



EUROPA-UNIVERSITÄT
VIADRINA
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CONFLICT MANAGEMENT & THE EU

Report on the Discussion Panel at XX. Economic Forum
Krynica Zdrój, Poland – 9 September 2010



INTRODUCTION

Placing a particular emphasis on Eastern Europe, the **European University Viadrina Frankfurt (Oder)** holds a strategic partnership with the **Economic Forum in Krynica Zdrój, Poland**. At the Forum, often referred to as “Davos of Central and Eastern Europe”, every year representatives from business, politics, civil society and the sciences come together to discuss Europe’s recent developments and upcoming challenges.

In 2010, the European University organized two panel discussions, one led by the MBA Program ‘Management for Central and Eastern Europe’, the other by the Institute for Conflict Management. This report documents the panel discussion of the **Institute for Conflict Management**, where experts from different spheres discussed the current developments and the future perspectives in conflict management within and beyond the EU.

PANELISTS

- **Dr. Antje Herrberg**, Director of the European Forum for International Mediation and Dialogue (MediatEUR), Brussels, Belgium; Senior Mediation Advisor of the Crisis Management Initiative (CMI), Brussels, Belgium
- **Dr. Natalia Mirimanova**, Senior Advisor of the Eurasia Team at International Alert, Belgium; Co-Director of the Crimea Policy Dialogue (PATRIR)
- **Hannah Tümpel, M.A.**, Manager of the Dispute Resolution Services at the International Chamber of Commerce (ICC), Paris, France; Alumna of the Master Program in Mediation, European University Viadrina Frankfurt (Oder), Germany
- **Professor Günter Verheugen**, former Commissioner for Enterprise and Industry and Vice-President of the European Commission, Brussels, Belgium; Professor of European Governance, European University Viadrina Frankfurt (Oder), Germany

MODERATOR

- **Professor Dr. Lars Kirchhoff**, Professor of Public International Law and Director of the Institute for Conflict Management, European University Viadrina Frankfurt (Oder), Germany

COMMENTATOR

- **Anne Isabel Kraus**, Coordinator of the Institute for Conflict Management and the Center for Peace Mediation, European University Viadrina Frankfurt (Oder) / Humboldt-Viadrina School of Governance, Berlin, Germany

BACKGROUND

Effective conflict management is a vital part of successful business processes and security policy both on the national and the international level. Currently, in and beyond the EU a major paradigm shift is taking place in what constitutes the idea and the practice of effective conflict management: Power-based approaches in a first step have been gradually replaced by rights-based structures which are now in a second step increasingly opened to interest-based processes such as mediation and facilitated transformative processes.

Initially, civil society actors using participative processes were the main promoters of this new understanding of conflict management. The economic sector followed by establishing Alternative Dispute Resolution (ADR) mechanisms as effective business tools, supported for example by the Dispute Resolution Services at the International Chamber of Commerce (ICC) or the Round Table Mediation and Conflict

Management of German Economy (RTMKM). Now, the EU Council includes interest-based approaches in its official conflict prevention and intervention policy (see the European Council's Concept on Strengthening EU Mediation and Dialogue Capacities, 2009). However, power- and rights-based approaches still prevail in conflict management within the political sphere. A decisive question will be how to specify the role interest-based approaches will play when the EU acts as a conflict manager in the future.

Against this background, the panel discussion on "Conflict Management and the EU" held under the auspices of the Institute for Conflict Management brought together conflict management experts from economy, politics and civil society to exchange different perspectives and to jointly identify new options for action in conflict management within and beyond the EU.



PERSPECTIVES OF THE PANELISTS

The panelists were invited to share their perception of the paradigm shift and to highlight the specific challenges and lessons learned on promoting and implementing ef-

fective conflict management in their respective area of work in economy, politics and civil society. In the following, a short overview on their statements will be given.

HANNAH TÜMPEL, M.A., Manager of the Dispute Resolution Services at the International Chamber of Commerce:

“CONFLICT MANAGEMENT OUTSIDE THE COURTS IS COST-EFFECTIVE AND COMPANIES SHOULD TRY IT”

Not only companies have realized that they need flexible and efficient, cost- and risk-reducing dispute resolution procedures in their commercial disputes. States as well are becoming aware that they might not find a solution within their state court-system and are looking for procedures that respond to their interests and needs in a specific case. As arbitration and mediation allow for an agreeable autonomous solution, these proceedings can work even when previous negotiations have failed.

