential explanation of policy variation between the three cases, but a further difficulty stems from claims such as that made in the quote above, where policy-makers themselves argue that learning is taking place. Such claims are difficult to assess because while they may accurately describe policy-making behaviour, they may also be made simply in an attempt to confer legitimacy on particular policy choices or on the actor making them. This points to an important facet of claims about policy learning, which has tended to be neglected by the academic literature, namely that policy-makers may claim to be engaged in policy learning in order to boost their legitimacy. One of the few studies to consider this notes that:

Equally important may be the persuasive power that can be gained from the claim that an innovative policy has been tested and found to work elsewhere. When such claims are based on anecdote rather than evidence, and when they disregard differences in the particular problems and resources that each nation may bring to bear, it is a sign that legitimisation, rather than learning, may be the motivating force. (Henig *et al.*, 1988, p. 459)

This legitimising behaviour is notable not only in claims about learning between the three cases considered here, but also in claims made by EU actors in public speeches that lessons

can be learned from other, apparently successful, cases of conflict resolution such as the Northern Irish example. As we saw in Chapter 3, claims by the EU Special Representative to Bosnia that lessons could be learned from Northern Ireland simultaneously credited the EU with a positive role in bringing about peace in that case, thereby helping to construct a positive self-image of the EU as a force for good in conflict situations. This self-image construction is considered further below.

Claims about policy learning, when they are made by officials, may also pose a challenge to research that relies wholly or partly on elite interviewing for its empirical material. As Radaelli notes in a different empirical context, in qualitative research on policy learning, some interviewees may “make references to learning to protect their organization from critiques” (2009, p. 1147). Taking such claims at face value is a clear potential source of bias in such research. In the course of the empirical research undertaken in this thesis, however, very few claims about policy learning were made by interviewees. Indeed, in comparison with the public pronouncements of EU actors, officials interviewed in private played down accounts of learning between the three cases and when asked about policy variations or similarities were noticeably more likely to explain these by reference to the specific context of the country that they were engaged with. By way of example, as we saw in Chapter 5, EU officials working in Kosovo saw no danger of the confederal structures employed in Bosnia being replicated in Kosovo due to the significant differences in the ethnic demography between the two. Similarly, as outlined in Chapter 3, when asked about claims by the EUSR that Northern Ireland offered lessons for Bosnia, officials working in Sarajevo and in Brussels were dismissive of such a suggestion.

The most that we are able to say about learning in EU conflict resolution policy-making in the three cases under consideration here, I would therefore suggest, is that any learning that did take place occurred in parallel with a context that was more permissive than existed at Dayton in 1995. This is most obviously the case with regard to the Macedonian case. While the Ohrid Framework Agreement avoids institutionalising ethnicity as deeply as Dayton, this policy development needs to be viewed in the context of a much less violent and protracted conflict than in Bosnia, which allowed space for less rigid conflict management institutions to be agreed upon. In the case of Kosovo, as Marko (2008, p. 450) suggests, the avoidance of some of the more corporate aspects of the consociational settlement employed in Bosnia might partly reflect policy learning on the part of the designers of Kosovo's institutions, but the structural context of the Kosovo case differs. In particular, the minority Serb community of Kosovo is now smaller than it was before 1999. In both the Macedonian and Kosovan cases, the eventual goal of EU membership might also have played a role in EU officials wanting to avoid some of the political deadlocks experienced in Bosnia, as a result of institutions designed before accession to the Union was on the agenda.

Furthermore, while allowing for the possibility that some degree of policy learning has taken place over time with regard to conflicts in the Western Balkans, this learning has not involved any fundamental questioning of the prevailing paradigm underpinning the EU and other external actors' policies. As outlined above, EU policy in each of the three cases is informed by a single 'ethnic conflict' paradigm that traces conflict back to inherent antagonisms between ethnic groups *qua* groups. As such, and recalling the distinction made in Chapter 2, any policy learning that has occurred between the three cases has been limited to what Hall (1993) terms first- or second-order change rather than third-order, paradigm-shifting change – that is to say, policy variation between the three cases represents movement between different

approaches to achieving the same goal, namely the institutional accommodation of ethnic diversity, rather than towards some alternative goal such as the transformation of identities.

