# Final Report Summary - ATLAS (Armed Conflicts, Peacekeeping, Transitional Justice: Law as Solution)

## Project context and objectives

In order to end the work accomplished in work package (WP)2, its leader (UP1-CERDIN) organised a symposium entitled: ‘The role of third parties to armed conflict in the protection of the civilian population’. Following that event, UP1-CERDIN published the working papers of this symposium. The consortium was in charge of the elaboration of a guide for decision makers. Information was gathered and recommendations elaborated, aiming at enhancing the existing legal corpus to adequately reflect the configuration of contemporary armed conflict and to take into consideration the specific needs of the most directly affected civilian populations. Next to that it was aimed to determine whether there exists a general European Union (EU) policy with regard to the external dissemination and enforcement of human rights and international humanitarian law in armed conflicts.

The partner Magna Carta has been working on two different fronts. They drafted recommendations with

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### Project Information

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<td>Start date</td>
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<th>Coordinated by</th>
<th>UNIVERSITE PARIS I PANTHEON-SORBONNE</th>
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the assistance of international humanitarian law (IHL) experts and an expansive 'explanatory report' on each of the recommendations. In order to do the analysis and assessment of EU peace operations and assessment of the insertion of a human rights component to these operations, the UJI-UVEG team worked on the elaboration and coordination of both the study and the transversal analysis on the integration of the human rights and IHL component in the 24 EU PKO missions. The UJI-UVEG team has been in charge of the coordination of this work of the eight researchers involved and of the assertion of the scientific quality and adequacy of the reports. In order to assure the uniformity of all the analysis, the UJI-UVEG coordinator has elaborated and delivered to all researchers involved in this task a 'template' to be followed. This has assured that all reports provide all the information that was essential for the transversal analysis and focusing on the assessment on the presence of the human rights and humanitarian law component in the EU PKO.

The final reports have been reviewed in order to include comments and changes suggested during the round table with all researchers of the consortium. The main scope of the several missions' analysis is to facilitate an assessment regarding the inclusion of the human rights and humanitarian component in the mandate and objectives of the EU PKO mission and in the European security and defence policy (ESDP). Concerning the reflexion on the adaptation of institutional structures proposed for restoring the state, the College de France was in charge, jointly with Magna Carta and the PCLP-ULB, of a reflexion on the adaptation of the institutional structures set up to restore the rule of law and democracy. The partners have commonly decided to divide the fields of research in two main parts: the CF has focused on the instruments set up by the United Nations (UN). Magna Carta and the PCLP-ULB have studied the instruments used by the EU and non-governmental organisations (NGOs) to restore the rule of law in post-conflict situations.

The aim was to be able to compare the various tools used by the UN and the EU to determine focal points and differences between them and to determine if there is a 'universal' model of rule of law and democracy building or if the criteria of the rule of law and democracy are differing depending if they concern old occidental democracies or new democracies. It had been decided that each partner would write a report on the international organisation he was in charge of and that a general conclusion of the reports would be drafted jointly. In the framework of this same task and the practical effectiveness of a human rights component in peacekeeping operations other than the EU, Magna Carta and the Perelman Centre for Legal Philosophy, have completed the examination of the practical effectiveness of a human rights component in peace operations in general. In the framework of the analysis and assessment of the interaction of the actions of the EU and other international organisations (UN and NATO) in the event of concurrent or subsequent missions, the BIICL coordinated two field missions. They concentrated on the role of the international organisations in the post-conflict context and the presence of the EU within the frame of its ESDP. Both experts delivered their missions reports. The UJI-UVEG team organised a workshop on the 'Integration of a human rights component and IHL in peace operations'. The UJI-UVEG team is working on the workshop's working papers and on a best practices guide.

This deliverable will be a compilation of best practices on legal and institutional frameworks and measures that ensure respect for human rights and humanitarian law. Working on the task which concerns the respect of human rights and humanitarian law by members of peacekeeping missions, the UJI/UVEG and UP1-CERDIN teams developed a 'Code of conduct for civil and military peacekeeping personnel'
containing the norms of behaviour to be respected in the context of intervention. Magna Carta is working on sensitisation seminars which will allow the dissemination of the code of conduct. Related to the task concerning the long-term reconciliation through the promotion of national reconciliation and the (re)construction of the rule of law, Magna Carta and ULB-PCLP are involved in the writing of the report on philosophical controversies raised by processes providing amnesty and truth and reconciliation commissions in relation to the concept of a right to the truth and requirements of justice. The CdF is drawing the comparative study of criminal prosecutions and truth and reconciliation commissions in countries that were targeted by field missions. This work had been primarily built on the basis of field mission reports under the responsibility of the BIICL: Sierra Leone, Cambodia, Kosovo and Bosnia-Herzegovina. The UP1-CERDIN and the UB-HRC teams are working on the legal study of the struggle against impunity. Their aim is to examine the compatibility of amnesty processes with international and regional human rights norms. This examination will lead to the development of 'guiding principles of the struggle against impunity'. The ULB-PCLP has held the international conference on 'Jus Post Bellum and transitional justice'. This conference addressed Jus Post Bellum as a new legal phenomenon and as new legal practice.

Project results

Task 2.1. Applicable legal norms to protect civilian populations in the event of armed conflict

At the end of this WP, a symposium will be organised on the theme: ‘Strengthening the legal norms applicable during armed conflict’ (UP1-CERDIN). The objective is to draw conclusions on WP2. Participants are partners and members of the scientific committee, representative of a local authority / NGO present locally, experts acting as consultants to the project, representative from a national Ministry of Defence, a ICRC representative, representatives of national committees on IHL, researcher from the EU Institute of Security Studies and a member of the EU Committee for Civilian Aspects and Crisis Management.