However, there is an active debate about the use of mediation and Alternative Dispute Resolution (ADR) for investor state disputes

and general disputes among state parties. Today 10 % of the mediation cases at the ICC already include states or state entities; but there is still reluctance to use it. For states it is much easier to initiate court proceedings because if they lose they can say: we did everything we could, we cannot be held accountable for the outcome of the judgment.



With the participative negotiating process and the joint responsibility for the outcome in mediation, states have to explain why the outcome has been the best solution possible without having a court to blame for it. In spite of that, states, state entities or state-parties increasingly take responsibility for finding appropriate dispute procedures, because they have a greater interest in making the outcomes more efficient. The standing and prestige of institutions like the ICC can be very helpful for convincing especially state parties of the advantages of ADR proceedings.

PROF. GÜNTER VERHEUGEN, former Commissioner for Enterprise and Industry and Vice-President of the European Commission:

“THE GREAT CHALLENGE FOR THE EU NOW IS TO DEVELOP A COMMON FOREIGN DEFENCE POLICY. PEACE MEDIATION AND PEACE ENFORCEMENT HAVE TO BE COMPONENTS OF THIS POLICY.”

Of course the EU is dealing with conflicts but not between Member States of the EU. The EU is a conflict resolution mechanism itself. Hence, there is no need to have a specific mediation or conflict solution mechanism within the EU.

However, conflict management is an extremely important issue for the EU in matters of its involvement in setting global conflicts. Politically we are not yet prepared to play a stronger role in this regard. Due to

structural and instrumental limitations, the EU is still perceived as a minor player in the field of external relations. Even the new Treaty of Lisbon is not sufficient to give the EU such a role.

Moreover, the Climate Conference in Copenhagen clearly showed that good intentions are not enough when there is a lack of strategy how to convince the other global players. In response to these shortcomings the EU is now establishing the European External Action Service (EEAS), formed in 2010. Nevertheless, the great challenge for the near future is to make sure that we have a common foreign and defense policy, which entails peace mediation and peace enforcement as important components. However, we have to develop the capacity to use all available instruments, from quiet diplomacy via sanctions to crisis management using military capacities as a last resort.



DR. ANTJE HERRBERG, Director of the European Forum for International Mediation and Dialogue:

“THE EU WOULD HAVE A CONSIDERABLE POTENTIAL TO ENGAGE AS A COMPETENT AND CAPABLE ACTOR IN PEACEMAKING”

Since the end of the Cold War we have an increase and not a decrease of armed conflicts which are intrastate rather than interstate. There is a strong increase in military expenditures worldwide. In contrast, the Instrument for Stability of the EU that deals with crisis response is spending only a very limited amount for mediation and facilitation of peace processes.

At the same time, there are clear signs that the way we enact diplomacy today, namely power diplomacy, may be efficient to pursue state interest but is not efficient to resolve conflicts: 85 % of all peace agreements fail within five years of their conclusion. This is because they have been power-brokered and pushed down the throats of decision makers. In processes where the EU is officially enacting its role as an international



peace mediator the elite level often brokers us to agreements which are not supported by society. In the light of this, the fact that the EU spends an enormous amount of its budget for NGOs working with civil society is a lost opportunity as we do not use it to let society participate in peace agreements. By creating more coherence between its instruments and making mediation part of it the EU could better exploit the potential for making long lasting peace. In addition to civil society, the EU and the private business sector could find ways in working together in the field of peace making.

Additionally, although a lot of money is being put into programs that attempt to solve conflicts on the ground, the instruments for this approach are not well-orchestrated yet. Now, with the implementation of the Lisbon Treaty the mediation sector has been left a side a bit as the new European External Action Service (EEAS) attracts a great deal of attention. We have to make sure that peacebuilding, peacemaking and mediation issues are not played off against each other but that all of them are integrated in the overall conflict prevention agenda.

