

ENGAGING UNRECOGNISED STATES IN CONFLICT RESOLUTION:

An Opportunity or Challenge for the EU?

Nina Caspersen and Antje Herrberg

December 2010

**CRISIS
MANAGEMENT
INITIATIVE**
Building Bridges for Sustainable Security



ABOUT IFP

The Initiative for Peacebuilding (IfP) is a consortium led by International Alert and funded by the European Commission. IfP draws together the complementary geographic and thematic expertise of 10 civil society organisations (and their networks) with offices across the EU and in conflict-affected countries. Its aim is to develop and harness international knowledge and expertise in the field of conflict prevention and peacebuilding to ensure that all stakeholders, including EU institutions, can access strong independent analysis in order to facilitate better informed and more evidence-based policy decisions.

This document has been produced with the financial assistance of the EU. The contents of this document are the sole responsibility of IfP/CMI and can under no circumstances be regarded as reflecting the position of the EU. To learn more, visit <http://www.initiativeforpeacebuilding.eu>.

ABOUT CMI

The Crisis Management Initiative (CMI) is a nonprofit organization founded by Nobel Peace Prize Laureate and former president of Finland, Martti Ahtisaari. CMI works to build sustainable peace and to resolve violent conflicts. CMI contributes to conflict resolution through mediation, facilitating confidence-building dialogue and strengthening local capacities to implement peace. CMI also has the capacity to support international peace missions as requested. To learn more, visit <http://www.cmi.fi>.

Cover image: © iStock, Slavoljub Pantelic

© Initiative for Peacebuilding 2010

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution.

ENGAGING UNRECOGNISED STATES IN CONFLICT RESOLUTION:

An Opportunity or Challenge for the EU?

AUTHOR PROFILES

Nina Caspersen

Nina Caspersen (PhD, LSE) is Lecturer in Peace and Conflict Studies at Lancaster University, UK. She is the author of *Unrecognised States: The Struggle for Sovereignty in the Modern International System* (Polity Press, forthcoming 2011); she is the editor of *Unrecognized States in the International System* (Routledge, December 2010) and has published several journal articles on unrecognised states in the Caucasus and the Balkans.

Antje Herrberg

Dr Antje Herrberg is a Senior Mediation Advisor to CMI and the Co-founder and Director of the European Forum for International Mediation and Dialogue. She was also the Mediation Cluster coordinator of the Initiative for Peacebuilding until December 2010. She is working in the interest of conflict resolution for governments, International and Regional Organisations and informal stakeholders worldwide. Her interests in the issue of non-recognised entities originate from her work in Georgia, Ireland and Indonesia. She holds degrees in Mediation (MA), International Relations (PhD), and Economics and Public Affairs (M.Econ.Sci).

CONTENTS

Introduction	7
Anarchical Badlands or Puppets of External Actors?	8
The Problem of Territorial Integrity	9
Counter-productive Engagement?	9
The Role of the EU as a Mediating Actor in Unrecognised States	10
The Role of NGOs and Non-state Actors in Conflict Resolution	13
Towards an EU Policy of Non-recognition and Engagement	14
Conclusion and Recommendations	16

ACRONYMS

AU	African Union
BCPR	Bureau for Conflict Prevention and Crisis Recovery
CMI	Crisis Management Initiative
EUMM	EU Monitoring Mission in Georgia
EUSR	EU Special Representative
IfP	Initiative for Peacebuilding
NGOs	Non-governmental organisations
OSCE	Organization for Security and Co-operation in Europe

INTRODUCTION

Unrecognised states are the 'places that don't exist' in international relations. They are territories that have achieved de facto independence, but have failed to gain (widespread) international recognition.¹ Examples include Abkhazia, Nagorno Karabakh, Palestine, Somaliland and Transnistria. Unrecognised states have all the attributes of statehood, such as an army, a government and a flag; they look and act like states, but they are not states in the conventional, or legal, sense of the word. Moreover, they represent unresolved conflicts: the territory they control remains severely contested and no solution has been found.

Until August 2008 many of the unrecognised states represented largely 'forgotten conflicts'.² Few people beyond the academic and policymaking world had heard about Abkhazia and South Ossetia and even fewer would have been able to locate these territories on a map. But the five-day-long war between Georgia and Russia – and Russia's subsequent recognition of the two breakaway regions – changed this state of affairs. Unrecognised states had moved up on the international agenda, and questions were raised about how to comprehend these entities that look and act like states – albeit very small ones – and what to do with the associated threats to stability.

