

Kirchhoff/Kraus

PEACE MEDIATION IN THE EU CONTEXT

State of Play of the Establishment Process

Analysis of and comments on the experts' symposium held in Berlin on 23 June 2011



SUMMARY

Based on the panel discussions during an experts' symposium held in Berlin in June 2011, the report outlines the challenges and questions currently raised by the establishment of peace mediation within the context of the EU. In addition, it illustrates how this process can be promoted through more targeted and systematic definition of the conceptual basis of EU Mediation.

The overall picture shows that exceedingly different needs for action are evident at this stage of the process: I) At the **political level**, the decision making process promoting the establishment of mediation among the EU Member States and within the European External Action Service (EEAS) requires constructive support. II) At the **conceptual level**, it is a question of defining a sound basis for the EU as a mediation actor in strategic, methodological and ethical terms. III) At the **institutional level**, it is necessary to develop a customized, needs-based framework of EU Mediation providing the required capacities, competences and structures and integrating this framework into the existing structures of the EU and the EEAS.

On examination of the current situation, an imbalance immediately becomes obvious: the political decision making process and the institutional issues are currently dominating the discourse, while a number of relevant conceptual questions are largely left unsolved. However, a solid conceptual basis is a *sine qua non* for an efficient establishment process, effective institutional structures and successful mediations in the future. Thus, it is imperative especially now, in the current initiation and activation phase, to quickly and accurately address the open conceptual questions.

Accordingly, the report's final recommendations will outline these questions. They concern the objectives and the

role of the EU as a mediation actor, the key methodological and ethical principles that should constitute EU Mediation in practice, and the management of difficult decision making processes on whether and how to intervene in international conflicts. Answering these questions will mean to legitimize the role of the EU as a mediation actor as well as to maximize the EU's capacity to act in practice.

Where suitable, the developments within the EU should be closely coordinated with the initiatives of the United Nations to professionalize the field of mediation. Implementing the GA Resolution on Mediation (A/RES/65/283) with Guidance Notes on Effective Mediation in 2012, the United Nations will set international standards in defining the fundamentals of mediation. Based on this, the UN will further strengthen the role and impact of "normative mediation" in the international arena.

The challenge for the EU will be to take into account the methodological standards currently being compiled by the UN, which embody the broad expertise and experience gained by the international mediation community, while at the same time explicitly reflecting the specific values and goals of EU Mediation.

In sum, the situation provides the EU with a unique opportunity to use its historical credibility, its current political influence as well as its vast pool of knowledge about mediation to establish itself as a professional mediation actor in the international arena. Due to its track record as a successful peace project in itself, the EU clearly has the potential needed for such a role and responsibility.

BACKGROUND, QUESTIONS AND OBJECTIVES

In the course of increasing international recognition of mediation as a means of promoting international peace, the EU is now positioning itself more visibly in this sector.¹ Having established the "Concept on Strengthening EU Mediation and Dialogue Capacities" in 2009 and the Division of Conflict Prevention, Mediation and Peacebuilding within the newly created European External Action Service (EEAS) in 2011, the EU set the course for an increased focus on the areas of peace mediation and mediation support.

It is equally clear, however, that the EU's plan to play a more influential role in international peace mediation is confronted with a number of internal political, conceptual and institutional hurdles.² While there is programmatic consensus that mediation is now to take a more prominent role in EU conflict management, great uncertainty and disagreement on key questions still exist:

How should the EU mediation capacities be financed? What goals and expectations lie behind the new focus on mediation and what role exactly does the EU want to adopt in this field? How does the EU want to reconcile its values-based self-conception, its power policies and position and its political and economic interests with the principles of mediation? How are the mediation capacities to be designed to fit into and complement existing EU structures and resources effectively? With which actors will the EU cooperate during the establishment pro-

cess and, subsequently, during actual peace mediation initiatives?

The legitimacy and effectiveness of future activities of the EU in the area of peace mediation will largely depend on how these issues are handled now, and whether the EU succeeds in designing structures to implement its decisions convincingly.

Against this background, mediation experts including practitioners, politicians and scholars from different fields met at the Humboldt-Viadrina School of Governance in Berlin on 23 June 2011 to discuss current challenges in the process of establishing mediation in the EU. The overall objective of the three thematically intertwined panels and the working groups was to develop open questions and proposals on how to support this process constructively. To this end, discussions were planned to allow changes in perspective through the different approaches of practitioners, EU decision makers and academics, and to give space for critical reflection.

The first panel centered on practices in the field and looked at the significance of mediation in the EU's current international activities. The second panel revolved around the question of how third parties and mediators act in the complex landscape of legal and ethical imperatives and the political agendas of international peace processes. The third panel focused on the current status quo and the need for action in the political decision making process on building EU mediation capacities. Closing the symposium, the representative of the Mediation Focal Point of the EEAS summed up the discussion results envisioning the next steps in capacity-building.