Task 2.2. Promote respect for legal rules

Identification of the elements of a general EU external policy of promoting human rights and the determination of the instruments of legal action that are the most effective at the level of community bodies in the light of their binding character and of national practices.

Task 3.1. Integration of a human rights component in peace operations

Task 3.1.1 Promoting and protecting human rights and IHL

Analysis and assessment of EU peace operations and assessment of the insertion of a human rights component to these operations will be done. An assessment of the integration of a human rights component into these operations will be undertaken to determine successes and failures. A study will be made of the measures taken by the EU and by Member States to integrate the promotion of sex equality in crisis management. Reflexion on the adaptation of institutional structures proposed for restoring the state: the PCLP-ULB and the Institute for the Contemporary World will examine the adequacy of the institutional
structures proposed for restoring the state by strengthening the rule of law and democratic institutions, in the light of the differing social realities between post-conflict societies and the societies in which these structures were conceived. Next to that there will be an examination of the practical effectiveness of a human rights component in peace operations in general.

Interaction of the actions of the EU and other international organisations in the event of missions

Magna Carta will study the interaction between the organisations through the numerous reports on that subject realised by international organisations and national institutions. Two field missions will enable a practical analysis of the interaction between the three organisations: a first mission in Bosnia-Herzegovina and second one in Kosovo. Prior to the mission, the missionaries will consult with local experts who have agreed to act as consultants to the project. These experts will assist the missionaries during the missions. The ATLAS expert will meet with representatives of the organisations in the field and representatives of national institutions working with at least two of the three institutions. The expert will produce an analytical report of the missions. On the basis of that report and the report realised by Magna Carta, as well as scholarly analyses realised earlier, ILC-UJI will complete a recapitulative study and organise a workshop. On the basis of the conclusions of the workshop, the participants are to draft a best practices guide.

Task 3.1.2. Prevention and repression of violations of international human rights and humanitarian law

(1) Examine the legal framework applicable when personnel commits violations of international human rights and humanitarian law

ILC-UJI and UP1-CERDIN will develop a 'Code of conduct for civil and military peacekeeping personnel' presenting the norms of behaviour to be respected in the context of intervention and explaining the means of repressing violations. A similar code was developed in the early 1990s by the UN, but it is imprecise and not suitable for use in the context of EU peace operations. A new code will meet specific EU needs. It will be published on the ATLAS website and sent to all targeted institutions.

(2) Creation of seminars to sensitize civil and military peacekeeping personnel

Magna Carta will set up sensitivity training programmes encompassing civilian and military dimensions based on the code of conduct mentioned above and on numerous NGO reports presented in the field and denouncing violations of international human rights and humanitarian law by peacekeeping personnel.

Task 3.2. Long-term reconciliation through the promotion of national reconciliation and the (re)construction of the rule of law

A cross-cutting, pluridisciplinary, philosophical, historical, sociological and legal approach to the struggle against impunity will be taken in examining the various political and legal means apt to satisfy the requirements of this struggle. This examination will be done in three stages:

(1) A philosophic and historical study of the issue:

In this context, the PCLP-ULB and Magna Carta will put into perspective the philosophical and sociological controversies raised by processes providing amnesty and truth and reconciliation commissions in relation to the concept of a ‘right to the truth’ and requirements of justice. The College de France will provide a comparative analysis and assessment of criminal prosecution and truth and
reconciliation commissions in states targeted by the study. His research will be done in the light of the rights of victims in courts. The College de France will identify the historical circumstances in which setting up a process providing amnesty and the establishment of a reconciliation commission is more likely than criminal prosecution to assure national reconciliation, or whether it is preferable to combine the two methods.

(2) A legal study of the struggle against impunity:
UP1-CERDIN and HRC-Bucharest will examine the compatibility of amnesty processes with international and regional human rights norms. This examination will lead to the development of 'Guiding principles of the struggle against impunity', which will include, for example, the minimum requirements that must be satisfied by amnesty measures or by truth and reconciliation commissions, such as independence and impartiality and the provision of reparations to victims.

(3) Two field missions in order to appreciate the effectiveness of various methods of reaching national reconciliation combating impunity:
- The cross-disciplinary and the legal studies will be transmitted to the experts.
- A first mission will consist in meeting personnel of the Truth and Reconciliation Commission in Haiti and interviewing representatives of national institutions and local NGOs to take stock of the contribution of the Commission to national reconciliation. These interviews will be realised with NGOs working to combat impunity and to vindicate the rights to reparations of victims of human rights violations. They will bring a practical clarification regarding the ability of various processes to foster long-term national reconciliation in the light of the victims' expectations.
- A second mission will be carried out in Cambodia to evaluate the early activity of the Special Tribunal for Cambodia. Interviews will be completed with Tribunal personnel, representatives of national institutions, and local NGOs.

Based on the previous studies, a workshop will be organised by the PCLP-ULB and Magna Carta. Participants will offer historical, philosophical and legal perspectives on the issue of the struggle against impunity, from a theoretical and a practical point of view. Participants included partners, representatives of the tribunals and reconciliation commissions and local NGO representatives.

Potential impact

Task 2.1. Exam of the adequacy of the applicable legal norms to protect civilian populations in the event of armed conflict, particularly their adaptation to the specific needs of the most vulnerable populations

At the end of this WP, a symposium will be organised on the general theme: 'Strengthening the legal norms applicable during armed conflict' (UP1-CERDIN). Therefore, UP1-CERDIN organised a symposium entitled: 'The role of third parties to armed conflict in the protection of the civilian population'. Following that event, UP1-CERDIN published the working papers of this symposium. The aim of the publication was to present both the practitioners' and academic viewpoints. All participants but one agreed to submit their final paper. The person missing was replaced by Florence Parodi, PhD, whose article concerned the role of private military companies. A member of the UP1-CERDIN team, Svetlana Zasova, has written an article
which was inserted in the publication. The article is entitled ‘Le rôle des organisations internationales dans l’incitation des groupes armés au respect du droit international humanitaire: quo vadimus?’.