The war in Georgia was not the only reason these questions were raised. Unrecognised states tend to be found in volatile regions and are frequently associated with violence and warfare. Thus, the conflict over Nagorno Karabakh may be regarded by some observers as 'frozen', but the ceasefire is not reinforced by peacekeepers; shootings across the line of contact are commonplace; and the risk of renewed warfare (by design or accident) is forever present. Similarly, although Somaliland is often described as an oasis of calm and stability on the Horn of Africa, the entity has been hit by terrorist attacks; its army has been engaged in violent clashes with military forces from Puntland; and there is always the risk that Somalia's chaos and instability could spread further north. Most of these entities were born out of violence and warfare, and instability is never far away.

But the ability to deal with these entities is hampered by their unrecognised status. This raises two problems. Firstly, what kind of entities can develop in the context of non-recognition? Secondly, can we deal effectively with them, without violating the principle of territorial integrity?

Keywords: Mediation, international peace mediation, unrecognised, European Union, territorial integrity, biased mediation, conflict resolution.

1 Unrecognised states are also referred to as 'de facto states', 'unrecognised quasi-states', 'separatist states' or 'contested states'. For definitions, see S. Pegg (1998). *International society and the de facto state*. Aldershot, UK: Ashgate; and P. Kolsto (2006). 'The sustainability and future of unrecognized quasi-states', *Journal of Peace Research*, Vol. 43, No. 6, pp.723–40.

2 P. Rutland (2007). 'Frozen conflicts, frozen analysis'. Paper presented at the ISA's 48th Annual Convention, Chicago, 1st March.

ANARCHICAL BADLANDS OR PUPPETS OF EXTERNAL ACTORS?

Unrecognised states are commonly conceived of as little more than anarchical badlands, as “black spots” on the map of sovereign states. They are portrayed as havens for organised crime which are rife with the trafficking of drugs, weapons and other dangerous goods.³ This image of lawlessness is compounded by violent and destabilising infighting between competing warlords. Alternatively, these entities are described as the puppets of external powers: Abkhazia, South Ossetia and Transnistria as Russia’s puppets; Northern Cyprus as Turkey’s; and Nagorno Karabakh as Armenia’s. The importance of internal dynamics is rejected and the de facto regimes are merely seen to be doing their master’s bidding.

This image contains an element of truth. Shadow economies do often have favourable conditions in the context of non-recognition, even if this (in the case of Transnistria) more often results in the smuggling of frozen chickens than guns and drugs.⁴ The entities, moreover, tend to be poor and relatively weak; they often struggle to impose full control over the territory to which they lay claim, and warlords have played a dominant role in some cases. Finally, most unrecognised states rely on an external patron for essential military, economic and diplomatic support. However, the image of anarchical badlands or puppet regime is an overplayed one and represents a truer reflection of the situation immediately after the cessation of warfare.⁵ Moreover, it also illustrates that the views of the de jure parent states are widely accepted: unrecognised states are criminalised entities with no legitimacy (internal or external). But it also, in part, reflects an inability to imagine internal order without international recognition: without sovereignty, anarchy is assumed.⁶

There is, in fact, great variation when it comes to unrecognised states. Some have managed to create surprisingly effective state-like entities,⁷ and, although they are often dependent on external support, we should not underestimate internal dynamics or automatically assume that the unrecognised state is always in agreement with its external backer. Therefore, we cannot conclude from the chaos of Chechnya that all unrecognised states are anarchical badlands. The modal tendency is not deficient state-building,⁸ which may come as a surprise given the context of international isolation and a legacy of war. Similarly, we cannot conclude from South Ossetia that all unrecognised states are closely in tune with their external backer and may have little appetite for actual independence. In the case of Somaliland, for example, there is no external patron, but instead a variety of international links, and even in cases such as Nagorno Karabakh – where Armenia very clearly provides essential support – we should not underestimate the potential differences between the patron and the client and the ability of the latter to pressure the former.⁹

Unrecognised states are associated with significant threats to regional stability and also involve considerable humanitarian concerns. There is, therefore, a need for actors like the EU to deal with them effectively, and the

3 See, for example, V. Kolosov and J. O’Loughlin (1999). ‘Pseudo-states as harbingers of a new geopolitics: The example of the Trans-Dniester Moldovan Republic (TMR)’. In D. Newman (Ed.). *Boundaries, territory and postmodernity*. London, UK: Frank Cass.

4 See P. Kolstø and H. Blakkisrud (2010). ‘Separatism is the mother of terrorism’. In N. Caspersen and G. Stansfield (Eds.). *Unrecognized states in the international system*. London, UK: Routledge.