Legitimising EU conflict resolution policies

With EU member states famously having been politically divided and thus unable to act cohesively and effectively during the disintegration of Yugoslavia in the early 1990s (Caplan, 2005), the Union has long faced questions about its credibility as an actor in the region. As such, there is a clear need for EU actors to establish their legitimacy as conflict resolution actors. Meanwhile, there is also a need to legitimise specific EU conflict resolution policies. While the EU promotes conflict regulation policies that involve the institutional accommodation of ethnicity through mechanisms such as consociationalism and decentralisation in its relations with the three countries considered in this thesis, there is little by way of a formal *acquis*, and so it is not only the Union's status as a conflict resolution actor that needs to be legitimised but also its specific policy choices. As noted in Chapter 1, this lack of a clear, agreed norm with a legal basis within the Union itself is reminiscent of the EU's promotion through conditionality of minority rights policies in Central and Eastern Europe, which Johns (2003) describes as a policy of "do as I say, not as I do". How, then, are the Union's role and its policy preferences legitimised in its discourse on Bosnia, Macedonia and Kosovo?

The EU as a 'force for good' in the Western Balkans

In this thesis, I have argued that the EU's discourse on conflict resolution in the Western Balkans frequently serves to construct a positive self-image of the Union as a 'force for good' in international affairs. This self-image construction has previously been noted by Pace (2007, 2008) in relation to the EU's role in resolving border conflicts and in Hughes' (2009a)

analysis of the *European Security Strategy (ESS)*. EU actors construct such an image of the Union in their discourse towards the case-study countries explored in this thesis in two main ways. Firstly, they often credit the Union with bringing peace and stability to Western Europe, frequently arguing that this is its primary purpose and achievement, and secondly, they construct a positive self-image through invoking successful cases of conflict resolution as examples from which lessons can be learned, while simultaneously crediting the EU with a role in that resolution.

In the first instance, as we saw particularly in the Bosnian and Macedonian cases in Chapters 3 and 4, EU actors construct an image of the EU through what has been termed in the literature ‘temporal’ (as opposed to ‘geopolitical’) othering. Rather than being constructed in opposition to geopolitical others, the EU’s identity is established through references to the conflict-ridden history of Europe, which EU actors credit the Union with helping to overcome. Such a narrative constructs a positive self-image of the EU in which “Europe’s other is Europe’s own past” (Wæver, 1998, p. 90; see also Diez, 2004). The past therefore becomes a resource with which to construct a contemporary identity for the EU as a positive force in international affairs, with EU officials frequently making reference to the Union’s role in bringing peace and stability to the European continent.

In the second instance, the EU’s discourse sometimes highlights the relevance of the Northern Ireland experience of conflict resolution, which the Union is then credited with contributing to. This is particularly evident in the Bosnian case study presented in Chapter 3, where we saw successive EUSRs making reference to the EU’s role in Northern Ireland as offering lessons for Bosnia. While the actual importance of the EU’s role in Northern Ireland is disputed amongst academic commentators, and while EU officials are sceptical in private

about whether lessons can be learned from this case, as outlined above, this discourse nonetheless contributes to the construction of an image of the EU as a force for good in conflict situations. This suggests that EU actors make reference to learning the lessons of the Northern Ireland experience in order to attempt to boost the legitimacy of the Union as an actor in conflict situations. This is consistent with O’Kane’s argument that British, Irish and international political actors have been keen to invoke the Northern Irish case of conflict management as a model to be applied elsewhere because in doing so they can also claim some of the credit for its success. Recalling the proverb that ‘success has many fathers but failure is an orphan’, O’Kane (2010a, p. 177) argues that “politicians are not only keen to invoke the [Northern Ireland] model but also to claim some ownership of it” and that “it is the politicians that were associated with the peace process that are keenest to promote the case as a possible model for other conflicts”.

Framing conflict resolution policies as ‘European’

As noted in Chapter 1, there is a lack of a clear European norm with a clear basis in EU law relating to the design of conflict management institutions. Constitutional models vary significantly between existing member states, with some (France being the most obvious example) relying on civic models in which citizens are granted rights as individuals and others, such as Belgium, giving far greater concessions to group rights. Similarly, some member states are unitary states whereas others are more federal in nature. As was illustrated in the case-study chapters, EU officials recognise this diversity amongst existing members and concede that it poses a significant challenge to their insistence on the implementation of specific models of constitutional design in third countries. Nonetheless, I have argued, EU actors have attempted to portray their policy preferences as ‘European’ despite this lack of a formalised, agreed-upon, EU constitutional norm, through a process identified in Chapter 2 as

