

What will the face and soul of EU peace mediation be?

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INTRODUCTION

Most measures designed to strengthen the EU's role in international peace mediation in recent times have focused on political, institutional and operational issues, and many of them have been successful. Mediation is increasingly seen as a strategic area of importance within the EU and the EEAS: the EAAS Conflict Prevention, Peace Building and Mediation Division has anchored mediation in its title; about half a dozen of its members of staff are assigned to mediation; and in a number of pilot projects the EEAS is now institutionalising cooperation with external mediation support expertise as well as providing regular mediation training to EU personnel.

At this point, one key question is: what precisely should the future profile of EU Peace Mediation be, and what conceptual framework will guide the establishment process and ongoing mediation activities there? Looking at the Mediation Concept of 2009 and the current debates on implementing it, a number of critical conceptual issues still need to be clarified – including some methodical and ethical decisions that need to be made.

KEY CONCEPTUAL ISSUES IN NEED OF CLARIFICATION

This chapter tackles five issues that seem crucial at this stage, as the future EU mediation capacities and the types of EU involvement are being shaped in financial, institutional and operational terms: the *compatibility* of the instrument of peace mediation and the EU as an

actor; the *goals* as well as the *role/s* of the EU as a peace mediation actor; the *methodical and ethical understanding* of EU peace mediation; and the internal *decision-making* in internal conflicts on the whether and how to intervene.

Clarifying and deciding on these conceptual issues will both *legitimise the role of the EU as a peace mediation actor as well as maximise its capacity to act in practice*: a solid and coherent conceptual basis is a *sine qua non* for a clear and legitimate mandate, an efficient establishment process, effective institutional structures and successful mediations in the future. Thus, such clarification will represent a significant step towards realising the political and financial benefits of mediation and position the EU as a professional mediation actor in the international arena. Leaving these questions open runs the risk of resources being invested in structures and activities that lack coherence and utility. Depleting the legitimacy and effectiveness of EU interventions could even have a permanent impact on EU engagement in peace processes in a broader sense.

Some reflections and questions are more suggestive than others, in order to tease out the different perspectives, positions and interests in the debate as well as the tensions between them. Nonetheless, answering these questions in an adequate manner requires a careful consultation and decision-making process. At best, this should take place both inductively and deductively by drawing on the experience gained from existing EU activities and institutions and from external mediation support, as well as by translating the EU's identity, values and goals into a coherent EU mediation policy.

IN WHICH WAYS DO THE INSTRUMENT OF PEACE MEDIATION AND THE EU AS AN ACTOR REALLY FIT TOGETHER?

From international political negotiations to its missions in conflict-affected countries, the EU is continuously confronted with ongoing conflicts and peace processes. As a regional organisation with massive financial and political power, wide international outreach and field presence, the EU has the tempting potential to get involved in various intermediary roles using a broad range of instruments.

Among these instruments, peace mediation is now promoted as “the tool of first response” in EU crisis management.⁸⁵ This is, no doubt, a political commitment of substantial significance. At the same time, it is crucial to consider with an open mind the ways in which instrument and actor really fit together in practice, and where this compatibility has limits – both from the actor’s and the instrument’s perspective:

First, where exactly does the benefit of mediation lie for the EU?

Provided that mediation should help to *position the EU as an eligible player* in international conflict management, what is the *comparative advantage, and thus the genuine added value*, of mediation for that purpose?

In view of the spectrum of instruments available, to what extent does mediation meet the *needs and characteristics of the conflicts* in which the EU (potentially) wishes to become involved as a third party? Thinking of the indications for effective and sustainable mediation, to what extent will these conflicts be *amenable to mediation*?⁸⁶

Furthermore, to what extent is the existing *political, institutional and operational framework of the EU open to and compatible with the long-term integration of mediation*?

Secondly, in which ways is the EU matching the requirements expected of a mediation actor?

To what extent and under which conditions do relevant EU policy makers and key mediation actors *authentically want and represent the participative and consensus oriented approach* of mediation?

Assuming that parties in conflict are most likely to accept mediators they perceive as being supportive to their interests, but who are not susceptible to manipulation from the other side:⁸⁷ to what

85 Council of the European Union, Concept on Strengthening EU Mediation and Dialogue Capacities, Brussels 2009, p. 4.

86 For the factors enhancing the likelihood of mediation success see BERCOVITCH, JACOB, “International Mediation and Dispute Settlement: Evaluating the Conditions for Successful Mediation.” *Negotiation Journal*, Vol. 7, No. 1, 1991, 17–30; See also LANZ, DAVID; WÄHLISCH, MARTIN; KIRCHHOFF, LARS; SIEGFRIED, MATTHIAS, *Evaluating Peace Mediation. Study for the Mediation Cluster of the Initiative for Peace Building*, Brussels 2008.