5 N. Caspersen (2008). ‘Separatism and democracy in the Caucasus’, *Survival*, Vol. 50, No. 4, pp.113–36.

6 N. Caspersen (2011, forthcoming). *Unrecognized States: The Struggle for Sovereignty in the Modern International System*. Cambridge, UK: Polity Press.

7 Ibid. See also C. King (2001). ‘The benefits of ethnic war: Understanding Eurasia’s unrecognized states’, *World Politics*, Vol. 53, No. 4, pp.524–52.

8 As suggested in P. Kolstø (2006). *Op. cit.*

9 N. Caspersen (2009). ‘Playing the recognition game: External actors and de facto states’, *International Spectator*, Vol. 44, No. 4, pp.21–34.

first step is to recognise the more complex realities outlined above. But this still leaves a number of difficult questions: firstly, how can state-based actors deal with unrecognised entities? Secondly, is such engagement even beneficial for conflict resolution?

THE PROBLEM OF TERRITORIAL INTEGRITY

The issue of territorial integrity is particularly pertinent to inter-governmental institutions such as the EU. Sovereignty over these territories is contested, and engaging with unrecognised states may be seen to violate the territorial integrity of the parent state. For example, this is the view taken by Azerbaijan in the conflict over Nagorno Karabakh. However, other parent states, such as Moldova, are more accepting of allowing links between their de jure territory and the outside world. The question is therefore whether the EU can – and should – bypass the continued objections of the parent states or whether it is possible to convince them of the benefits of engaging with unrecognised states. It is worth noting that, historically, we have seen much more significant international engagement with unrecognised entities. For example, in the inter-war period, the US was keen to maintain its commercial interests in the Japanese puppet state Manchukuo, even though it had spearheaded the collective non-recognition of the entity, and US exports to the entity actually increased.¹⁰ Even more noteworthy is the fact that India and the Philippines were founding members of the UN at a time when they were still not formally independent.¹¹

The EU has engaged with some unrecognised states; for example, there are EU offices in Somaliland that manage the organisation's aid programmes,¹² and the EU has also supplied aid and provided support for grassroots development in Abkhazia.¹³ However, so far there has been a reluctance to engage with the de facto authorities; involvement has been deliberately depoliticised and dependent on parent-state approval (or lack of effective objection in the case of Somaliland). Engagement with unrecognised states has, therefore, been ad hoc.

COUNTER-PRODUCTIVE ENGAGEMENT?

It can, however, be questioned if engagement actually helps to find a peaceful solution. Some might counter that engagement not only risks encouraging other would-be separatists, but it also increases the prospects for these entities to survive despite their lack of recognition and thereby reduces their incentives to compromise. Why compromise on your maximalist goals if non-recognition does not come with significant costs? Lack of engagement, on the other hand, has not succeeded in fostering the necessary willingness to compromise. Instead, it has reinforced the prevalent siege mentality, empowered radical leaders and thrown the unrecognised states into the arms of external patrons. The de facto independence of these entities cannot simply be wished away and the leaders of the unrecognised states represent veto players in any peace talks – even in those in which they are not directly represented, such as those over Nagorno Karabakh. Engagement in the form of dialogue and mediation cannot, therefore, be avoided, even if it is unpalatable and raises issues in relation to the principle of territorial integrity.

The situation in places such as Abkhazia, Nagorno Karabakh, Transnistria and Somaliland is of vital importance to the EU. In addition to their threat to regional stability, conflicts involving unrecognised states are associated with significant humanitarian concerns, and, as a human security actor, the EU has a responsibility to become involved and, in fact, is in a position to provide the kind of engagement needed. The rest of this paper, firstly, discusses the challenges and opportunities associated with EU mediation in these conflicts; it argues that engagement is necessary for mediators to have the requisite leverage, but that the EU's power-based approach, framed by the principle of territorial integrity, has proved ineffective. Secondly, the paper considers the possible role played by non-governmental organisations (NGOs) and the ways in which the EU could cooperate with such organisations in a policy of non-recognition and engagement. Finally, the paper suggests several ways in which the practice of mediation and mediation support can be systematised, coordinated and focused.

¹⁰ E. MacGregor Clauss (1970). 'The Roosevelt administration and Manchukuo, 1933–1941', *Historian*, Vol. 32, No. 4, pp.595–611.

¹¹ S. Krasner (1999). *Sovereignty: Organized hypocrisy*. Princeton, US: Princeton University Press. p.15. See also N. Caspersen (2011, forthcoming). *Op. cit.*

¹² M. Bradbury (2008). *Becoming Somaliland*. London, UK: Progressio. pp.5 and 255.