DR. NATALIA MIRIMANOVA, Senior Advisor of the Eurasia Team at International Alert:

“THE OFFICIAL EU INSTITUTIONS HAVE POLITICAL AND CONCEPTUAL LIMITATIONS THAT PREVENT THEM FROM MEANINGFULLY ENGAGING WITH AND ADDRESSING STATE FORMATION CONFLICTS.”

We are talking today about the role of NGOs and civil society in peacebuilding precisely because the state does not have the monopoly in peacebuilding anymore. That is because conflicts in the European neighborhood mostly are conflicts between state order and the claim for self-determination of particular groups, which cannot be resolved in the court, unfortunately. Here, where there is a dispute about the role of the state, a very essential dispute, the role of civil society is increased in terms of peacebuilding and bringing the parties together. To this end,

civil society can create new formats of interaction and dialogue, drawing on regional traditions and media. The probably most challenging role of civil society in this context is to lead by example and to show that it is possible to discuss differences, to join hands to combat injustices and to protect victims.



Up to now, the EU’s external peacebuilding role is based on an ideal political paradigm which believes that if we establish democratic civil societies and liberal economy all around the EU we will consequently also have peace assuming that democracies do not fight wars with each other. But in reality that is not the case: peace will not come by itself and we need an additional

strategy to bring the two together. Accordingly, the question how to carefully combine democracy and peace building in the societies that are prone to conflict is a key challenge for every intervention.

FINAL STRATEGIC SUGGESTIONS

Apparently, there is a strong willingness and commitment within the EU to take the role of a global conflict manager. At the same time, most of the panelists mentioned a lack of strategy and cohesiveness.

At the end of the discussion the panelists were asked for their key strategic advice on what the conflict management focus of the EU should look like.

Antje Herrberg:

The one strategic advice I would give is that the EU must be able to understand its own role as a conflict manager. Before we do anything in terms of policy let's first make clear what that role looks like.

Hannah Tümpel:

Capacity building. We need to train and educate people in all areas of society who know how to efficiently solve disputes starting from lawyers over managers, politicians to NGO-workers. With-in this, there is a need for professionalizing methodology in order to be able to apply different procedures in different kinds of conflicts.

Günter Verheugen:

My advice would be: make it a hundred percent crystal-clear that there is only one voice that speaks for EU Foreign Policy. Do not allow people to continue with the usual EU power games behind the scenes.

Natalia Mirimanova:

Peacebuilding is not a hobby, it is a profession. I agree with the thought of capacity building. Then, I would call for creativity: just expand the box and try new formats and new methods.

SUMMARY

Summarizing the discussion, it can be stated that in all three spheres of economy, civil society and politics, effective conflict management must be *tailor-made*: instruments and institutions have to be able to respond to the specific needs of the parties, the characteristics of the conflict and the economic and political conditions.

Further, in the EU there is an abundance of conflict management *know-how* among civil society actors in the peace context and among companies using ADR procedures in the commercial field. However, to benefit from this expertise on the political level, the actors of politics, civil society and economy need to cooperate across the spheres and interlink activities more closely. For this purpose, mechanisms allowing for an effective knowledge transfer and strategic coordination are needed. Likewise, there is already an enormous body of *institutions and instruments* for conflict management in the EU. But there are still substantial structural limitations that up to now have prevented the EU to become a globally influential conflict manager. In addition to or within the European External Action Service (EEAS) professional mediation and dialogue capacities have to be established if the EU wants to play a bigger role in mediating peace in the international arena.

What seems to be the biggest challenge, however, is to fill the gap of a *coherent and comprehensive strategy* on how to realize

the ambitions of the EU to become a major player in conflict management. The panelists agreed that the EU is now required to develop a strategic concept based on a clear and focused idea of its aspired role and of the needs in building capacities.

Above all, conflict management implies a considerable *ethical and legal responsibility*: whoever is active in the field of conflict management has to be aware of the normative implications of intervention, for example as to what concerns the basis of legitimacy, the use of power, the selection of actors to participate. Every mediated intervention needs clear methodological and ethical guidelines.

LINKS

- Council of the European Union (2009): Concept on Strengthening EU Mediation and Dialogue Capacities
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www.eplo.org/assets/files/2.%20Activities/Working%20Groups/EEAS/EPLO_Statement_EEAS_Feb2011.pdf
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<http://www.international-alert.org>
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