87 GIESSMAN, HANS J.; WILS, OLIVER, *Conflict Parties’ Interests in Mediation*, Berghof Policy Brief, Nr. 1, 9, 2009, p. 1; ZARTMAN, WILLIAM; TOUVAL, SAADIA, International Mediation, in: FEN OSLER HAMPSON, CHESTER A CROCKER (ed.), *Leashing the Dogs of War. Conflict Management in a Divided World*, 437–454, pp 442.

extent and in which ways will the EU be in the *position to perform such an influential and yet impartial role* in the envisioned conflict contexts?

In cases where the EU has substantial interests in a conflict scenario or is bound to normative commitments and legal limits, what will be the *consequences for defining the EU's role* in the mediation process in order to protect its credibility as an honest broker in the international arena?⁸⁸

These questions lead to a number of subsequent questions concerning the goals, roles and methodical and ethical principles of EU peace mediation:

WHAT ARE THE BROADER PURPOSES AND GOALS OF THE EU WHEN PROMOTING AND USING PEACE MEDIATION AS A TOOL?

Depending on conflict's context and implementing actors, peace mediation activities in the EU are linked with various objectives and cost-benefit calculations. Not surprisingly, when looking at the sector in general,⁸⁹ the wish to make peace is intertwined with other motives that emanate from the context of competitive politics and diverse political and other agendas: mediation is surely a means to reduce conflict and violence for authentic and strategic humanitarian reasons; it is used as a tool of foreign policy to increase the influence of the EU in international security matters and to protect and pursue various internal and external interests; it is a vehicle for social and political transition, exporting normative standards of democracy and rule of law, such as in CSDP missions; and it is a reputable, cost-effective method that lives up to one's *raison d'être* and responsibilities in conflict prevention and peacemaking.

Although these goals may overlap in many places, apparently several points of friction remain. In itself, mediation is able to withstand this tension. However, in practice friction losses of inconsistencies in goals of collaborating with implementation actors (EUSRS, EU mission staff, NGOs etc.) are usually at the expense of the conflict parties and sustainable solutions. Furthermore, the coherence between goals asserted in EU policy commitments, and acted out in practice

⁸⁸ EU Mediation Concept, p. 7 (Principles: c) Assessment of risk).

⁸⁹ ZARTMAN, TOUVAL, *International Mediation*, p. 438 – 442.

by different actors representing the EU, significantly impacts on the credibility of the EU as a mediation actor.

In both regards, clearly prioritising general and case-/process-specific goals seems to be a premise for operating in a coherent, coordinated and purposeful manner. The following questions deserve closer examination in this regard:

How can the relevant political and normative frameworks of the EU be translated into (a priority of) goals for EU peace mediation? To what extent does mediation effectively help to reach these goals?

What priority do authentic humanitarian goals have compared to strategic goals of all kinds? Is this priority sufficiently transparent to avoid the pitfall of perceived hypocrisy?

What specific goals does the EU have in terms of individual mediation processes (conflict outcome and its further effects, relationships with the parties, the EU's own standing in the international community)? How will their priority be defined and communicated?

Which methodical and ethical limits and red lines have to be respected when using mediation for these general and specific purposes? (see also 4.)

WHICH ROLE/S PRECISELY DOES THE EU WANT TO PLAY AS A MEDIATION ACTOR?

The multiplicity of the not yet prioritised objectives of EU peace mediation might also be a reason why it is so difficult to more precisely define which role/s the EU actually envisages as a mediation actor. Having clarified the goals and examined the potential of the EU in the peace mediation field, the many possible optional roles need to be carefully evaluated in terms of efficacy, credibility and sustainability. The two main questions in this regard are:

To what extent does the EU want to promote mediation mainly as a *payer*, supporting capacity building, knowledge management and coordination, and to which extent does it aim to establish itself as a player in the role of a mediator?⁹⁰

⁹⁰ See COUNCIL OF THE EUROPEAN UNION, *Concept on Strengthening EU Mediation and Dialogue Capacities*, 2009, p. 6.

