

THE EUROPEAN UNION AND PEACEBUILDING
POLICY AND LEGAL ASPECTS

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UNIVERSITY OF LEUVEN

THE EUROPEAN UNION
AND PEACEBUILDING
POLICY AND LEGAL ASPECTS

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FOREWORD

Dear Reader,

You have in your hands the last part of a trilogy exploring the European Union's approaches to conflicts and crisis. The titles of these books present well the evolution of the international policy debate and thinking during the first decade of the 21st century from a relatively narrow pre-conflict perspective to a wider approach which encompasses all phases of the crisis. The first part published in 2004 was called 'The European Union and Conflict prevention', reflecting how conflict prevention was high on the agenda as a response to the Balkan Wars. In 2008 the second part, 'The European Union and Crisis Management', was published as the European Security and Defence Policy (ESDP)-missions had been operational for some years. Finally the series is completed in 2010 with "The European Union and Peacebuilding".

Peacebuilding is a somewhat flexible concept, of which there is currently no officially agreed international definition. However, this descriptive phrase is perhaps most useful in its most comprehensive sense – efforts aiming at a solid and lasting peace. For the European Union, peacebuilding requires bringing together a variety of external policy tools which include security aspects, mediation and preventive diplomacy, development cooperation and trade relations, in order to make an impact, be coherent and achieve sustainable results.

The European Union has made systematic efforts to ensure an integrated approach to peacebuilding. In this regard, the decisions adopted on the security and development nexus and on fragility in 2007 were a strategic step forward. We are engaged in various activities across the globe, such as for example supporting conflict resolution processes and ensuring the engagement of women in these, as well as building the peacebuilding capacities of regional organisations.

Successful peacebuilding requires taking on a preventive focus. Conflict prevention continues to lie at the heart of all European Union activities, as it is the most cost effective and life saving approach. Conflict prevention implies providing early and sustainable assistance to countries under stress and it is the best measure to avoid a relapse into conflict. While building for the future, we must strive to put an end to the suffering caused by legacies of conflicts, such as the scourge of landmines and other inhumane weapons, which continue to create a burden even decades later and delay development and prosperity goals.

Moreover, peacebuilding is also a joint effort in which the international community needs to work together. In this regard the United Nations, international and regional organisations and especially civil society are all vital partners for the European Union. However, international efforts need to involve local communities early on in order to create a nationally owned process, which is a requisite for lasting

peace. Only through partnership with local actors can international norms be combined with a respect and understanding of local context, and promote the transfer of responsibilities and ownership to the populations concerned. In this work we need to engage with local civil society as well as representatives of media and local business communities.

The link between peace, security and development has been widely recognised by the international community, and as a response, the United Nations Peacebuilding Commission (PBC) was created in 2005. The European Union is committed to actively supporting the work of the Peacebuilding Commission on the basis of its experience, resources and worldwide operability.

During the first five years the PBC has brought together all key players on the ground to enable a comprehensive approach to peacebuilding in selected post-conflict states. In 2010 the progress of the PBC so far will be examined in order to take on board lessons learned for the next steps, ensuring that it can discharge its mandate more effectively and better deliver real progress on the ground. 2010 is also the year for the Review Summit of the UN Millennium Development Goals (MDG) aiming at eradicating poverty. The link between countries affected by fragility and conflict and those lagging most behind in attaining the MDGs indicates clearly the need for stronger ties between security and development efforts.

I congratulate the authors of this informative and well-written book, who are not afraid of taking a critical approach. From the point of view of the EU institutions, it is published at a particularly timely moment, as we embark upon a new era in the European Union's external relations through the implementation of the Lisbon Treaty. I hope that you as a reader will find enriching this thorough and wide ranging description of the various aspects of peacebuilding, a concept that we will undoubtedly keep on discussing in the coming years and a goal at which we will continue to aim.

March 2010

Catherine ASHTON

*High Representative of the Union for Foreign Affairs
and Security Policy / Vice-President of the European
Commission*

PREFACE AND ACKNOWLEDGEMENTS

The present volume constitutes the last part of a triptych, with earlier works dealing with conflict prevention (V. Kronenberger and J. Wouters, eds., *The European Union and Conflict Prevention: Policy and Legal Aspects* (The Hague, T.M.C. Asser Press 2004)) and crisis management respectively (S. Blockmans, ed., *The European Union and Crisis Management: Policy and Legal Aspects* (The Hague, T.M.C. Asser Press 2008)). The obvious implication is that we aim at focusing on the final phase of peacemaking efforts to break conflict cycles, on *The European Union and Peacebuilding*.

Leading practitioners and prominent academics have been invited to explore the wide variety of policy and legal aspects of the European Union's contribution to building durable peace in countries ravaged by violent conflict. The book is testimony to the enormous complexity of international efforts to break conflict cycles, which requires both long-term commitment and a multi-faceted approach, combining the re-establishment of basic security with the promotion of respect for human rights, the rule of law, good governance and economic recovery.

Given the intricacies and dynamics of the editorial process, some of the contributions were completed prior to the entry into force of the Lisbon Treaty. Where appropriate, these contributions nonetheless refer to the impact expected from the new Treaty. Other chapters have integrated the institutional developments since the Lisbon Treaty became operational. In any event, the editors are convinced that this divergence does not detract from the value of the analyses, nor from the lessons drawn from years of inter-institutional practice and which should be taken to heart to make the Union's efforts in the field of peacebuilding more efficient and more effective.

We would like to express our sincere gratitude to the practitioners and academics who contributed to this volume. Thanks to their unique insights and high quality contributions, the book offers the first comprehensive and in-depth treatise of the role of the EU in the international peacebuilding endeavour. Special thanks also go to the T.M.C. Asser Instituut for financially supporting the production of this book, to Suzanne Habraken for her sub-editing and language-editing of the manuscript and to Steffen van der Velde for compiling the index and the list of abbreviations. This volume is the result of a fruitful cooperation between the Centre for the Law of EU External Relations (CLEER) and the Leuven Centre for Global Governance Studies.

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2. Theoretical approach to the EU's regional security and peace policy.

Recent years have witnessed the EU commencing a new phase of security and peace policy. Major questions have been set on the political agenda. How should this common policy be shaped? Peacebuilding aims at laying the foundation for sustainable peace and development. Peacebuilding measures seek to enhance the capacity of the state to effectively and legitimately carry out its core functions (UN, 2008). The legal system of the European Union (EU) offers domestic actors a powerful tool to influence national policy. European law can be drawn on by private litigants in national courts to challenge national policies. These challenges can be sent by national judges to the European Court of Justice (ECJ), which instructs national courts to apply European law instead of national law, or to interpret national law in a way compatible with European law. Not all national policies are affected by European law, and not all aspects of European law can be invoked before national courts. EU law reaches quite widely. In addition, if a national policy indirectly affects the free movement of goods, people, capital, or services (the four freedoms) there might be an EU legal angle of attack.

Bergmann, J. *The European Union as International Mediator: Brokering Stability and Peace in the Neighbourhood*, Springer, 2019. <https://www.palgrave.com/gp/book/9783030255633>. Beringer, S. L., et al. Blockmans, S., J. Wouters & T. Ruys (eds.), *The European Union and Peacebuilding: Policy and Legal Aspects*, The Hague, T.M.C. Asser Press, 2010. <https://www.asser.nl/asserpress/books/?rld=4234>. Hughes, J. (ed.), *EU Conflict Management*, London, Routledge, 2010.