The first topic tackled in the article is related to information as a means of promotion of IHL. The second part of the article focuses on the credibility of international organisations which are parties to a conflict or which are supporting a party to a conflict as inciters of the respect of IHL. The violation of IHL by an international organisation, in conditions where the responsibility of the organisation cannot be engaged, stands on the way of the role of international organisations as inciters to the respect of humanitarian law. The problem is raised concerning the deployment of the ISAF in Afghanistan. The same negative result could be achieved by way of support of one of the parties to the conflict by the organisation. The assistance provided to the Congolese armed forces by the UN peacekeeping force deployed in Congo was analysed and condemned.

Task 2.2. The means of dissemination of concrete action by the EU to promote the respect for legal rules applicable in this area and to improve them

The Grant Agreement provides for the identification of the elements of a general EU external policy of promoting human rights. Determination of the instruments of legal action the most effective at the level of community bodies in the light of their binding character and of national practices and the development of a general EU policy in this area. The BIICL was in charge of the study of the integration of a human rights component and IHL in the various European policies. A final comprehensive report has been uploaded on the ATLAS website.

The consortium was in charge of the elaboration of a guide for decision makers. Magna Carta gathered information provided by the other members of the consortium and elaborated recommendations, aiming at enhancing the existing legal corpus to adequately reflect the configuration of contemporary armed conflict and to take into consideration the specific needs of the most directly affected civilian populations and also at determining whether there exists a general EU policy with regard to the external dissemination and enforcement of human rights and IHL in armed conflicts. If so, establish a typology of this policy with regard to the practices of various Member States. With this aim in mind, Magna Carta has been working on two fronts. They drafted recommendations with the assistance of IHL experts and an expansive ‘explanatory report’ on each of the recommendations. These recommendations have been discussed during the expert roundtable in Brussels. The following members of the expert group have contributed to the IHL recommendations during the roundtable and through individual consultations: Oscar Solera, Knudsen Morten, Gloria Gaggioli, Sebastien Botreau-Bonneterre, Andrea Breslin, Pierre Hazan, Daniel Descoutures, BIICL.

The commentaries of the experts and of the partners of the ATLAS consortium have been duly received by Magna Carta and incorporated into a newer version as sent to the partners of the ATLAS consortium on 17 December 2010. A final version of the IHL recommendations was sent to the partners and to the European Commission (EC) in February 2011. The team of experts for the IHL recommendations existed of several professors and doctors. The ATLAS IHL recommendations are published on the ATLAS website: http://projetatlas.univ-paris1.fr/spip.php?rubrique28
Task 3.1. Integration of a human rights component in peace operations

Task 3.1.1 Promoting and protecting human rights and IHL in peace operations undertaken by the EU

In the framework of this sub-task, members of the consortium have to realise the following steps:

- Analysis and assessment of EU peace operations and assessment of the insertion of a human rights component to these operations. ILC-UJI and Magna Carta will be responsible for the analysis of various peace operations undertaken under the auspices of the EU. An assessment of the integration of a human rights component into will be undertaken to determine successes and failures. A study will be made of the measures taken by the EU and by Member States to integrate the promotion of sex equality in crisis management.

- Reflexion on the adaptation of institutional structures proposed for restoring the state: The PCLP-ULB and the Institute for the Contemporary World will examine the adequacy of the institutional structures proposed for restoring the state by strengthening the rule of law and democratic institutions, in the light of the very differing social realities between post-conflict societies and the societies in which these structures were conceived.

- Examination of the practical effectiveness of a human rights component in peace operations in general:
  
i. Two members of Magna Carta will study the numerous reports by NGOs participating in peace operations, such as the Human Rights Watch and Amnesty International, on the effectiveness of peace operations in promoting and protecting human rights.
  
ii. A mission in Bosnia-Herzegovina will then be undertaken. Interviews conducted with representatives of national institutions as well as with members of NGOs will provide the basis for an assessment of the effectiveness of the human rights component in EU peace operations. Local experts will help the missionary establish the contacts prior to the mission, and will assist him during the mission.

Analysis and assessment of EU peace operations and assessment of the insertion of a human rights component to these operations.

In order to realise this task, the UJI-UVEG team has worked on the elaboration and coordination of both the study and the transversal analysis on the integration of the human rights and IHL component in the 24 EU PKO missions. The UJI-UVEG team was in charge of both the coordination of this work of the eight researchers involved and of the assertion of the scientific quality and adequacy of the reports to the objectives. In order to assure the uniformity of all the analysis, the UJI-UVEG coordinator of this task has elaborated and delivered to all the researchers involved in this task a 'template' to be followed. This has assured that all reports provide with all the information that was retained essential for the transversal analysis and focusing on the assessment on the presence of the human rights and humanitarian law component in the UE PKO. Moreover, the UJI-UVEG researchers have contributed to this study with the analysis of the following EU missions: EULEX, EUPOL, EUPAT, CONCORIA, PROXIMA, EUJUST-THEMIS, EUMM, EUJUST-LEX, and EUMM. BIICL was in charge of organising and dispatching two field missions to Bosnia and Herzegovina and Kosovo in connection of the presence of the EU within the frame of its ESDP in these countries.