The following report will evaluate the results of the discussions held according to *Chatham House Rules* and render them accessible for further use in the establishment process.

¹ Within the EU agenda for conflict prevention, crisis management and peace building - i.e., in the Gothenburg Program (since 2001) and the Instrument for Stability (since 2007) - mediation played only a minor role.

² Cf. e.g. EPLO, Conflict Prevention and Peacebuilding inside the EEAS, 2011; Jonas Claes, EU Conflict Prevention Revisited. The New European External Action Service, USIP May 2011; Canan Gündüz, Kristian Herbolzheimer, Standing United for Peace: The EU in Coordinated Third-party Support to Peace Processes, IfP Mediation Cluster December 2010; EPLO, The EU as Global Force for Good: Peace at the Heart of the European External Action Service (EEAS), October 2009.

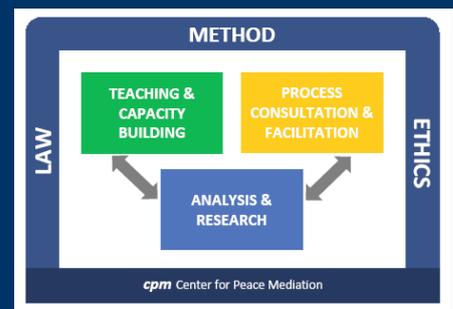
HOST INSTITUTION

The experts' symposium was organized by the Center for Peace Mediation in collaboration with the postgraduate M.A. in Mediation of the European University Viadrina Frankfurt (Oder).

The Center for Peace Mediation, which is a division of the Institute for Conflict Management of the European University Viadrina and cooperates closely with the Humboldt-Viadrina School of Governance in Berlin, unites the science and practice of mediating international conflicts. Interlinking transdisciplinary academic conflict research and practical conflict management, the Center focuses on optimizing the methodology of peace mediation.

With its scientific research the Center explores not only the context-specific challenges and untapped potential of peace mediation but also the practical and political limits as well as the legal and ethical dilemmas of mediation in the peace context. Through training and coaching of mediators, policy makers and conflict parties, the Center supports the practical implementation of the interest-based model of mediation in the arena of international conflict management. By providing process consultation and facilitation, the Center assists international third parties in optimizing their mediative approaches, structures and methods.

The Center for Peace Mediation is responding in this way to the growing need for professionalizing the methodology of mediative conflict management in international peace processes. Given that an increasing number of international organizations, governments and NGOs are becoming involved as mediation actors and establishing institutionalized mediation units, it is essential that the methodological tools for this area be systematically upgraded and that third parties be equipped with these tools and assisted in the application of them.



At the heart of the Center's activities lies the key question of how mediators of international conflicts can fully exploit the leeway of creating added value for actors and process dynamics while at the same time respecting compelling ethical principles such as impartiality and *do no harm* as well as fundamental international legal standards such as the prohibition of amnesties. The common objective of the Center for Peace Mediation's research, teaching and advisory activities is thus to match the creation of value with the protection of indispensable norms in the context of peace negotiations.

In the interdisciplinary postgraduate M.A. studies in Mediation at the European University Viadrina students acquire practical skills to enable them to facilitate and structure decision making processes and conflicts in a constructive, interest-based manner. Additionally, teaching is conducted on the basis of an academic, interdisciplinary discourse. It is this discourse that requires the students to question the socio-political context of mediation and clarify the systematic methodology, framework and criteria of mediation and its development in various areas of application.

Further information on the Center for Peace Mediation, the Institute for Conflict Management, the postgraduate M.A. in Mediation and the Humboldt-Viadrina School of Governance is available at:

www.peacemediation.de
www.europa-uni.de/ikm
www.rewi.europa-uni.de/de/studium/master/mediation/index.html
www.humboldt-viadrina.org

PANEL DISCUSSIONS

Overview

Introduction: (RE-)POSITIONING THE EU IN THE AREA OF PEACE MEDIATION

- *Prof. Dr. Lars Kirchhoff*, Director of the Institute for Conflict Management and Co-Director of the Center for Peace Mediation

Panel I: PEACE MEDIATION IN CURRENT EU FIELD ACTIVITIES

- *Tobias Flessenkemper*, Senior Policy Advisor of the Head of Mission and the Mediation Focal Point of the European Union Policy Mission (EUPM) in Bosnia and Herzegovina
- *Dr. Alice Ackermann*, Executive Political Consultant at the OSCE Conflict Prevention Centre and Director of the Department for Operational Planning and Analysis at the OSCE, Vienna
- *Yvonne Gogoll, LL.M.*, Team Leader Rule of Law at the Operations Section of the Liaison Office of the EU in Kosovo, Pristina