¹³ N. Popescu (2007). 'Europe's unrecognised neighbours: The EU in Abkhazia and South Ossetia', CEPS Working Document No. 260, March. p.14.

THE ROLE OF THE EU AS A MEDIATING ACTOR IN UNRECOGNISED STATES

The argument for the EU to take on a strong role as an international actor in conflict resolution is based on three principal needs:

- 1) the human security need, which encompasses the humanitarian concern of alleviating human suffering caused by violent conflict or the failure of the state to meet basic human needs;
- 2) the development need, which concerns aid effectiveness in a longer-term perspective, taking into account the potentially high risks and costs associated with donors abandoning a country for a long period; and
- 3) the need for global security, linked to the dangers of isolating a country and of extremism and terrorism growing in failed states.¹⁴

All of these needs pertain to unrecognised states, with which the EU chooses (or not) to engage. At this time, however, the EU, like other international actors, is still short of an approach that allows for systematic engagement with unrecognised states.

It was not until recently that the EU began to realise its potential as an active actor in international peace mediation and international peace support. This was possibly influenced by external developments, notably by rapidly evolving efforts by the UN to build up its own capacities, but also due to external pressures, including from non-state organisations, who have systematised their work in mediation and mediation support. The EU Concept published in 2009 during the EU Swedish Presidency recognised that 'The EU, as a global actor committed to the promotion of peace, democracy, human rights and sustainable development, is generally seen as a credible and ethical actor in situations of instability and conflict and is thus well placed to mediate, facilitate or support mediation and dialogue processes'.¹⁵ This concept proposes several strategies for systematising, coordinating and focusing the practice of mediation and mediation support.

Peace mediation is not an exclusive area of work for the EU. In fact, it can be argued that until recently the EU had only unconsciously played a mediating role and – perhaps because of that – with mixed results.¹⁶ It has, however, played an important role in supporting mediation and dialogue projects conducted by informal actors, mainly NGOs, many of which undertake their activities in and with unrecognised states. As the EU Concept recognises, the EU has various actors and field presences in place to pursue mediation from the 'top down' (governmental level) or from the 'bottom up' (grassroots level). Indeed, the EU's particular strength and added value lies in 'its engagement at the grassroots level and its emphasis on civil society development'.¹⁷

These different actors, however, tend to use different strategies for mediation; depending on which outcome is being sought, there are a number of different ways in which mediation can be practised. From the multitude of mediation approaches for external actors wishing to intervene and engage in mediation, three principal ones can be distinguished:

14 A. Herrberg (2009). *Unleashing the soft power potential of the European Union: International peace mediation*. Helsinki, Finland: Crisis Management Initiative (CMI).

15 Council of the EU (2009). 'Concept on strengthening EU mediation and dialogue capacities', 15779/09, Brussels.

16 See A. Herrberg (2008). 'Perceptions of international peace mediation in the EU: A needs analysis'. Initiative for Peacebuilding (IfP): Mediation Cluster. Available at http://www.initiativeforpeacebuilding.eu/pdf/Needs_analysis.pdf

17 Council of the EU (2009). Op. cit. p.7.

- 1) **Power-based, deal-brokering mediation**, or one to which the mediator brings “carrot and sticks” to broker an outcome. Power-based mediators usually direct the process resolutely and sometimes use manipulative tactics to get parties to reach an agreement.
- 2) **Interest-based, problem-solving mediation**, or one which uses a facilitative style in order to further the ownership by the parties and the development of creative approaches which respond to the interest and needs of the parties.
- 3) **Transformative, long-term mediation**, or one in which mediators intervene at different levels to seek a change in relationships between parties and their perceptions of each other. Here, conflict resolution is seen as a long-term process which happens through the empowerment and recognition of a broad variety of actors in conflicting societies.¹⁸

The choice of mediation approach depends to a great extent on whether the process is being managed by a state or non-state actor. A distinction, therefore, needs to be made between mediation by state/official actors and by non-state actors (such as NGOs or private individuals endorsed by official or unofficial third actors). Whereas official talks often follow a strict hierarchy, with a head of delegation and appointed negotiators, informal talks often have little or no hierarchy and therefore allow for a wider exploration of key issues as well as solutions at hand. The former often adopt a power-based approach to mediation, with the latter employing interest-based or indeed transformative mediation. Most research on the EU and mediation suggests that, until now (and not unlike other state-based actors in this field such as the UN), the EU has followed power-based approaches to mediation. Delete NOT. It should be the EU has followed power based approaches to mediation.¹⁹