Ms Fidelma Donlon undertook the mission in Bosnia-Herzegovina and went to Sarajevo in March 2010.
She has extensive experience in BiH as Former Head of the Office of the High Representative Criminal Institutions and Prosecutorial Reform Unit and Deputy Registrar of the War Crimes and Economic Crimes Chambers in the Court of Bosnia and Herzegovina. BIICL made contacts with several officials from EUSR, EUHM, EUFOR-Althea, the EC delegation, the Ombudsmen of Human Rights, as well as various state-level Ministers. For the purposes of the completion of this task, Magna Carta has delegated some aspects to the Perelman Centre for Legal Philosophy. The latter assessed and analysed 11 EU peacekeeping missions in accordance with the template provided by ILC-UJI. Magna Carta remains associated to the realisation of this task in providing research expertise and resources. The Magna Carta team provided reports on the following missions: ARTEMIS, EUFOR RD Congo, EU Military Operation in the Republic of Chad and in the Central African Republic, EUSEC RD Congo, EU Civilian-Military Supporting Action to the AU Mission in the Darfur Region of Sudan, EU SSR Guinea-Bissau, EUPOL Kinshasa, EUPOL RD Congo, EUPOL COPSS, EU BAM Rafah, Aceh Monitoring Mission - AMM.

Finally, the BIICL redacted four reports on the following ESDP missions: EUPM and EUFOR-Althea in Bosnia-Herzegovina, EUNAVFOR Atalanta and EUTM in Somalia. Draft reports were exchanged between ILC-UJI and BIICL. An updated version of this pro-forma document was sent to the BIICL, following a round table organised in Castellon by ILC-UJI where all the partners involved in this task presented an overview of their reports and where comments were exchanged. It was decided during the subsequent steering committee meeting in Castellon that the 24 reports are to be published, following the updated pro-format document to ensure consistency and a unified structure. Each of these reports gave a clear analysis on the context of the situation of the (post-) conflict and on the reference to a human rights, IHL and gender component in the mandate of those missions. These reports also highlighted individual and collective problems present in the respective EU peacekeeping missions or in the overall structure of the ESDP. In this regard, each of these missions' report has drafted certain legal and policy proposals that address these outstanding problems on headquarters level as well as on the ground. All partners involved in this task have adequately complied to the timetable and the objectives of the analysis. However, it is to be underlined that researchers found some difficulties due to the fact that many of the EU relevant documents are not accessible to general public. Following our request to the General Secretariat, the council denied the deliverance of this documentation in alleging that the disclosure of the information could be disadvantageous to the interests of the EU or of one or more of its Member States and that it could undermine the efficiency of the mechanisms allowing the EU to respond swiftly to crisis situations.

The final reports have been reviewed in order to include the comments and changes suggested during the round table organised by the University of Castellon. The following researchers participated in this meeting: Milena Costas; Faria Medjouba; Matthias Vanhullebusch; Alejandra Videla; Israel Biel; Clara Rey; Hela Ben Hadj; Ruth Abril; Ainhoa Uribe; Alberto Arrufat. This meeting was fruitful as it allowed the researchers to discuss about the development of their work and the different difficulties that were found. Each participant presented a brief overview of her/his missions, followed some concluding remarks. In the Steering Committee of Castellón, it was agreed that the study on the 24 EU PKO missions was a valuable ATLAS outcome and should be published by UJI-UVEG along with the transversal analysis and the two experts field missions. UJI-UVEG made a draft with the compilation of all the analysis of the missions and delivered it to partners with further general guidelines aiming at giving uniformity and coherence to the final outcome.
A publication of the 24 EU PKO study and the transversal analysis is foreseen. The UJI-UVEG team is working on its structure and on the harmonisation and completion of all reports. In accordance with the timetable presented to partners, the final draft report was already sent to partners. On the basis of the analysis of these 24 missions, the UJI and UVEG teams are elaborating a transversal analysis of the human rights and humanitarian component in EU PKO missions. The main scope of the several missions’ analysis is to facilitate an assessment regarding the inclusion of the human rights and humanitarian component in the mandate and objectives of the EU PKO mission and more in the ESDP. Three researchers of the UJI and UVEG are in charge of developing this analysis on the basis of the several documents collected and the report on the 24 EU PKO. Apart from the general analysis on the integration of the human rights and humanitarian law component, the transversal analysis will specifically deal with the assessment on: the integration of the gender perspective; the contribution to the rule of law; the question of the detention by EU forces and the treatment of detainees. The transversal analysis is based on the main concerns and lessons learned drawn from the EU PKO missions and it delves into the weaknesses and strengths of the EU operations within the framework of the EU common security and defence policy.