Chair: *Martin Wählisch*, Senior Researcher at the Center for Peace Mediation

Panel II: NORMATIVE AND METHODOLOGICAL CHALLENGES

- *Dr. Juan Diaz*, Co-Founder and President of the CSS Project for Integrative Mediation, Berlin
- *Prof. Dr. Michael Daxner*, Head of the Research Network, Cultures of Intervention, University of Oldenburg and Project Manager of the SFB 700 Governance in Areas of Limited Statehood, FU Berlin

Chair: *Dr. Anne Isabel Kraus*, Co-Director of the Center for Peace Mediation

Working Groups: OPEN QUESTION & POSSIBLE RECOMMENDATIONS

Panel III: POLITICAL AND INSTITUTIONAL PERSPECTIVES

- *Dr. Franziska Brantner*, Foreign Affairs Speaker of the Green Party/EFA group in the European Parliament, Brussels
- *Dr. Antje Herrberg*, Co-Founder and Chief Executive Officer of the European Forum for International Mediation and Dialogue (mediatEUr), Brussels

Chair: *Prof. Dr. Lars Kirchhoff*

SUMMARY OF THE DAY'S DISCUSSIONS

- *Dr. Johannes Schachinger*, Mediation Focal Point of the European External Action Service (EEAS), Brussels

Summary of the discussions

International and regional organizations such as the United Nations, the OSCE and the African Union as well as national governments such as those of Switzerland and Norway now consider mediation an indispensable element of an integrated conflict management approach³ and have for several years been developing their own mediation capacities.⁴ In 2009 the EU reached political consensus on the development of mediation capacities and in principle agreed on a minimum level of initial institutional and financial funding for this.⁵ However, the current process of establishing mediation in the EU could be improved upon in matters of strategy and concept. The starting point of the panel discussions was therefore the following question: What are the current hurdles in the development and establishment process and how can they be overcome?

Panel I Peace Mediation in current EU field activities looked at the role and importance of mediation in EU practice. With regard to the question of how the EU cooperates with other stakeholders, the perspective of the OSCE was taken into account.

In the EU Police Mission (EUPM) in Bosnia and Herzegovina, the EU is already making intensive use of mediation: it has found its place in the peace consolidation and structural development process of the Common Security and Defense Policy (CSDP) of the EU, which is intended to lead the region to accession to the EU in the longer term. Mediation, for example, is integrated in police training in order to strengthen local capacities for conflict management and peacekeeping. A problem emerges in this context: since the capacity-building measures target a long-term structural and functional integration of society exclusively, without addressing the underlying conflict at the same time, the conflict continues to simmer and erupt. As long as the local stakeholders are not in a position to take steps themselves to address that conflict, this approach will result in nothing more than cosmetic changes in the conflict process.

The fact that the EU often openly adopts the role of a “norms exporter” when applying mediation in the context of EU missions was controversially discussed: How can the values-based political goals of such missions and the socio-economic attractiveness of the EU be brought into line with the mediative principles of impartiality (or “omnipartiality”) and the voluntary character of mediation if the corresponding region is politically and economically dependent on the EU when it comes to potential EU accession? At least from the angle of a critical observer, the issue of coherence and clarity of roles needs to be raised if the EU uses its role as a mediation actor in order to enforce its own values-based and norm-exporting political agenda upon its conflict-ridden neighbors and seeks to involve itself as an indispensable regional power in terms of development policy.

In the activities and institutional structures of the European Commission’s Liaison Office in Kosovo, mediation does not play any official role as yet, even though a number of people with expertise in mediation are available there. In conflicts arising in the daily routine, such as the recent customs conflict between Kosovo and Serbia, now and then the EU is engaging as a facilitator. This however, cannot be considered mediation in the proper sense. At the national level, mediation has been widely established and is now institutionalized in Kosovo society, not least as a result of the new Law on Mediation. Consequently, Kosovo provides an example of how a number of (quasi-)mediation activities and structures have been introduced in isolation in various EU-related measures. However, these strands are still not systematically coordinated.

A glance at the interaction between the EU and the Organization for Security and Cooperation in Europe (OSCE) shows that the operative interplay between the two is working exceptionally well. At the same time, however, mechanisms are still not in place to ensure an effective transfer of knowledge and coordination at a political level. When comparing the structural requirements of the EU and those of the OSCE, one finds that the potential for synergy in peace mediation could be better exploited if the existing complementary structures and activities were selectively and systematically expanded. Thus, in addition to conducting more traditional diplomatic activities, the OSCE is predestined in particular for the support of Track III mediation at the regional level, while the EU could use its Special Representatives and Special Envoys as well as its incentive tools for developing long-term

³ See e.g. the UN General Assembly Resolution “Strengthening the Role of Mediation” of 17.6.2011 and the “Concept on Strengthening Mediation Support within the OSCE” of 20.6.2011.