‘framing’. Frames are described by Campbell (2002, p. 26) as “normative and sometimes cognitive ideas that are located in the foreground of policy debates”. Such ideas “provide actors with symbols and concepts with which to frame solutions to policy problems in normatively acceptable terms through transposition and bricolage” (J.L. Campbell, 1998, p. 394). As noted in Chapter 1, there are clearly precedents within EU member states that EU actors could point to in order to legitimise their preferences for consociational institutional designs, and indeed references are sometimes made to specific examples within the EU, such as South Tyrol in the case of Macedonia or the more widely cited example of Northern Ireland noted above, in order to legitimise the Union’s policy preferences. Yet in both the Bosnian and Macedonian cases, EU conflict resolution policy is more commonly framed through comparison with the historical process of European integration, which is held to have brought peace and stability to Western Europe in the aftermath of the Second World War. As such, the legitimisation of specific conflict resolution policies is bound up with the EU’s ‘force for good’ discourse.

In his analysis of the relationship between security and economic development articulated in the *ESS*, Hughes argues that the “EU’s self-image as portrayed in the carefully crafted narrative of its own genesis follows [a] linear model – it was founded to promote developmental interdependence among European states as a means of conflict prevention and building security” (2009a, p. 276). Hughes also argues that, in focusing narrowly on the economic aspects of the history of European integration and of conflict management, the EU’s narrative contains important gaps. One of these, he suggests, is the “absence of an overt recognition of the political, ideological and group rivalries and grievances that underpin most dysfunctional or failed states and conflicts” (Hughes, 2009a, p. 276). This omission is surprising from the point of view of academic research on contemporary conflict, which has

frequently highlighted the importance of ethno-nationalism in driving intra-state conflict. While I accept Hughes's reading of the *ESS*, here I want to suggest that, if we analyse the EU's narrative regarding specific conflicts such as those considered in this thesis, rather than the macro-level picture sketched in the *ESS*, we find prominent instances where this narrative highlights issues relating to group rivalries in Europe's past and attempts to draw parallels between these and the group dynamics of contemporary conflicts, thus helping to frame conflict resolution policies as 'European'. This framing is most commonly found in the Bosnian and Macedonian cases (see Chapters 3 and 4), while it is largely absent in the Kosovan case. In Chapter 5, I argued that this absence of framing in the Kosovan case is because the EU's ability to have a unitary and distinct policy towards Kosovo is limited by disagreements between member states. As such, Union actors are more likely to point to the policy recommendations of other actors, such as the UN, rather than needing to legitimise their own policy preferences, even if the EU has had an input into those policies. In Bosnia and Macedonia, by contrast, the EU does not face such significant divisions amongst its member states and therefore occupies a clearer position as the lead external actor.

In these cases, then, EU actors have legitimised their policy preferences through drawing parallels between the internal diversity of states in the Western Balkans and diversity between member states of the EU, suggesting that the Union's model of institutional accommodation of national interests can be seen as somehow equivalent to mechanisms of conflict regulation within Balkan states. This is particularly evident in the Bosnian case, as highlighted in Chapter 3, where Bosnia is presented in the EU's discourse as a kind of 'Europe in microcosm', with EU actors stressing that the Union has succeeded in bringing peace and stability to Western Europe through creating a 'union of minorities', to use former Commission President Romano Prodi's phrase. In this way, the type of conflict regulation

institutions promoted in the case studies considered here can be presented as ‘European’, not through comparison with existing practices in EU member states but rather by reference to the operation of the Union itself, which is presented as accommodating rather than submerging existing national identities in the manner of what Costa and Magnette (2003) term an ‘inter-state consociation’.¹²⁵ EU actors are thus able to frame consociational institutions as ‘European’, despite the lack of a consociational norm that applies across the Union, through grafting their key principles on to the relatively widely accepted idea (or ‘public sentiment’, in the terms outlined in Chapter 2) that the EU has brought peace and stability to Western Europe, in an example of the process of bricolage that Campbell (1998) identifies as key to the successful framing of policies.