With this aim and on the basis of the practice, some general conclusions were drawn. At this stage of the research the main conclusions of this analysis are the following. Generally speaking there is a lack of stress on the human rights component in the EU operations’ mandates. The first EU missions launched have suffered from a common weakness: the lack of proper planning when dealing the rule of law operations, which has led to a crucial loss of time, money and human resources. There was a lack of coordination among the EU actors deployed on the field and between the EU and other organisations’ operations that have similar mandates. The definition of the mandate is not always clear. Personnel and contingents have doubts about what implementing the rule of law within 'European and international standards' means or about the limits of the rule of law. On the second point, the College de France was in charge, jointly with Magna Carta and the PCLP-ULB, of a reflexion on the adaptation of the institutional structures set up to restore the rule of law and democracy. The objective of this reflexion was twofold. It consisted in questioning the means used in order to restore the rule of law and democracy in the post-conflict situations. It aimed at assessing the adaptation of these means compared to social realities to which they apply. The first part of the study was focused primarily on the realisation of cartography of the instruments used to restore the rule of law and the democracy and on an analysis of the objectives of the various instruments. Rather than to make the assumption that the objective of these instruments is to transpose the model of the Western liberal democracy abroad, the study has sought to highlight, by the analysis of the instruments used, that those draw contours of 'politico-legal models' of which it belongs in search of highlighting the essential characteristics. From this point of view, research has been done to establishment of a typology of the instruments, comparative analysis of the objectives of these instruments and identification of the models implied by the various instruments. At the end of the first part of the research, the participants highlighted the various models or definitions of the 'democracy and rule of law' carted by the instruments used both by EU and UN. The action of these institutions in the field of the adaptation of the institutional structures to the rule of law and democracy covers a large range of instruments pursuing various objectives. It was thus necessary to narrow the scope of the study. Regarding the first results of preliminary research, it has appeared that the field of the rule of law was both more problematic and more topical than the field of 'democracy'. Taking into account the general objectives of the ATLAS project, it seemed relevant to focus on the way the EU and the UN promote the
rule of law through peace missions. As for their organisation, the partners have commonly decided to
divide the fields of research in two main parts: the CF has focused on the instruments set up by the UN.
Meanwhile, Magna Carta and the PCLP-ULB have studied specifically the instruments used by the EU
and NGOs to restore the rule of law in post-conflict situations. The aim was to be able to compare the
various tools used by both the UN and the EU to determine focal points and differences between them and
to determine if there is a 'universal' model of rule of law and democracy building or if the criteria of the rule
of law and democracy are differing depending on the concern old occidental democracies or new
democracies. To this aim, it had been decided that each partner would write a report on the international
organisation he was in charge of, and that a general conclusion of the two reports would be drafted jointly.

At the end of month 24, the College de France proceeded with the identification of the whole categories of
instruments of restoring the rule of law and realised a bibliographical state of the art on literacy relating to
the UN peace missions' action in re-establishing the rule of law. The College de France then went on with
its reflexion on the adaptation of the institutional structures set up by UN peace missions to restore the rule
of law in post-conflict situations. The first observation had been the multiplicity of actors and tools within
the UN system which play a role in rule of law and democracy building. Consequently, the meaning of 'rule
of law' and 'democracy' goes far beyond the post-conflict context and confirmed choices about the area of
research. The action of peacekeeping operations and missions seem the most likely to illustrate UN tools
in restoring the rule of law in post-conflicts situations. Regarding the long and ever growing UN peace
building activities, it had been necessary to select representative examples of post-conflict countries in
which UN has played a significant role.

The choice had also been made considering the field missions led within the ATLAS project. The study
deals with two countries each from three continents: Burundi and Sierra Leone for Africa, Timor Leste and
Cambodia for Asia, and Bosnia-Herzegovina and Kosovo for Europe. The analysis enabled us to draw a
model of what UN means by rule of law, what the tools used are according the various step of post-conflict
situations and the way UN takes into account the local characteristics to ever adapt its action to the
evolving country needs. The College de France and Magna Carta / PCLP-ULB will finalise the joint
introduction and conclusion of both reports on EU and UN peace missions' actions in the field of rule of law
building in post-conflict societies.

Concerning the report on the practical effectiveness of a human rights component in peacekeeping
operations other than the EU, Magna Carta and the Perelman Centre for Legal Philosophy have completed
the examination of the practical effectiveness of a human rights component in peace operations in general
as specified under in the Grant Agreement and have submitted this working paper to ILC-UJI. Few NGO
reports, however, have been produced on the effectiveness of the human rights component of the
European peacekeeping missions. In addition, few of those missions have an explicit human rights
component in their mandates. Magna Carta remains fully associated to the realisation of this task in
providing research expertise and resources. During the steering committee of 26 November 2010 at ILC-
UJI, this report has been discussed and comments have been implemented according the new directions
given by the scientific partners and the report has been submitted to the coordinators on 13 February
2011. According to the Grant Agreement, a second objective of this sub-task was to analyse and assess
the interaction of the actions of the EU and other international organisations in the event of concurrent or
subsequent missions. The Magna Carta will study the interaction between the three organisations through
the numerous reports on that subject realised by international organisations and national institutions. Two field missions will enable a practical analysis of the interaction between the three organisations: a first mission will be carried out in Bosnia-Herzegovina; a second will be realised in Kosovo. Prior to the mission, the ATLAS missionaries will consult with local experts who have agreed to act as consultants to the project. These experts will also assist the ATLAS missionaries during the missions. The expert will meet with representatives of the three organisations in the field, as well as representatives of national institutions working with at least two of the three institutions. The expert will produce an analytical report of these missions.

On the basis of that analytical report and the report realised by Magna Carta, as well as scholarly analyses realised earlier, ILC-UJI will complete a recapitulative study and organise a workshop. On the basis of the conclusions of the workshop, the participants are to draft a best practices guide. Therefore, a list of questions and issues raised by the various missions were drafted by UJI1, the Universita Valencia and Magna Carta, in consultation with BIICL. These served as guidelines for the experts for conducting their interviews and drafting their reports. The BIICL was to manage and coordinate the two field missions. The focus of these missions was different to those to be conducted under Task 3.2 concentrating instead on the role of the various international organisations in the post-conflict context and the presence of the EU within the frame of its ESDP in these countries. The missions were conducted with the help of local experts chosen by the partners and acting as consultants on the project. The BIICL was in charge of organising and dispatching the two field missions and found the relevant experts for the missions.