⁴ See e.g. Oliver Wils, Antje Herrberg, Evaluation of the Mediation Support Unit Standby Team of Mediation Experts. Final Report, 20.1.2011.

⁵ See Council of the European Union, Council Conclusions on Conflict Prevention, report of 3101st Foreign Affairs Council Meeting, 20.6.2011, No. 6.

trust and binding co-operational ties among (potential) conflict parties.

On the whole, practical activities with regard to mediation that the EU has undertaken in different fields and at different levels seem to lack coordination. The panel concluded that, in order to use existing approaches and structures for the further establishment of peace mediation in the EU, more direct routes for information exchange and cooperation are needed, both between the various EU institutions and with partner organizations such as the OSCE.

Panel II Normative and methodological challenges dealt with the question of how third parties and intermediaries in international conflicts act within the complex requirements of international law standards, political agendas, mediation principles and the responsibilities with regard to the systemic consequences of their intervention.

On this issue, the mediation practitioners' view held that in most cases it would be practically impossible and also unreasonable to align work in the field to legal and ethical norms. Firstly, apart from the well-defined amnesty prohibition in peace negotiations, there seems to be hardly any concrete guidelines for mediation practice emanating from the rather abstract international law. Thus it remains reasonably unclear which legal rules third parties and intermediaries would have to adhere to in peace processes. Secondly, it is difficult to treat such rules as binding at all as long as the interpretation of these standards seems to yield to volatile political and economic trends when it comes to intervention by individual states or the UN. Thirdly, mediation principles such as impartiality or "omnipartiality" vis-à-vis the parties and neutrality in matters of substance seem to be so far removed from the complex and contradictory realities and needs for action in international conflicts that they are considered as no more than high ideals, lacking relevance for practical orientation. Practitioners are even likely to assume that adhering to inflexible codes and principles would amount to falling short of the individual needs of conflict parties and the uncontrollable dynamics of peace processes. Overall, the practitioners contended that third parties display a strong preference for a maximum degree of flexibility in normative and methodological questions, for instance when it comes to choice of procedure, dealing with one's own role as a third party and the use of instruments of power.

From a scientific and in particular a sociological perspective, it was mentioned that questions regarding the responsibility of intermediaries arise even on a more fundamental, systemic level: Any intervention into a conflict, even by means of mediation, inevitably leads to a socio-structural or cultural change in the smaller or larger social conflict environment. Thus, the interaction between intervening actors and the conflictual parties may not only—as intended—repair but also rupture key functional mechanisms of established relationships within the conflict environment, such as the social cohesion of family and hierarchical structures. Even if mediation operates merely selectively and as a minimally invasive measure, it is still a significant intrusion into the social system of a conflict environment with various consequences that practitioners tend to underestimate.

Thus, from the scientific viewpoint, mediators need to consider more thoroughly the specific social and societal consequences and the larger political and ethical implications of their activities. A first step would be to create a basic awareness and greater transparency around the following issues: which socio-political values and transformative goals underlie a planned mediative intervention? Is this intervention reasonable and justifiable with regard to the principle of *do no harm* as well as to its direct and indirect consequences for the systemic environment?

The second panel showed that it is crucial to have targeted dialogue between practitioners and scientific researchers on basic normative and methodological issues in EU peace mediation. It also revealed that existing methodological approaches of mediation are apparently not yet capable of bringing the interests and needs of individual actors in line with practical constraints on the one hand and with legal and ethical imperatives on the other.

Panel III dealt with the **political and institutional prospects** of peace mediation in the EU context.

Despite its still halting implementation, the EU's Mediation Concept of 2009 marked an important political step since it led to a common understanding of mediation and set the framework for the structural establishment of EU mediation capacities. Furthermore the concept is a chance to build upon the achievements of the Initiative for Peacebuilding (IFP) and the European Peacebuilding Liaison Office (EPLO), which created awareness for the added value of mediation among EU decision makers

and evaluated lessons learned from previous EU mediation activities.

Nevertheless, the EU still seems to lack an integrated and comprehensive approach with regard to establishing EU mediation capacities. Such an approach needs to provide a clear institutional structure, while at the same time defining the role of EU peace mediation in addition to other EU conflict management tools and other mediation units such as those of the UN, EU Member States and NGOs. A special structural potential was seen in the development of a comprehensive multi-track approach, since the EU has access to a number of important networks and cooperation channels to local, regional and international stakeholders and decision makers. At the same time, the cooperation with NGOs needs particular optimization in order to ensure that their competences and resources are integrated efficiently with the future EU mediation capacities. In the larger context, European diplomacy is thought to require a new and integrative approach which conceives mediation as a meta-model of conflict management.