This approach to mediation, however, raises questions about impartiality, referring to the absence ‘of bias or preference in favour of one or more negotiators, their interests or the specific solutions which they are advocating’.²⁰ In the classical school of mediation practice, impartiality is clearly imperative, and the question merits special attention as it indicates the special dilemma for the EU, as a state-based actor guided by specific mandates while seeking a comprehensive peace settlement, so as to increase stability and to ensure human security. The EU carries with it the luggage of a normative framework, including a commitment to human rights, democracy and participatory approaches to peacemaking.²¹ While the possibility of having a united stance towards a conflict and its resolution provides it with weight and leverage, it is clear that this also has its limitations. Indeed, power as a multilateral and state-based organisation ‘gives the EU a state-bias of its member states that have shaped perceptions of the EU as a mediating actor’.²² So how is it then possible for the EU to be able to engage in an effective fashion in conflicts between a parent state and an unrecognised state and still be perceived as a mediator taking into consideration the needs and interests of all parties?

While it is a necessary part of the mediation school of thought to “preach” neutrality, impartiality and all partiality (i.e. supporting all parties to a conflict), the professional and academic literature on international mediation suggests that the task of *managing* impartiality challenges genuine neutrality. As such, it can be argued that in international peace mediation impartiality does not exist in practice, nor does it have any cross-cultural validity.²³ What is important, however, is that any perceived lack of *clarity* as to the neutrality or impartiality of the mediating actor carries the danger of suspicion, fear and mistrust, as well as anger, thus lessening the benefits of a mediation engagement. Zartman argues that ‘mediators need not be impartial, but they must deliver the side to which they are perceived close’.²⁴ Thus, not all is lost when considering the EU a state-based and value-based, and thus inherently partial, actor. This plays out in the partial mediator having more leverage over the parties in conflict due to the special relationship which the mediator has with one of the parties.²⁵ Considering the role of

18 See A. Herrberg with C. Gündüz and L. Davis (2009). ‘Engaging the EU in mediation and dialogue: Reflections and recommendations’. IfP Synthesis Report. Available at http://www.initiativeforpeacebuilding.eu/pdf/Synthesis_Engaging_the_EU_in_mediation_and_dialogue.pdf

19 For more information, consult all publications produced by the IfP Mediation Cluster.

20 C. W. Moore (2003). *The mediation process. Practical strategies for resolving conflicts*. San Francisco, US: Jossey Bass. p.53.

21 See C. Gündüz and K. Herbolzheimer (2010). ‘Standing united for peace: The EU in coordinated third-party support to peace processes’. IfP. Available at <http://www.initiativeforpeacebuilding.eu>

22 Ibid.

23 See A. Herrberg (2010). ‘The politics of unrecognized states and the business of international peace mediation: Enablers or hindrance for conflict resolution’. In N. Caspersen and G. Stansfield (Eds.). Op. cit.

24 I. W. Zartman (2003). ‘Dynamics and constraints in negotiation in internal conflicts’. In I. W. Zartman (Ed.). *Evasive peace*. Washington DC, US: Brookings Institution. p.21.

25 I. Svensson (2009). ‘Who brings which peace? Neutral versus biased mediation and institutional peace arrangements in civil wars’, *Journal of Conflict Resolution*, Vol. 53, No. 3, pp.446–69.

mediation enacted by a state-based actor and power-based mediators, Crocker, Hampson and Aall argue: 'Just as conflict parties are not interested in achieving peace at any price, so, too, powerful mediators have a clear preference about the kind of settlement that they will support'.²⁶

The question of the transparency of the mediation approach, however, seems to be an essential aspect in the mediation approach. Two particular cases of mediation-cum-negotiation – both brokered by Martti Ahtisaari and supported by the EU – spring to mind. The first one is Kosovo, where the frame was clear right from the beginning: due to the unconstitutional actions of Serbia towards Kosovo, the only option available was that Kosovo would become an independent state. The frame was equally clear to the mediator in the 2005 peace mediation between the government of Indonesia and the Free Aceh Movement: independence was not an option to negotiate; instead, it was made clear fairly early on in the negotiations that the solution was a special autonomy status which could serve the interests of both parties.