Summary

The Balkan conflicts of the 1990s were, as numerous authors have noted (see, for example, D. Campbell, 1998; Mueller, 2000; Kaufman, 2001, pp. 3-5), interpreted primarily through the lens of ethnicity, understood in primordialist terms and expressed via the refrain of ‘ancient hatreds’. The EU’s discourse on Bosnia, Macedonia and Kosovo today may not refer to this now rather discredited notion, but, as the foregoing analysis suggests, external actors continue to view conflict in these societies as being the product of ethnic difference and to understand ethnic groups through the lens of what Brubaker (2004) terms ‘groupism’. In describing the EU’s assumptions about the nature of ethnicity as groupist, my aim has not been to critique those assumptions or to evaluate their accuracy (though I have outlined criticisms made of them, in order to illustrate that they are contested), but rather to illustrate how they underpin a

¹²⁵ Assessing whether the EU can accurately be described as a consociational system is beyond the scope of this thesis, though this has been the subject of considerable debate elsewhere (see Steiner, 1974, pp. 281-83; Taylor, 1990, 1991; 1996, pp. 82-90; Gabel, 1998; Wincott, 1998; Lijphart, 1999, pp. 42-47; Bogaards and Crepaz, 2002; Kaiser, 2002).

different approach to conflict resolution than that assumed by the academic literature that ascribes the EU a transformational role in conflicts. Groupist understandings contrast with the view of ethnicity as constructed and potentially amenable to change that necessarily underpins research on the EU's role in conflict resolution that suggests the Union's role is a transformative one. As such, I suggest, it is more accurate to describe the EU's conceptualisation of conflict resolution as belonging to a conflict regulation or management approach than a conflict transformation one. This is borne out by EU actors' seeming preference for policies that seek the institutionalisation of ethnic difference, through mechanisms such as consociational power-sharing and the decentralisation of states according to ethnic criteria. Such an approach, I have argued, has not been legitimised by reference to the EU's *acquis*, but rather by EU actors pointing to specific examples within selected EU member states, and also by reference to the nature of the Union itself, which is presented in EU actors' discourse as a kind of inter-state consociation, which balances and manages the interests of its member states without submerging their national identities.

CONCLUSION

Motivated by a desire to critically examine the claim that the European Union might have a transformative impact on conflicts, this thesis set out to answer three main research questions. Firstly, it has sought to investigate how EU policy-makers understand the nature of conflict in the three case studies employed, namely Bosnia, Macedonia and Kosovo. Secondly, it has posed the question, how do these understandings inform the EU's conflict resolution policy preferences? Finally, it analysed how, given the lack of an institutional design norm with a clear basis in EU law, European policy-makers have attempted to justify their policy preferences.

The central finding of the thesis is that, rather than seeking the *transformation* of ethnic conflicts, the EU's own conceptualisation of conflict resolution relies on the institutional accommodation of existing antagonistic identities and can therefore be better characterised as conflict *regulation* or *management*. This finding challenges the view of scholars who, taking a social constructivist approach to understanding ethnicity and the nature of ethnic conflict, have assumed that EU policy-makers share this understanding and therefore that EU engagement offers the possibility of transforming identities in conflict and post-conflict scenarios. Rather than viewing identities as constructed, fluid and potentially amenable to transformation, I have suggested, EU actors instead take existing identities as given and have sought their accommodation rather than transformation. This does not imply that the EU cannot successfully contribute to conflict resolution in the Western Balkans or elsewhere; nor does it suggest that it is impossible for the EU to have a transformative impact on conflicts. Rather, my argument is that the current aims of EU conflict resolution policy in the Western Balkans are focused on conflict regulation rather than transformation.

In order to reach these central findings, the thesis was organised around the following structure. In Chapter 1, I provided a review of the existing literature on the EU's role in conflict resolution, covering both the policy mechanisms employed by the EU but also, crucially, the ways in which political scientists have conceptualised the nature of the EU's impact on conflicts. Here, I argued, there has been a tendency to assume that the EU's policies towards conflicts are oriented towards conflict transformation, above and beyond conflict regulation. This claim in the existing literature then set the context for the remainder of the thesis, in which I assessed this claim empirically.

In order to be able to do this, it was first necessary to establish a theoretical framework and a set of methods with which to address the three research questions. Chapter 2 set out this framework and established how it can be applied to empirical case studies. The theoretical framework employed posited that policy-making by organisations including the EU cannot be explained simply by reference to supposedly pre-determined material interests as maintained by rationalist scholars, but rather that interests themselves are contested and constructed discursively. By drawing on the broad literature on the role of ideas in policy-making, this chapter set out what might be termed, following Hay (2006), a constructivist institutionalist approach to understanding EU policy towards conflicts. In particular, the framework highlighted the role of policy paradigms in shaping the preferences of policy-makers, of crises, policy learning and institutionalisation in determining policy continuity and change, and of framing in the legitimisation of policy preferences. The chapter then sought to establish a set of methods suitable for applying this framework to empirical cases, presenting discourse analysis and elite interviews as the most appropriate means with which to address the thesis's research questions.