The current decision making process for the implementation of the 2009 Mediation Concept shows that even though EU Member States were politically and strategically eager to commit themselves in terms of capacity-building, there is now an unwillingness to fulfill that promise and provide the envisaged budgets for the development of long-term structures. It would therefore require influential member states such as France and Germany to use their political power in order to release the necessary funds for the implementation of the mediation concept. The differences that exist in some points should not stop them from increasing their common political pressure. An attempt at initiating the actual establishment of EU mediation capacities step by step with individual pilot projects has already been made.

Regarding the potential role and function of the EU as a mediation actor the EU seems to be interested in mediat-

ing officially in its own name as well as providing structural support for other mediation actors. Possible ethical and methodological conflicts of goals and roles between mediation principles and the realities of power politics are answered with pragmatism: the political and economic interests and objectives of the EU do not jeopardize its credibility and legitimacy as a mediation actor, since in interest-driven international politics no actors including intermediaries can be expected to be truly and completely impartial.

From an academic perspective, it was argued that the principle of impartiality need not fall victim to the reality of ever-existing self-interests: According to the principle of "omnipartiality", not a total absence but rather complete transparency with regard to goals and interests of third parties is needed. Such transparency would allow third parties as well as the parties in conflict and the international community to examine the extent to which those interests of the intermediary are compatible with the envisaged role as a mediator – which might more frequently be the case than one might suppose.

Finally, the representative of the European External Action Service (EEAS), who is currently responsible for building up the EEAS Mediation Focal Point, shared his thoughts on the discussions. He emphasized the importance of the Opinion of the UN General Assembly of 17 June 2011 for the international recognition of mediation and welcomed it as a prestigious reference for the further success of the EU's competence and capacity-building in the field of mediation. This means a significant internal political and structural challenge from the perspective of the EU administration to implement the EU Mediation Concept of 2009 institutionally and to integrate it systematically into the EEAS. It was concluded that as a next step, the EU needs to commit itself to establishing mediation as a generally applicable and politically viable option in the management of international conflicts.

COMMENTS

Peace mediation and the EU

With regard to the various challenges and contradictions in the establishment process that were raised in the discussions it should first be noted that the establishment of EU Mediation is neither an end in itself nor a predetermined path of development.

Rather, **the ways in which mediation might bring genuine added value to the EU and beyond needs to be scrutinized carefully.** Particularly at this stage of the establishment process, in which future EU mediation capacities are being shaped in financial, conceptual and institutional terms, it is crucial to consider with an open mind the extent to which and the ways in which the instrument of mediation and the EU really fit together.

The following key questions deserve closer examination

in this regard: To what extent do mediative procedures meet the specific needs for action and requirements of the conflicts in which the EU (potentially) wishes to become involved as a third party? To what extent do relevant policy makers and implementation actors authentically want and represent the participative and consensus-oriented approach to mediation? And finally, to what extent is the institutional and structural framework of the EU compatible with a long-term integration of mediation capacities?

Answering these questions in an adequate manner requires a careful decision making process which needs to draw specifically on the experience gained from existing internal and external EU institutions and EU activities.

Imbalance among political, conceptual and institutional efforts in establishing EU Mediation

It is essential to distinguish as clearly as possible the three levels at which the most concentrated investment in the establishment process is currently evident. Each of these levels has a very specific need for action that is quite different from the others and requires a completely genuine approach.

I) At present, **the political level** requires proactive support of the complex decision making process between EU Member States and within the European External Action Service with regard to the financing of the planned EU mediation capacities. **II)** **At a conceptual level**, some as yet unsolved key issues of EU Mediation need to be clarified in order to obtain a solid foundation for the further establishment process. **III)** **At the institutional level**, it is important to develop a model for customized capacity-building that integrates mediation into the existing structures of the EU and the EEAS.

When examining developments in the establishment process over the last couple of years, it can be seen that **important steps at each of the three levels have been made:** At the political and financial level, initial funds for

capacity-building were released in 2011 as part of a pilot project; at the conceptual level, the Mediation Concept of 2009 signifies a reliable consensus on the programmatic framework; with regard to the institutional and structural organization, several tailor-made models are under discussion and are being reviewed in terms of their suitability.

Currently, however, there is a **tendency to focus primarily on the political decision making process (Level I) and institutional questions (Level III) and to disregard the necessary step of defining the conceptual basis of EU Mediation more precisely (Level II).** This runs the risk that future EU mediation activities will lack a coherent and valid basis with which to tackle each case and its individual challenges. This could mean that resources may be irresponsibly invested in structures lacking important accuracy, congruence, and, thus, effectiveness. In this case, the EU would indeed run the risk of missing the window of opportunity to position itself as a professional mediation actor in the international arena.