As with other international organisations (such as the UN, the Organization for Security and Co-operation in Europe (OSCE) and the African Union (AU)), the EU has played a number of roles in the conflicts between unrecognised states and their parent states. However, the persistence of a policy of non-recognition since the end of the Cold War has created a situation in which those actors are likely to operate, mediate and engage under the framework of territorial integrity. Two key aspects are worth noting here: firstly, when mediators from state-based institutions do engage, they follow an agenda or framework with regard to the outcome, in which case they become, even indirectly, a party to the negotiation. Secondly, and interrelatedly, appointed mediators often do not consciously “apply” principles of mediation practice, and instead proceed in the mediation process with positional bargaining, rather than interest-based approaches. The result is often that the genuine interests and needs of the parties give way to competitive bargaining. And this absence of an interest-based approach to the mediation process with unrecognised states and entities explains Kolstø's assertion that 'whilst the international community is clearly in favour of a peaceful, negotiated, settlement to ... conflicts, ... its involvement, in most instances, has a quite different effect and inadvertently contributed to the prolonged existence of quasi states'.²⁷

Thus, the issue of partiality of mediators shows an interesting and counter-intuitive twist for conflict resolution but does not make it impossible to practise mediation. Empirical research shows that mediators who do have a specific interest in an outcome – and who can thus be labelled as “biased” mediators (also as those with a stake in a conflict) – are more likely to mediate a successful outcome.²⁸ Three tested reasons can explain why partial mediators are more likely to achieve peace agreements of higher quality as compared to neutral mediators. Firstly, they look for stipulations that protect their side and consequently engage in deeper, substantive discussions, whereas neutral mediators will hasten an agreement which will put an end to the conflict. Secondly, neutral mediators have less capacity in terms of leverage and credibility for bringing concessions with either party, as opposed to more partial ones who often have this capacity. Thirdly, parties in conflict seemingly prefer biased rather than neutral mediators in situations where substantial concessions have to be made.²⁹

With this in mind, it appears that a formal mediation process which revolves around status questions might be, and often is, imbalanced. This presents a challenge for the mediation actor to create balance and symmetry. The challenge for the EU as a state-based mediator, then, is how such a balance can be created. This is a question which can be answered through a policy of engagement which can support a perceived weaker, secessionist party regardless of recognition or non-recognition. However, the key question inherent in this is: how can the needs and interests of the unrecognised state be protected *without* losing the support of the parent state? This thin line needs to be walked without losing sight of the EU's mandate. The often asymmetric and power-based approaches associated with the official realm of EU diplomacy, therefore, would benefit from mechanisms that allow for the exploration of needs and realisation of interests. This would create a case for the multitude of NGOs and civil society organisations who, due to their different and explorative work, could often complement and balance such power-based approaches to mediation.

26 C. A. Crocker, F. O. Hampson and P. Aall (2004). *Taming intractable conflicts. Mediation in the hardest cases*. Washington DC, US: US Institute for Peace Press. p.24.

27 P. Kolstø (2006). *Op. cit.*

28 A. Kryd (2003). 'Which side are you on? Bias, credibility, and mediation', *American Journal of Political Science*, Vol. 47, No. 4, pp.597–611.

29 See I. Svensson (2009). *Op. cit.*

THE ROLE OF NGOS AND NON-STATE ACTORS IN CONFLICT RESOLUTION

The EU's peacebuilding – and arguably peacemaking – efforts are, as argued above, difficult to imagine without the activities of civil society and NGOs that it supports – often through the Instrument for Stability. The conducive role of NGOs and civil society has also been recognised by the UN in its Report on Enhancing Mediation and Supporting Initiatives. The international peacebuilding sector – which includes private diplomacy actors that support peace processes and engage divided societies in dialogue – has enjoyed the financial, if not always the political, backing of the EU in conflict regions involving unrecognised entities worldwide. So-called private diplomacy actors complement the world of traditional diplomacy typically within the domain of nation states and state-based organisations.³⁰ Yet, just like states engaging in mediation, private diplomacy actors can be instrumentalised by both parent states and unrecognised states. For unrecognised states, for example, the involvement of NGOs provides a forum and form of recognition, while it offers parent states an opportunity to work on an enhancement of its government policy. A high degree of professional skills and aptitude is required in order to satisfy the needs and interests of the involved parties, while not adapting to positional bargaining. Lack of power and leverage, and instead a focus on process, in this case can be an advantage as the political stakes of being involved are less high. On the other hand, having little leverage and often insufficient linkage with official actors for intended (need for a “safe space” and secrecy) or non-intended (lack of access to official processes or lack of political will of the parties for conflict resolution) reasons sometimes renders these processes, futile while they could enrich and “break” up some of the intractability of official processes.