This was then followed by the empirical content of the thesis, consisting of three chapters, each covering a single case-study country, namely Bosnia, Macedonia and Kosovo, and a fourth that sought to reconsider how we understand the EU's approach to conflict resolution in light of the findings of the case studies. Rather than summarising the findings of these chapters one-by-one here, I instead present the key findings of this empirical analysis thematically in the section below.

Transformation or regulation? The EU's approach to conflict resolution

Whereas much of the theoretical literature on the EU's role in conflict resolution is predicated on the assumption that the Union can have a transformative impact on conflicts through changing identity constructions in conflict situations (see, for example, Delanty, 1996a; b; Kearney, 1997; Diez *et al.*, 2006; Tocci, 2008), the argument of this thesis is that, in reality, the EU's approach is one of accepting existing identity constructions and instead encouraging the regulation of conflict through the institutional accommodation of antagonistic identities. As such, the thesis offers support to Hayward's (2006) critique of the literature on the role of the EU in conflict transformation.

As outlined in Chapter 6, the form of institutional accommodation that the EU has promoted varies between the three case studies, but a number of similarities can be identified. In the Bosnian and Macedonian cases in particular, the Union has been involved in the design and attempted redesign of broadly consociational power-sharing mechanisms. In Macedonia, as we saw in Chapter 4, the EU was the lead international actor at the negotiations leading to the signing of the Ohrid Framework Agreement, which established power-sharing between ethnic Macedonians and Albanians in 2001. In Bosnia, the EU has been engaged in a process of constitutional reform which, while seeking to replace or at least modify the institutional

structures established by the 1995 Dayton Agreement, has not challenged the basic consociational tenets of those structures. In Kosovo, the EU has also been involved in the establishment of consociational power-sharing mechanisms, often via other international bodies but also through providing advice to the designers of the country's constitution. In both the Macedonian and Kosovan cases, meanwhile, the EU has supported decentralisation as a means of giving local communities more power to dictate their own affairs, as we saw in Chapters 4 and 5. While decentralisation has often been framed by the EU in non-ethnic terms, my empirical research suggests that decentralisation is viewed by EU officials as a way to persuade geographically concentrated minorities to engage with the Macedonian and Kosovan states by providing them with significant autonomy in a number of important policy areas.

If the EU's approach can be characterised as one of regulating rather than transforming conflict, then this approach is underpinned by a paradigm that stresses the ethnic nature of conflict in Bosnia, Macedonia and Kosovo, to the exclusion of alternative explanations, and involves a view of ethnicity as a relatively fixed phenomenon. Whereas advocates of conflict transformation point to the constructed and potentially contingent nature of ethnic identities, EU discourse towards the three case-study countries considered in this thesis suggests that EU policy-makers do not share this understanding. Rather, EU policy-makers view ethnic identities as immutable and attribute agency and interests to ethnic groups in a manner reminiscent of what Brubaker (2004) terms 'groupism'. With ethnic groups viewed as having distinct and bounded interests and identities, identity transformation is regarded as unrealistic and EU actors focus instead on the institutional accommodation of ethnic difference. Moreover, as was illustrated in the Bosnian case in Chapter 3, there is also a commitment on

the part of those actors to nurture existing identities, rather than a desire to submerge them (see also Nagle and Clancy, 2010, pp. 26-27).

The thesis has also sought to explain how EU actors attempt to legitimise their conflict resolution policy preferences given the lack of a clearly defined norm with a firm legal basis within the Union on this issue (see Wilkinson, 2005, p. 253). The empirical analysis presented suggests that the main way in which EU actors legitimise their policy preferences through reference to practice in specific EU member states, but also to the nature of the Union itself, which is presented as a 'union of minorities' that has succeeded in bringing peace and stability to Europe through the accommodation of the national interests and identities of its members. As such, the EU is imagined as an inter-state consociation by EU officials, allowing the promotion of conflict regulation institutions in third states to be portrayed as 'European'. Moreover, in addition to legitimising particular policy preferences, this discourse also stresses the role of the EU as a 'force for good' in international politics, thus legitimising the Union as an actor in a region of the world where its reputation faced significant challenges in the 1990s.