This current imbalance is nurtured by the **latent conflict**

between the mainly output-oriented logic of financial decisions on the one hand and the content-oriented methodological discussion on the other. Both approaches are undoubtedly equally indispensable and justified in their own right. Nevertheless, actors of both sides are often prone to understanding only partially the imperatives of the other side: Methodology experts can in all likelihood only partially comprehend the degree of generalization needed in the course of budgetary and financial discussions; political actors may well have trouble

with the degree of differentiation required for a solid methodological and ethical approach.

Nevertheless, **in view of the overall project, i.e. establishing peace mediation in the EU, the two levels are closely interdependent:** without political and financial support even the most accomplished conceptualization is bound to fail. Similarly, the crucial political and financial benefits of mediation can only be effectively realized if the concept and the implementation of it are thought through in a systematic manner.

RECOMMENDATIONS

From a scientific perspective, the open questions concerning the conceptual basis of EU Mediation should be addressed quickly. Otherwise the need for clarification regarding content issues could become a severe and irremediable deficit at the time of implementation and inevitably have a permanent impact, depleting the effectiveness and legitimacy of future mediation activities of the EU.

The crucial strategic decisions that are to be made on the goals and roles of the EU as an international mediation actor need to reflect the EU's specific identity, values and objectives. In spelling out the methodological principles of EU Mediation, however, it is a matter of efficiency and quality standards not to start from scratch: Implementing the General Assembly Resolution on Strengthening the Role of Mediation (A/RES/65/283, 2011) the UN is currently developing Guidance Notes on Effective Mediation. Undoubtedly, the UN will set international standards in defining the fundamentals of mediation in this document. Since these standards will embody the broad expertise of the international mediation community, they should be taken into account when establishing the principles of EU Mediation.

1. Separate political promotion and conceptual clarification

First and foremost, **the two tracks of political promotion and conceptual clarification of EU Mediation need to be divided more clearly in order to allow them to work according to their genuinely different logics.** The willingness to compromise is vital to reaching decisions on political and financial issues but unnecessarily minimizes the range of options in strategic, methodological and ethical issues; at the same time, a high degree of precision and persistence on principles is necessary to ensure a sound strategic and methodological basis but unnecessarily hinders financing decisions.

A concrete proposal would be to separate quite deliber-

ately these two levels with regard to timing and/or responsibilities. This would allow the next steps required in each dimension to be tackled in a more focused and effective manner without having the two distinct approaches hampering each other in the process.

In spite of this separation, a precise clarification of the purpose, role and approach of EU Mediation will also accelerate pending political decisions: such clarification will be a significant step in establishing the EU as a sovereign intermediary in international conflicts, which is in the declared common interest of EU Member States and the Foreign Service.

2. Clarify the conceptual basis of EU Mediation

In order to clarify the conceptual basis of EU Mediation, the following key issues need to be weighed up and answered: What are the broader **goals** of the EU in promoting and implementing peace mediation? Which **role** precisely does the EU want to play as a mediation actor? Which key methodological **principles** will constitute the EU's understanding of mediation and how will they be **interpreted** in the EU's political practice? How will the EU deal with **conflicts on the whether and how of intervention**?

A. GOALS: Between export of norms and supply of services – which goals should mediation fulfill in the EU context?

To develop an effective strategic approach to EU Mediation and concentrate efforts in establishing and implementing it, it is necessary to know the broader goals underlying mediation activities undertaken by the EU. Currently, peace mediation in the EU is linked with various objectives (ranging from socio-political, strategic and gen-

uine humanitarian to exposed or hidden political interests), whose logics of action are naturally not always in harmony with each other. However, friction and losses ultimately occur and are inevitably at the expense of the conflict parties and to the detriment of sustainable solutions.

Given the inherently variant motives and objectives of relevant mediation actors from government, mediation service providers, civil society and academia, it is hardly sur-

prising that a remarkably wide spectrum of opinions and interests exists in respect of mediation. Even though such a diversity of perspectives may be desirable in itself, practical implementation is gravely impeded when the relevant actors pursue different courses.

One of the EU's main motives in strengthening mediation as an instrument of international conflict management seems to be of strategic nature: Given the fact that mediation is now ranking among the core conflict management tools of almost all major international and regional organizations, this is about **positioning the EU as an eligible competitor among other main players in the international conflict management sector**. As part of the European Common Security and Defense Policy (CSDP), where mediation serves to help structural and social transformation, **exporting normative standards of democracy and rule of law** is at least an important secondary objective. Practitioners in mediation support services often primarily aim to **satisfy the needs of the conflict parties more effectively**. Civil society actors as well as mediation scholars often seek to **establish a more self-determined, participatory and inclusive conflict management culture**.

Although it is true that these goals overlap in many places, several points of friction remain, e.g. in view of the role, attitude and approach of third parties, with regard to dealing with the values and social structures of the conflict context and concerning the question as to whether individual or collective interests have priority. In itself mediation is able to withstand this tension between different goals. However, it seems that a basic consensus on **common core objectives for the use of mediation by the EU is essential** in order to enable the actors in the establishment process to develop a common thrust and the EU to operate purposefully and coherently as a mediation actor.