Ms Fidelma Donlon went to Sarajevo in March 2010. She has extensive experience in BiH as Former Head of the Office of the High Representative Criminal Institutions and Prosecutorial Reform Unit and Deputy Registrar of the War Crimes and Economic Crimes Chambers in the Court of Bosnia and Herzegovina. In organising the mission, the Institute had to make contacts with several officials from EUSR, EUPM, EUFOR-Althea, the Ombudsmen of Human Rights, as well as various state-level Ministers. Ms. Consuelo Navarro Susino undertook the mission to Kosovo. She is currently involved in the EC TWINNING project in Kosovo. The list of instructions sent by the Universita Valencia and Magna Carta was forwarded to both of them. Both experts have delivered their mission reports and they have been forwarded to the consortium for its comments and then to the relevant partners, after the Commission’s approval. They have also been uploaded on the ATLAS website. On the basis of these achievements, the UJI-UVEG team organised a workshop on the 'Integration of a human rights component and IHL in peace operations' held in Castellón on 25 and 26 November 2010. The workshop approached on a two-day programme and was structured in the following four panels:

Panel 1 - International human rights law and IHL: Legal framework applicable to EU missions
Panel 2 - Drafting EU missions’ mandates and rules of engagement: application and assessment of human rights component and IHL
Panel 3 - Coordination and cooperation of EU missions with other international organizations
Panel 4 - Violations of human rights and IHL by the missions: Assessment of EU liability.

Seventy-five people were invited and participated to the colloquium. The participants were mainly academic and practitioners, all experts in the field of peacekeeping, human rights and IHL. The participants came from international and regional organisations such as the EU Council, the EC, NATO, UN, ICC, OSCE, ICRC, ICTY, and other international organisations.
Council of Europe, ICRC, OSCE, the ICTY, Spanish Red Cross and several Spanish and other European Universities and research centres were invited to participate. Out of them 16 participated in the colloquium as chairmen, panellists or discussants. The international colloquium was organised with the objective of favouring an eminently practical meeting among experts and practitioners in the field. This objective was determined not only by the choice of the participants, but by the intention of generating a relevant discussion and significant suggestions to reach a number of practical conclusions to be included in a feasible 'code of conduct' and a 'best practice guide', trying to complete the existing ones. The choice of the topics and the experts participating in the different panels was made from the same prospective; obtaining the maximum benefit from the workshop outcomes for the ATLAS project objectives.

All panellists and discussants sent a written contribution in advance, which was distributed beforehand among the rest of participants facilitating in this way a more vivid and fruitful discussion. The meeting was held in Spanish and English and was recorded for dissemination purposes. The workshop's conclusions were presented by a member of the University Paris I and a member of the University of Castellón and included both a general conclusion on the theoretical debate and some practical recommendations. Some of these specific recommendations would be as follows: The organisation of the workshop of Castellon constituted a relevant opportunity for the dissemination of the project, not only among practitioners and academics, but also to a wider public. The workshop contributions and conclusions will be published in a collective book coordinated by the UJI-UVEG team. The team will therefore work during the next months on the coordination and editing of this publication. Concomitant to the workshop, the UJI-UVEG team organized a photo exhibition in collaboration with the Spanish Ministry of Defence, which has definitely contributed to the diffusion of both the ATLAS workshop and project. The exhibition offered a good overview on the participation of the Spanish Army in peacekeeping operations through 33 selected pictures of the 20 years of the Spanish participation in the peacekeeping missions in Africa, the Americas, Asia and Europe.

Best practices guide

In the Castellón steering committee, it was agreed that regular contacts would be maintained between the two researcher partners involved in this task (UJI and ULB). The objective is to elaborate a practical and simple document from the basis of the main outcomes coming from the EU PKO study. Particular attention will be devoted to the EU as well as to other international organisations' practice. The elaboration of this best practice guide is meant to closely support the code of conduct and therefore it is foreseen that it will be presented at the same time. At this stage, the ATLAS team is working on the drafting of this deliverable. They work on the integration of the Human Rights and IHL component and their oversight. The best practice guide document is meant to be a compilation of best practices on legal and institutional frameworks and measures that ensure respect for human rights and humanitarian law, including on their oversight. The compilation will therefore be the outcome of a consultation process where experts and practitioners provided their input in various ways. It synthesises the main outcomes of the ATLAS study on the 24 EU civil and military missions realised under the ESDP and the ATLAS workshop on 'The insertion of human rights component and IHL in peacekeeping missions led by the EU'. Therefore, the elements of best practice will be distilled from existing and emerging practices from the EU, UN and other relevant international organisations in the field specially the CoE and the OSCE. The compilation also draws upon international treaties, resolutions of international organisations and the jurisprudence of regional courts.
Task 3.1.2. Prevention and repression of violations of international human rights and humanitarian law committed by members of peace missions

According to the Grant Agreement, this task has a double objective. The first one is to examine the legal framework applicable when staff commits violations of international human rights and humanitarian law. ILC-UJI and UP1-CERDIN will develop a 'Code of conduct for civil and military peacekeeping personnel', presenting the norms of behaviour to be respected in the context of intervention and explaining the means of repressing violations. A similar code was developed in the early 1990s by the UN, but it is imprecise and is not suitable for use in the context of EU peace operations. A new code will meet specific EU needs. It will be published on the ATLAS website and sent to all targeted institutions. Next to that, the task contains the creation of seminars to sensitise civil and military peacekeeping personnel. Magna Carta will set up sensitivity training programmes encompassing both civilian and military dimensions based on the code of conduct mentioned above, as well as on numerous NGO reports presented in the field and denouncing violations of international human rights and humanitarian law by peacekeeping personnel.