One possible response to the claim that EU policy is oriented more towards conflict regulation through the institutional accommodation of ethnic diversity than towards conflict transformation is to suggest that the accommodation of identities might be a prerequisite to their transformation. This argument has been made by some consociationalists, who argue that sustained power-sharing between communities might eventually lead to increased trust and therefore a reduction rather than an increase in inter-group tensions. McGarry and O'Leary (2006, p. 275), for instance, argue that "*ceteris paribus*, an extended period of voluntary inter-group cooperation should reduce inter-community divisions rather than maintain or deepen them". Nagle and Clancy (2012), however, cast doubt on whether

consociationalism is conducive to the development of shared identities. Coming from a transformationalist tradition, meanwhile, Diez (2003, p. 135), while discussing the work of David Campbell on Bosnia, suggests that “there may be situations in which the acceptance of borders, rather than their criticism or denial, has led to their losing importance”, though he concedes that the Bosnian case is unlikely to be one of these situations. Certainly, the record in Bosnia since 1995 suggests that its particular consociational institutions, which the EU has largely failed to challenge, are not conducive to identity transformation.

A further, related consideration regarding the implications of the findings of this research for the theoretical literature on the EU’s potential contribution to conflict transformation is that my primary focus here has been on what Diez *et al.* (2006) refer to as the ‘actor-driven’ mechanisms of EU impact. Since the focus has been on explaining the EU’s policy preferences in relation to conflict resolution in the three case-study countries, whether that be through foreign policy mechanisms or via to use of conditionality, this thesis has necessarily privileged the Union’s policy aims in conflict scenarios rather than on the potential wider impacts of integration, which may not be dependent on specific EU policies. Put another way, the impact of integration may not simply be reduced to the aims of EU actors. Even if the EU promotes the regulation of conflict by encouraging consociational power-sharing using the ‘compulsory’ mechanism of impact, and even if the impact of such a policy is to encourage the reification of existing identities, for instance, it may still be the case that longer-term transformation is possible as an unintended effect of the integration process. However, I think that caution is required here. Given the view that institutions play a significant role in shaping identity politics – an assumption that underpins much of the research on institutional design in divided societies and which is given empirical support by Posner (2005) – it would seem unrealistic to assume that longer-term identity transformations as anticipated by Diez *et al.*

(2006) are likely to follow when institutional design rests on the accommodation of antagonistic identities. Moreover, EU actors' seemingly rather sceptical attitude (in private if not in public) towards the role of civil society organisations revealed in this research might be interpreted as undermining the possibility that transformation is likely to be encouraged through the 'connective' pathway of EU impact.

Reflexivity, limitations and possibilities for further research

The central argument of this thesis, namely that the EU's conflict resolution policies are more oriented towards the regulation rather than the transformation of conflicts, challenges a key assumption of much of the existing literature on the topic. Aside from being an important empirical finding in itself, this observation also points to the need for greater reflexivity on the part of political scientists who study the EU. As outlined above, part of the EU's discourse on conflict situations constructs the Union as a 'force for good' in international affairs. Just as we should not take such claims at face value, similarly, I argue, academic representations of the EU as a transformative power in conflict situations need to be problematised. Rather than making theoretical assumptions that EU policy in conflict situations is oriented towards the transformation of antagonistic identities, we need to test this claim empirically and to appreciate the fact that untested assumptions such as this both mirror and contribute to the EU's own self-image.

As this thesis has demonstrated, testing such assumptions can be a fruitful avenue of research. While the findings presented here are not intended to suggest that the EU is unable to contribute positively to conflict resolution either in the Western Balkans or elsewhere – indeed, many would argue that the EU's conflict regulation approach is more realistic than attempting more deep-reaching transformation – they do highlight the need to critically

engage both with assumptions in the existing academic literature and with the substance of EU policy in its engagement with countries afflicted by conflict.

Nonetheless, a number of observations can be made about the methodological limitations of the thesis. One of these is that the three case studies are drawn from a common geographic area, namely the Western Balkans, and that this limits any claims as to the wider applicability of the findings. While I concede that there is a lack of geographic diversity in the case selection, I think that there is a case for suggesting that the findings may have wider applicability to EU conflict resolution policy more generally. The conclusions of this thesis are based on a reading of EU policy in three cases in one region, but they complement the findings of Hayward (2006), who suggests that the EU's approach to the Northern Ireland conflict is characterised by an attempt to manage rather than transform antagonistic identities. Moreover, given that the Union has been involved in attempts to impose or negotiate consociational power-sharing arrangements in states as varied as Cyprus, Rwanda and the Democratic Republic of Congo (Youngs, 2004; Bahcheli and Noel, 2005), there is reason to believe that the policies pursued in the Western Balkans are not unique. Nonetheless, further research on the EU's approach to conflict resolution in these cases would be welcome.