These common goals of mediation have to comply with the political and normative framework of the EU and also with the way mediation is understood in the EU context (see section C below). A suitable format for negotiating and formulating these goals would be a focused discourse integrating the different perspectives of politics, mediation service providers, civil society and academia.

B. ROLE: Payer or Player – which role will the EU take as a mediation actor?

The lack of unity in terms of objective might also be a reason why it is so difficult to define more closely which role the EU actually envisages as a mediation actor and to lay open the role it currently holds in this arena.

First of all, where will be its **field of action**? Will the EU

turn towards the often ignored conflicts in its own territory and/or continue to focus on the European neighborhood and/or take up work at the world's trouble spots outside Europe?

And in which **function(s)** will the EU then position itself? Does it want to promote mediative approaches mainly as a *payer*, supporting capacity-building, knowledge management and coordination or does it want to establish itself primarily as a *player* in the role of a mediator? Particularly if it is the latter, what **attitude** and which **approach** does the EU want to represent? How does the EU as a major regional power, necessarily driven and constrained by various political and economic interests and obligations and possessing strong leverages and instruments, want to perform the role of a third party? The many possible options need to be evaluated carefully in terms of efficacy, credibility and sustainability.

A clear positioning of the EU is inevitable on these issues, as some **conflicts of role** are already apparent: In view of the historical and political self-understanding of the EU there is much to say for using mediation to introduce and reinforce democratic-liberal values and human rights standards in the context of state building and development. Within Europe there is a legitimate democratic mandate for this kind of sociopolitical transformative intervention, and there are certainly many conflict contexts where social and political transformation through mediation could be well received. Insofar as the EU uses mediation for the purpose of "norm export" into non-European countries, however, the mediation principles of autonomy of parties and voluntariness of participation would oblige the EU to ensure that the transformative purpose and possible effects are explicitly accepted by these societies.

Be it authorized or self-mandated, in any case special attention from a methodological and ethical point of view is required if the EU is planning to employ mediation increasingly for sociopolitical transformation: The implementation of agreements can only be sustainable when both process and agreement are anchored in the conflict actors' own interests, resources, responsibilities and cultural context. Mediators thus do not only need to disclose their own political goals and interests regarding the larger conflict context openly, but also need to make sure that these goals and interests do not become dominant.

Overall, the question of how the EU's role as a normative power can be reconciled with its role as a mediation actor must be addressed carefully (see also section C on the use of power and transformation as a goal). This becomes particularly crucial when the EU outsteps its function as a

structural supporter and mediates on its own behalf and in its own name. With regard to the principle of the conflict parties' autonomy this is especially true for those countries which (have to) work towards EU membership and are thus unable to defy the normative agenda of the EU and the anticipated expectation to comply with it.

C. EU UNDERSTANDING OF MEDIATION: To which constitutional principles of mediation and to which practical interpretation of them does the EU commit itself?

Against this background, it is necessary to define more precisely the EU understanding of mediation itself. Effective capacity-building and profiling of mediation within the EU requires an understanding of mediation which is both more concrete and yet remains acceptable from practical and political perspectives. Without putting the flexibility necessary in practice at risk, it is vital to define the key methodological and ethical principles of EU Mediation and how they are to be interpreted in the EU's political practice. The EU Mediation Concept of 2009 is not sufficiently precise in either aspect. To spell them out now would mark the future **methodological and ethical framework and necessary professional standards, anchoring mediation as an effective and legitimate tool in the practice of EU intermediaries.**

In order to determine the constitutive principles of an EU understanding of mediation, the following key points among others need to be clarified: Is it already mediation when a third party exercising **no decision making power** helps to **structure the negotiation process**? Or is it the adherence to certain principles such as **impartiality or "omnipartiality"** of the mediator, the **voluntary nature** of participation and/or the conflict parties' **autonomy** that actually constitutes a mediative approach? A clear commitment on the question of what essentially defines mediation is crucial: Adherence to core principles and the testability of this would justify and inspire confidence in political and diplomatic mediation and allow it to be validated on its merits.

At least as important as this is the question of **how these principles will be interpreted in the political reality of the EU.** To what extent, for instance, can or should a third party that is as politically and economically potent as the EU make use of its **power** in a mediation process? The EU possesses strong and effective political, economic and institutional leverage with its foreign, security, development, trade, environment and migration policies, which it could use effectively in mediations. How can these instruments of power comply with the principles of

"omnipartiality" on the part of the mediator and autonomy of the parties, assuming that these principles were to be regarded as constitutive for mediation? Before following the promise of short-term effectiveness guaranteed by political leverage and allowing for compromises in methodological and ethical terms, **the conditions under which incentives and sanctions imposed by a mediating third party do or do not lead to sustainable results in peace negotiations need to be examined more closely.**

Furthermore, **is supporting the parties in their values and respecting those values as limits of a process a constitutive element of mediation?** Or is it merely a genuinely mediative approach to impart the basic values of a participation and liberal democracy on the parties, thereby triggering a **transformation** of the existing social and cultural order? Whichever the case, how does the EU as a mediation actor intend to deal with the complex and long-term consequences and with the secondary conflicts arising from the social and cultural transformation initiated by a mediative intervention?