Thus, especially in conflicts involving unrecognised entities, NGOs play an important role: the involvement of such actors can support parties and help to balance a process. Their focus on process over outcomes, and interests and needs over positions in such situations can provide a foundation for other efforts, and at best complement official efforts. Sustained dialogue, inclusive conflict analysis which allows for reframing, problem-solving and involving policymaking as well as negotiations have the potential to put a halt to the negative conflict spiral which reigns within the politics of unrecognised states. This is important as each failure of a peace process, in particular formal ones, creates further rifts between conflict parties risking slipping even deeper into intractability, increasing the conflict potential, as it might be the only way for self-assertion.

30 A. Herrberg and H. Kumpulainen (2008). 'The private diplomacy survey 2008. Mapping of 14 private diplomacy actors in Europe and America'. Brussels, Belgium: CMI.

TOWARDS AN EU POLICY OF NON-RECOGNITION AND ENGAGEMENT

A greater role for NGOs would allow the EU to pursue a policy of non-recognition *and* engagement. Such a policy would, of course, need to adapt to the idiosyncrasies of each individual conflict situation, but it challenges the isolationist tendencies that can result from supporting territorial integrity, and it allows for the conscious and strategic application of measures that support mediation and dialogue practices. It plays to the human security value of the EU, without compromising its position on territorial integrity (which might not always be unequivocally clear as it suggests). However, the real challenge for the EU as an active supporter in conflict resolution and transformation is its strategic use, its ability to enact and support the professional practice of mediation and dialogue, and the transparency of its approach.

Box 1. The EU's Policy of Engagement and Non-recognition in Georgia

Georgia provides a useful case study for an analysis of the opportunities and challenges presented by a policy of engagement with unrecognised states. The EU's policy in Georgia has been based on three key tasks: firstly, conflict prevention under the auspices of the EU Monitoring Mission in Georgia (EUMM) and the EU Border Management; secondly, conflict transformation, involving activities such as confidence-building measures; and thirdly, conflict settlement which concerns the EU-sponsored Geneva talks. These strategies have, however, been found wanting³¹ and therefore a rethink is under way.

The first attempt to respond to the challenge was presented in a non-paper produced by the EU (by the EU Special Representative (EUSR) of the South Caucasus and the Commission) during the 2009 Swedish Presidency. This suggestion for a revised EU approach is based on six essential tenets³² and upholds a policy of non-recognition, but it combines this with a policy of limited engagement and proposes the 'enhancement of contacts of civil society and populations of Abkhazia and South Ossetia' and an increase in confidence-building measures. The EU further seeks to increase its own visibility to enhance the population's understanding of the EU.

Parallel to this, Georgia formulated its own 'State Strategy on Occupied Territories: Engagement through Cooperation', followed by a Georgian Action Plan for Engagement. Both of these documents emphasise a human security approach, and suggest the creation of several instruments such as a Status Neutral Travel Liaison Mechanism, Status Neutral Travel documents for residents of Abkhazia, a Cooperation Agency and a Trust Fund. The documents were rejected by the Abkhaz authorities, but several measures stand a realistic chance of being implemented as they advance the interests of both sides. The EU's approach, therefore, seems compatible with the Georgian position, but such a close partnership also presents important challenges. Both Abkhazia and South Ossetia refuse to embrace a Western approach and are actively trying to undermine any efforts that are linked to the Georgian strategy; they argue that the EU's approach is, in fact, aiming to restore Georgia's territorial integrity, and confidence-building measures are therefore seen as a threat to their de facto statehood.³³

31 I. Khintba (2010). 'The EU and the conflicts in the Eastern Neighbourhood: The case of Abkhazia'. Heinrich Böll Foundation. 23rd September.

32 These are: 1) EU's position on territorial integrity and sovereignty; 2) contacts with de facto officials from Abkhazia and South Ossetia; 3) contacts with civil society and populations in Abkhazia and South Ossetia; 4) CBM projects in the breakaway regions; 5) contacts with Abkhaz and South Ossetian authorities recognised by the Georgian government; contacts with IDP populations; and 6) contacts with Russian officials and military in breakaway regions.

33 See I. Khintba (2010). Op. cit.

The EU has invested more taxpayer money in Georgia than in any other post-Soviet state, resulting in pressure to deliver projects and programmes on the ground, but 'the EU has not taken robust enough policy positions in these bilateral settings to play a truly effective role and has allowed its internal divisions to undermine the leverage it could bring as mediator'.³⁴ It is difficult to argue that the EU should avoid, or even override, a peaceful Georgian strategy for conflict resolution, but the EU's problem is that it has to ensure Abkhaz and Ossetian acceptance of its own policy of engagement. Doing this without alienating the parent state is likely to prove a challenge.