As noted above, this thesis has focused on three case studies in a single region where the EU has been engaged in conflict resolution. An obvious avenue for further research would therefore involve expanding the analysis undertaken here to further cases, including countries where the EU plays a role in resolving conflicts further away from its immediate neighbourhood. In particular, it might be worthwhile extending the analysis to the countries of the Great Lakes region of Africa, where the EU has promoted consociational power-sharing, and to the Israeli-Palestinian conflict, where it backs a two-state solution. It may also be

worthwhile considering cases of conflicts that are generally not viewed as ethnic in nature, so as to explore whether policy responses differ according to this variable. The EU's response to conflicts in the Middle East and North Africa in the context of the 'Arab Spring' of 2011 could provide an interesting case study in this regard.

Beyond expanding the research to a wider range of case-study countries, the conceptual aspects of this thesis suggest a number of other possibilities for further research. One of these would be to expand the focus on the role of ideas in conflict resolution policy-making beyond the EU and, in particular, to focus on claims about the role of policy learning in the field of conflict resolution more broadly. The claim made in this thesis that policy-makers often make reference to their own supposed policy learning in order to legitimise themselves as conflict resolution actors chimes with O'Kane's (2010b; a) analysis of claims about the Northern Irish 'model' of conflict resolution. Further research into how policy-makers invoke such models could be fruitful given claims about the possibility of exporting Bosnia's Dayton experience to Iraq, for example (see Biden and Gelb, 2006; Holbrooke, 2008).

Summary

As we saw in Chapter 3 on Bosnia, it has been argued that the international community's approach to conflict resolution in the Balkans has been predicated on a form of what Benhabib (2002, p. 8) describes as 'mosaic multiculturalism'. While EU actors have, as we saw in Chapter 4, attempted to distance themselves from the type of 'ancient hatreds' explanation of conflict in the region, the view that ethnic groups are sealed entities which have clearly defined interests and identities, and coexist with maintained boundaries between them clearly still underpins European policy in the three cases of Bosnia, Macedonia and Kosovo. Indeed, one of my interviewees used the very term 'mosaic' to describe Macedonia's

ethnic make-up, recalling the French and Italian dishes ‘Macédoine de légumes’ and ‘Macedonia di frutta’ as descriptive of the mix of ethnicities and cultures that coexist in Macedonia.

Such a view informs an approach to conflict resolution in the Western Balkans that stresses the need to accommodate existing identities rather than to transform them. As a result, I have argued that the EU’s conflict resolution policies in Bosnia, Macedonia and Kosovo are better characterised as attempting the *regulation* rather than the *transformation* of conflicts. Such an approach is legitimised in the EU’s discourse not by reference to practice in existing member states but rather to the nature of the Union itself, which is presented as accommodating national identities at the supranational level, in much the same way that consociational mechanisms accommodate ethnic groups at the national level.

The EU’s approach to conflict resolution in the Western Balkans, as analysed in this thesis, is perhaps best summarised by Paddy Ashdown, who, as we saw in Chapter 3, giving his inaugural speech as High Representative and the first EU Special Representative to Bosnia in 2002, argued that “[o]ur task is not to submerge or destroy ethnic identities. It is, patiently, to build a state that protects those identities, celebrates them and harnesses them for everyone’s benefit” (Ashdown, 2002b). This appears a more accurate description of the EU’s approach than is to be found in much of the existing literature, which characterises the EU’s impact on conflicts as transformative without sufficiently interrogating the aims of European policy-makers.