UJI and UVEG and UP1-CERDIN teams are developing a 'Code of conduct for civil and military peacekeeping personnel', containing the norms of behaviour to be respected in the context of intervention. The drafting of a code of conduct (CoC) for civil and military peacekeeping personnel constitutes one of the main deliverables of WP3. The objective is to elaborate a specific CoC that meets the specific EU needs on the basis of the existent UE and other IIOO's practice on human rights and humanitarian law issues in order to cover the present failures. Our study will determine and define the content of a set of IHL rules to be respected and implemented by EU contingents. Each rule will be accompanied by a commentary regarding its application and the relevant case law. Finally, it is also foreseen that the CoC will include an explanation regarding the means of repressing violations and will make valuable recommendations to improve this aspect. In accordance with the distribution of the tasks agreed with the University of Paris I, the UJI and UVEG team is in charge of studying the legal framework of UE PKO's regarding IHL. As a first step, three main areas have been identified:

1) mission typologies;
2) interaction with other OOi;
3) Vulnerable groups.

In a second phase, our team has selected, systematised and organised the relevant bibliography and documentation regarding these main issues. Following the timetable that has been agreed between UJI and UP1-CERDIN, the two teams compiled, systematised and analysed the bibliographical and documentary material. Thereafter, they drafted the two parts of the CoC.

Two researchers of the UJI team contributed to this task with the elaboration of the bibliography to be used by the researchers involved in the elaboration of this important deliverable. The whole team deemed it necessary to draft an explanation to the CoC. The final CoC is a flexible document, allowing the researchers to contribute with new ideas and inputs as they deepen their knowledge on the topic. The CoC should be flexible enough to include a core of common norms applicable in every situation, norms that have a specific application in a concrete situation and norms related to the protection of specific vulnerable groups.
groups. The objective was to complete a draft of the code by the end of October in order to present it. The teams working on this CoC transmitted the document to Magna Carta, the partner in charge of the dissemination of the document. Magna Carta is presently working on the training programme that will allow the partners to disseminate the CoC in their respective states.

**Task 3.2. Long-term reconciliation through the promotion of national reconciliation and the (re)construction of the rule of law**

According to the Grant Agreement, a cross-cutting, pluridisciplinary, philosophical, historical, sociological and legal approach to the struggle against impunity will be taken in examining the various political and legal means apt to satisfy to the requirements of this struggle. This examination will be organised in three stages: The cross-disciplinary approach requires a philosophic and historical study of the issue. In this context, the PCLP-ULB and Magna Carta will put into perspective the philosophical and sociological controversies raised by processes providing amnesty and truth and reconciliation commissions in relation to the concept of a ‘right to the truth’ and requirements of justice. Also, the College de France will provide a comparative analysis and assessment of criminal prosecution and truth and reconciliation commissions in states targeted by the study. This will be done in the light of the rights of victims in courts. On the basis of its analysis, the College de France will identify the historical circumstances in which setting up a process providing amnesty and/or the establishment of a reconciliation commission is more likely than criminal prosecution to assure national reconciliation, or whether it is preferable to combine the two methods. A legal study of the struggle against impunity will complement these analyses. UP1-CERDIN and HRC-Bucharest will examine the compatibility of amnesty processes with international and regional human rights norms. This examination will lead to the development of ‘Guiding principles of the struggle against impunity’, which will include, for example, the minimum requirements that must be satisfied by amnesty measures or by truth and reconciliation commissions, such as independence and impartiality and the provision of reparations to victims.

Two field missions will be carried out in order to appreciate the effectiveness of various methods of reaching national reconciliation combating impunity. The cross-disciplinary and the legal studies will be transmitted to the experts. A first mission will consist in meeting personnel of the Truth and Reconciliation Commission in Haiti and interviewing representatives of national institutions and local NGOs to take stock of the contribution of the EC to national reconciliation. These interviews will be realised with NGOs working to combat impunity and to vindicate the rights to reparations of victims of human rights violations. They will bring a practical clarification regarding the ability of various processes to foster long-term national reconciliation in the light of the victims’ expectations. A second mission will be carried out in Cambodia to evaluate the early activity of the Special Tribunal for Cambodia. Interviews will be completed with Tribunal personnel, representatives of national institutions and local NGOs.

Magna Carta has delegated some aspects of this task to the Perelman Centre for Legal Philosophy.

Magna Carta remained associated to the realisation of this task in providing research expertise and resources. Both partners are currently involved in writing the report on philosophical controversies raised by processes providing amnesty and truth and reconciliation commissions in relation to the concept of a right to the truth and requirements of justice. The CdF is currently drawing the comparative study of criminal prosecutions and truth and reconciliation commissions in countries that were targeted by field
missions. This work was primarily built on the basis of the field mission reports under the responsibility of the BIICL: Sierra Leone, Cambodia, Kosovo and Bosnia-Herzegovina. Regarding this task, CF has worked with BIICL to establish the basis of the final report. The BIICL team has undertaken the analysis of two specific situations that had been targeted by the field missions: Sierra Leone and Cambodia. The CF has been in charge of two other cases: Bosnia-Herzegovina and Timor Leste. Initially, Haiti was designed to be a field mission but it did not take place. That is why Timor Leste seemed to be more relevant as such than Haiti in regard to the scope of this part of the research. Timor Leste illustrates a post-conflict situation in which there is an interesting combination of multiple options of transitional justice. It provides basis of analysis of both judicial process and truth and reconciliation commissions and mostly shows how they fit together. Each of these examples illustrates the variety of solutions that practice reveals when the international community wants to promote peace, reconciliation and justice. They were selected also because they show how each local context impacts on either the kind of mechanism chosen or the respective importance given to each of them. This first part of the work consisted of recalling the historical, political and social background of the conflicts. Then, the teams focused on the various methods chosen to achieve national reconciliation and justice. It implied for each targeted country to examine the mandate, the composition and jurisdiction, and the functioning of judicial and non-judicial solutions in order to assess the impact of each of them on the national reconciliation. Of course, the challenge was to comprehend these transitional solutions not from an isolated perspective but rather through their interactions.