34 M. Frichova Grono (2010). 'Georgia's conflicts: What role for the EU as a mediator?'. IfP: Mediation Cluster. Available at http://www.initiativeforpeacebuilding.eu/pdf/Georgia_March2010.pdf

CONCLUSION AND RECOMMENDATIONS

Unrecognised states are often far removed from the anarchical badlands of the popular imagination, but they are still involved in conflicts that pose significant threats to regional stability and to human security. There is, therefore, a great need for engaging with them, and thereby trying to reach a peaceful settlement. Such engagement is, however, associated with important obstacles, especially for state-based actors such as the EU. This paper argues that effective mediation in conflicts involving unrecognised states is undermined by the use of power-based approaches and the framework of territorial integrity. But it suggests that the resulting asymmetrical process can be addressed by enhanced partnerships with NGOs and other specialised actors. Such partnerships will allow the EU to pursue a policy of non-recognition *and* engagement without violating the principle of territorial integrity and thereby alienating the parent state. The following strategies for developing a systematic policy of engagement with unrecognised states are proposed:

1. **The EU needs to develop a blueprint for engagement with unrecognised states.** Such blueprint could function as a guiding concept for EU policymakers to implement strategies and programmes that enhance the potential for conflict resolution and transformation. It should be applied as a toolbox that enables policymakers to take into account the specificities of conflicts. Such a blueprint would need to be communicated in an unambiguous and transparent fashion. Instead of closing doors and encouraging the status quo, it should open opportunities for dialogue, or at least provide a basis for activities that respond to the needs and interests of the parties concerned. Lessons learned from all conflict regions need to be part of such an approach.
2. **Concerted strategy.** With a multitude of actors on the ground, at headquarters and “up in the air” (EUSRs), an EU policy of non-recognition and engagement would need to make extra efforts to work in a strategic and concerted way. Focal points for mediation and dialogue in Delegations and Headquarters (External Action Service) might support this aim.
3. **Build capacities.** It is important to build capacities for all actors to engage constructively in dialogue and mediation at all levels. While many efforts and projects are often directed at the unrecognised entities because there is a void where official EU actors have less opportunity to officially engage, there is also a need to support the parent state to allow for conducive dialogue. Both sides need to develop a joint language and understanding of conflict management, resolution and transformation.
4. **Capacity-building within and for EU actors.** Mediation and dialogue sensibility often does not exist and EU actors therefore struggle to create enabling environments for conflict resolution and conflict transformation. To rectify this, EU delegations should be provided with sufficient backing to allow for capacity-building of the conflict parties, thereby enabling them to actually engage in transformative approaches, further enhancing mediation support functions of the EU. This could be done through training and provision of advisory services, similar to the UN's use of its Bureau for Conflict Prevention and Crisis Recovery (BCPR) advisers. Greater flexibility in using the Instrument for Stability to support both EU missions on the ground is therefore called for; for example, allowing the EUSRs access to special process expertise. This could be further supported by creating an EU roster for mediators and mediation experts.
5. **Enhance partnerships with NGOs and specialised actors.** It is important to enhance partnerships with NGOs and specialised actors who can implement a policy of engagement. As the EU's value added in conflict resolution is precisely its ability – through its range of financial instruments – to support NGOs

working in conflict environments, efforts need to be taken to create genuine and close partnerships. This work needs to be coordinated and strategic, complementing efforts of an engagement policy, while taking care that these will not become a self-perpetuating “industry in itself”. Care needs to be taken that NGOs will not be instrumentalised, and measures need to be taken to allow for a disengagement of efforts if this occurs. The enactment of genuine multitrack approaches will enhance the efforts of the EU in intrastate conflicts.

- 6. Support mediation by acceptable actors.** In a case when an actor, such as the UN, succeeds in becoming accepted as a “go between” for conflict parties, the EU should support such an effort through political backing and financial support, provided that it does not compromise its positions fundamentally. Even though this might mean that it will lose necessary political “limelight”, in the end, it will be able to capitalise on supporting a successful mediation.
- 7. Encourage and support conflict actors in devising their strategy and instruments.** The EU should encourage the efforts of conflict parties (parent states or unrecognised states) to make the effort to devise their own policy of conflict resolution. It should not be forgotten that, in the end, the peace needs to be owned by the parties and the EU’s role should be that of an enabling actor.

INITIATIVE FOR PEACEBUILDING

c/o International Alert
205 Rue Belliard, B-1040 Brussels Tel: +32 (0) 2 234 5792 Fax: +32 (0) 2 234 5799
ifp@international-alert.org www.initiativeforpeacebuilding.eu



THIS INITIATIVE IS FUNDED
BY THE EUROPEAN UNION

PARTNERS



International Alert.