APPENDIX 1 – LIST OF INTERVIEWS CONDUCTED

- Official, European Commission DG Enlargement, Brussels, 21 April 2010
- Senior official, European Commission DG Enlargement, Brussels, 30 April 2010
- Desk officer, European Commission DG Enlargement, Brussels, 30 April 2010
- Senior official, European Council Secretariat, Brussels, 4 May 2010
- Official, European Council Secretariat, Brussels, 4 May 2010
- Desk officer, European Commission DG Enlargement, Brussels, 19 May 2010
- Desk officer, European Commission DG Enlargement, Brussels, 19 May 2010
- Senior official, European Commission DG Enlargement, Brussels, 20 May 2010
- Senior official, Council of Europe Field Office, Sarajevo, 4 June 2010
- Srecko Latal, Balkans Analyst, International Crisis Group, Sarajevo, 7 June 2010
- Political advisor, Delegation of the EU to Bosnia and Herzegovina, Sarajevo, 8 June 2010
- Senior official, Delegation of the EU to Bosnia and Herzegovina, Banja Luka, 10 June 2010
- Senior official, EU member state embassy, Sarajevo, 11 June 2010
- Senior official, EU member state embassy, Sarajevo, 15 June 2010
- Senior official, Office of the High Representative/EU Special Representative in Bosnia and Herzegovina, Sarajevo, 16 June 2010
- Legal advisor, Office of the High Representative/EU Special Representative in Bosnia and Herzegovina, Sarajevo, 16 June 2010
- Kurt Bassuener, Senior Associate, Democratization Policy Council, Sarajevo, 17 June 2010

- Political advisor, EU Special Representative in Bosnia and Herzegovina, Sarajevo, 22 June 2010
- Senior official, OSCE Mission to Bosnia and Herzegovina, Sarajevo, 22 June 2010
- Political advisor, Office of the EU Special Representative in the former Yugoslav Republic of Macedonia, Skopje, 5 November 2010
- Official, Delegation of the EU to the former Yugoslav Republic of Macedonia, Skopje, 9 November 2010
- Economic advisor, Delegation of the EU to the former Yugoslav Republic of Macedonia,, Skopje, 9 November 2010
- Official, Delegation of the EU to the former Yugoslav Republic of Macedonia, Skopje, 10 November 2010
- Task manager, Delegation of the EU to the former Yugoslav Republic of Macedonia, Skopje, 10 November 2010
- Official, EULEX, Pristina, 17 November 2010
- Senior official, European Commission Liaison Office to Kosovo, Pristina, 18 November 2010
- Senior official, International Civilian Office, Pristina, 18 November 2010
- Official, International Civilian Office, Pristina, 18 November 2010
- Official, EU House, Mitrovica, 19 November 2010
- Senior official, OSCE Mission in Kosovo, Pristina, 22 November 2010
- Official, European Commission Liaison Office to Kosovo, Pristina, 22 November 2010

APPENDIX 2 – SAMPLE INTERVIEW QUESTIONS

Please note that because the interviews conducted were semi-structured by design, the exact list of questions varied between interviews. The following partial list is simply given in order to provide a flavour of the type of question asked.

Bosnia

- Why do you think that it has been difficult to secure agreement on constitutional reform in Bosnia?
- Do you think that it is more desirable to reform the Dayton-era constitution, or to replace it with an entirely new one?
- Do you think that it is necessary for Bosnia's presidency to continue to be shared amongst representatives of the country's ethnic groups?
- Do you regard civil society organisations as having a role to play in improving inter-ethnic relations in Bosnia? Can you point to any examples?
- To what extent is Bosnia's political system compatible with European norms? If there are areas where it isn't, what needs to change?
- Do you think that there are lessons to be learned from other countries that have experienced conflict that can be applied in Bosnia?

Macedonia

- The EU has placed a great deal of emphasis on the need for decentralisation in Macedonia. Why do you think that this decentralisation process is necessary?
- EU statements on the need for decentralisation often mention its necessity in terms of increasing state efficiency. Do you also see the process of decentralisation of government

functions in Macedonia as contributing to the improvement of inter-ethnic relations, or is it solely about efficiency?

- Do you regard the Ohrid Agreement as better or worse than other peace agreements that have been negotiated in the Western Balkans?
- How do you rate the provisions for the protection of minorities in Macedonia today? How does this compare to the situation elsewhere in the region and in Europe?
- Do you think that the EU's engagement with Macedonia offers any lessons for conflict management in other post-conflict societies?

Kosovo

- To what extent does the fact that not all member states have recognised Kosovo's independence affect the EU's ability to have a single policy towards the country?
- What are, from your perspective, the EU's priorities in Kosovo? What should they be?
- Are there any aspects of the Ahtisaari Plan that you are particularly supportive of? Are there any elements that you think are more problematic?
- To what extent can we regard Kosovo as a 'multi-ethnic society' today?
- Do you think that it is realistic to expect reconciliation between Kosovo's ethnic communities? Does the EU have a strategy for encouraging reconciliation?

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