On the basis of this preliminary work, the CF’s team had started establishing a comparative report on the responses most likely to foster national reconciliation, depending on particular characteristics of each conflict. This report, that constitutes a deliverable according to the Grant Agreement, is foreseen by the end of April 2011. As it is supposed to be published as a BIICL’s publication, this report will be written in English. The UP1-CERDIN and the UB-HRC teams are currently working on the legal study on the struggle against impunity. Their aim is to examine the compatibility of amnesty processes with international and regional human rights norms. This examination will lead to the development of ‘Guiding principles of the struggle against impunity’, which will include, for example, the minimum requirements that must be satisfied by amnesty measures or by truth and reconciliation commissions. As coordinator of this sub-task, the BIICL was initially in charge of organising two field missions in Cambodia and Haiti. It has been agreed by the consortium at an early stage that since the drafting of Annex 1, Haiti was not quite relevant anymore to the project, especially in light of the recent natural disaster that hit the country. It has been agreed that Haiti will be replaced by Sierra Leone, a country which is a lot more relevant for the issues raised by the project. At the same time, in order to fulfil its tasks under WP3, UB-HRC performed the necessary research activities and coordinated with BIICL in order to provide the canvas to be delivered to the field mission experts for Cambodia and Sierra Leone.

The UB-HRC team drafted the canvas, providing for the necessary instructions to the experts in order to evaluate the activity of the Special Chambers for Cambodia and the Special Tribunal for Sierra Leone, respectively, as well as the role of the institution in fighting against impunity and the vindication of the rights to reparations of victims of human rights violations. UB-HRC team cooperated and consulted with BIICL in order to review and finalise the canvas. Mr Alex Bates agreed to undertake these two missions on behalf of the BIICL. Alex Bates is a Barrister, International Criminal Lawyer as well as Former UN Prosecutor in Cambodia and Kosovo. The mission in Sierra Leone took place in May 2010. The mission to Cambodia and Timor Leste will take place in May 2011.
Cambodia was initially supposed to be dispatched on 15 April 2010. However, following the eruption of the Icelandic volcano on that day, the mission had to be postponed to June 2010. A couple of weeks before the date of departure, the Extraordinary Chambers of the Courts of Cambodia released the date of the publication of its first verdict, which was 26 July 2010. Considering this new development and the clear added value it would bring to the mission and report it was agreed that the mission should be postponed once again to enable the expert to gather the victims’ reaction to the verdict. The mission took place in August and a comprehensive report was submitted to BIICL in September 2010.

BIICL, CdF, UP1 and HRC-Bucharest are currently discussing the content and structure of the reports that will be included in a CD ROM to be published by BIICL. The CD ROM will include the final versions of the reports on the right to the truth. Furthermore, BIICL was to organise a symposium on 'Building peace in post-conflict situations'. Under the Grant Agreement, this symposium was planned for month 42. However, it has been agreed by the consortium that the symposium would take place during month 37. The date was set for 17 February 2011. The three experts who undertook the field missions were invited to present their finding at the conference. Unfortunately, Consuelo Navarro, who undertook the mission in Kosovo advised the Institute that other commitments will prevent her from leaving Pristina to participate at the conference.

The BIICL will publish two books based on the papers of the symposium. One will be a book intended to the victims and explaining the different ways to combat impunity. It will include a description of the national and international procedures at the victims’ disposal. The other one will be more theoretical. It will adopt an inter-disciplinary vision of the fight against impunity and will examine the degree of complementarity between the ICC and the national jurisdiction. However, it has later been agreed by the consortium that a single publication would be sufficient and would have more impact, as long as it includes all aspects. This decision was also driven by the fact that some of these aspects were already covered in previous conferences and workshops.

BIICL drafted the programme of the conference with the requirements of the Grant Agreement in mind, devoting a full session on the question of reparation of victims. The conference had a broad array of speakers coming from NGOs, practitioners, academics with experience on the field, prosecutors, judges and the experts who undertook the missions of WP3. The proceedings of the conference will be published and disseminated. The conference was followed by a steering committee in London on 18 February. Based on the previous studies, a workshop will be organised by the PCLP-ULB and Magna Carta. Participants will offer historical, philosophical and legal perspectives on the issue of the struggle against impunity, from a theoretical and a practical point of view.

Magna Carta held the international conference on ‘Jus Post Bellum and Transitional Justice’. Magna Carta remained fully associated to the organisation of the event. This conference addressed Jus Post Bellum as a new legal phenomenon and as new legal practice. As a new legal phenomenon, the content and position of Jus Post Bellum in the larger framework of international law will be discussed. International and national legal developments have been examined against this theoretical perspective. As a new legal practice, cases of transitional justice dealing with the past and the future have illustrated how Jus Post Bellum has become operational. A collection of the papers presented is currently being edited by Gregory Lewkowicz. Publicity can be found on the website of the conference (see http://sites.google.com/site/juspostbellumatlas/ for details), the ATLAS website (see http://projetatlas.univ-i1f.fr/ for details), and the BIICL website.
paris1.fr/ online) and the EC website (see http://ec.europa.eu/research/social-sciences/events-134_en.html online).

Project website: http://projetatlas.univ-paris1.fr/

Contact:
Mr Jose Manuel Coelho
University Paris 1- CERDIN
12, pl. du Pantheon
75005 Paris
Tel. +33-144-078122
Fax. +33-144-077836
E-mail: projet-atlas@univ-paris1.fr

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