In this respect, a clear decision regarding the use of mediation for the EU's values-based foreign and development policies is necessary. If mediation has no firm mandate from the conflict parties and is used mainly for the purpose of implementing EU norms and rules, its methodological potential would be wasted. Equally, the EU's credibility and legitimacy as a conflict mediator would be at stake. At this point it is necessary to **examine both the societal preconditions (such as security, autonomy, equality etc.) and the kind of mandate required to introduce mediation into societies beyond EU's borders.**

Consequently, it is in relation to the handling of power as a means and social transformation as a goal in particular that the EU cannot afford to act as mediator without having determined beforehand the constitutive principles and practical interpretation of EU Mediation methodology and ethics. Rather, the methodological consequences emanating from the frequently cited historical role and responsibility of the EU need to be spelled out in detail.

In terms of implementation, the EU should **take a firm stand in these methodological and ethical matters.** It needs to communicate and execute its understanding and interpretation of mediation with maximum coherence in respect of its policies and practice. Only with such a clearly defined and coherent profile will mediation fully develop its genuine value in the EU context.

If they are to be helpful and binding guidelines in practical application, the **fundamental principles of EU Mediation need to be translated into the daily mediation practice.**

This should happen in a way that allows the principles to directly impact on the routine of EU missions and intermediary actors such as EU Special Representatives and Special Envoys.

D. INTERVENTION CONFLICTS: How will the EU deal with conflicts on the whether and how of intervention?

Summing up all aspects mentioned above, it is essential to deal more openly and more systematically with the latent and manifest internal conflicts of goals the EU will be confronted with as a mediation actor. How, for instance, will the EU as a mediator manage the tension between the conflict parties' autonomy (given this will be considered as one of the principles of EU Mediation) and its own historic responsibility with regard to certain conflict contexts, i.e. **the sovereignty vs. responsibility to protect-dilemma?**

This is only one of the goal conflicts on the whether and how of intervening into other countries' or international conflicts that need to be dealt with in a professional man-

ner in order to respond fast and effectively to the escalation of crisis. Such goal conflicts are due to the **inherent tensions between the diverse humanitarian, political, economic and legal imperatives arising in international conflicts as well as the opportunities and risks of intervening with various military and civilian means.** In these difficult decision making processes disagreements both between EU Member States and between the EU and other UN Members are predictable, the recent cases of Libya and Syria being valid examples for such disagreements.

Thus, an institutionalized mediation support for the difficult decision making processes on questions of intervention could be useful for the EU, but also for other actors such as the UN (namely the Security Council). Not only could the EU promote its own professionalization with such an innovative policy instrument, it could also earn a reputation as a pioneer of mediative decision making in the international arena.

3. Systemize and set up proper EU mediation structures

To conclude, the fragmented mediative activities within the EU require comprehensive and systematic coordination and adequate resources.

The first step could be to constantly update an overview of a) the actors of decision making, conceptual design and implementation currently dealing with the establishment of peace mediation in the EU; b) the spectrum of areas in the EU where mediation is or could be used, ranging from short-term crisis management to long-term missions; c) current and potential conflict facilitators and other actors in EU conflict management, such as EU Special Representatives or external and local intermediaries, including their comparative advantages and disadvantages with regard to the different areas and tracks of mediation.

The purpose of such an overview would be to capture systematically the existing and potential structures and activities of the EU as a peace mediation actor. **Using this matrix would help to identify exactly what kind of ca-**

capacity-building is reasonable and necessary in order to accomplish the envisaged goals and roles of EU Mediation successfully. In implementation, such a systematic overview would be valuable when designing specific pilot projects since it would provide an orientation for a longer-term strategy and help to avoid wrong initial accents.

From a systemic perspective, the establishment of a structurally integrated and operationally effective "steering mechanism" for EU mediation is worth further investment. As this interface would connect every structure and activity relevant to mediative measures, it would be suited to coordinate decision making and organize mediative interventions (date, actors and means), to foster methodological professionalization, and to generate and monitor human and conceptual resources.

In essence, what is needed now is an in-depth clarification of concepts and a proper design, coordination and funding of structures. This is no easy task. But due to its unique resources, the EU will be able to accomplish it and to achieve precisely the role in international peace mediation that taps the full potential of its historical identity and today's political capacity.

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