Particularly if it is the latter, how does the EU as a major regional power, which is necessarily driven by various political and economic interests and obligations while also possessing strong leverages and instruments, want to perform the role of a third party? What *style of mediation does the EU want to represent – will it play the role of a structuring facilitator or that of a power broker?*

A clear positioning of the EU is especially essential when attempting to gauge how the EU's *role as a normative power* could be reconciled with its role as a mediation actor, be it as a player or a payer: in view of the historical and political self-understanding of the EU, there is much to say for using mediation to introduce and strengthen democratic values and human rights in the context of state building and development, such as in long-term capacity building projects. Within the EU there is a democratic *mandate* for this kind of transformative intervention, and there are certainly many conflict contexts where this could be well received.

It's a different matter when mediation is used for the purpose of 'norm export' into non-European countries: the mediation principles of *voluntariness, informed consent and ownership of parties* would oblige the EU to ensure that normative and transformative purposes, and their possible effects, are realised and accepted by these societies. This becomes particularly crucial for those countries which work towards EU membership and are thus unable to defy the normative agenda of the EU and the anticipated expectation to comply with it. Thus, the question in this context is:

How can the EU, in mediation activities beyond its borders, ensure the *consent of the actors that will be affected* by the possible consequences of aforementioned transformative processes?

TO WHICH PRINCIPLES DOES THE EU COMMIT
ITSELF AND HOW WILL THEY BE INTERPRETED?

Against the backdrop of these questions, it is necessary to define more precisely a minimal common denominator of methodological and ethical principles of EU peace mediation. Adherence to core principles would inspire and justify confidence in political and diplomatic mediation, and allow it to be validated on its merits. It will also set criteria for deciding where EU peace mediation should *not* be applied

because necessary pre-conditions cannot be fulfilled. The EU Mediation Concept of 2009 is not sufficiently precise in this regard.⁹¹

The following questions should be considered:

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 principles such as *impartiality/‘omni-partiality’* by the mediator, the true *voluntary* nature of participation and the parties’ *consent* to the mediator and the process that should actually constitute EU mediation?

How will the different implementation actors interpret these principles in *political reality*: to what extent, for instance, should EU Special Representatives in the role of mediators be allowed/encouraged to make use of the EU’s political and economic incentives and sanctions?

Furthermore, should the parties’ values and norms be respected as limits of a mediation process? Or is it a genuine element of mediation to educate in basic values of participation and liberal democracy, thereby triggering a transformation of the existing political, social and cultural order? If it is the latter, what are necessary societal, cultural and legal pre-conditions that this approach can be successful in practice?

Whatever the approach, *responsibility* in terms of *do no harm* needs to be ensured: how does the EU as a mediation actor intend to deal with the direct and indirect long-term consequences of its interventions?⁹²

What *sort of mandate* is required to introduce mediation into transitional societies beyond the EU’s borders?

If mediation has no firm mandate from the conflict parties, if ownership by the parties is not ensured, and if it is used mainly for the purpose of implementing EU norms and rules, its methodical potential would be wasted. Equally, from an ethical perspective, the EU’s credibility and legitimacy as a conflict mediator would be at stake. In sum, the *methodical and ethical consequences that emanate from the frequently cited historical role and responsibility of the EU, as well as from its value-based foreign and development policies*, need to be spelled out in detail.

91 See *idem*, p. 2–3 and 6–9.

92 JULIA DRIVER, “The Ethics of Intervention”, in: *Philosophy and Phenomenological Research*, Vol. 57, No. 4, 1997, p. 851–870.

In terms of implementation, the principles of EU mediation need to be *translated into a 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. Furthermore, the EU needs to communicate and execute its understanding and interpretation of mediation with maximum coherence with respect to its policies and practice. Only with such a clearly defined and coherent profile will mediation fully develop its genuine value in an EU context.

HOW WILL THE EU DEAL WITH DISAGREEMENTS ON WHETHER AND HOW TO INTERVENE?

Summing up all the aspects mentioned above, it is essential to deal also more openly and more systematically with the internal conflicts the EU will be confronted with as a mediation actor: in the difficult decision-making processes with regards to whether and how to intervene, disagreements between EU member states, as well as between the EU and international and regional organisations, are predictable, the recent cases of Libya and Syria being valid examples of such disagreements. Most of the time, these disagreements are due to the inherent tensions between the humanitarian, political, economic and normative goals and interests at stake, as well as to the different perceptions of the opportunities and risks involved in an intervention. These conflicts need to be dealt with in a professional manner in order to respond fast and effectively to the escalation of crises.

How could the difficult decision-making processes regarding questions of intervention within the EU be facilitated in an effective way? Which procedures, actors and institutions that respect the member states' spheres of sovereignty could provide such an internal mediation support?

Not only could the EU promote its own professionalisation with such an innovative policy instrument, it could also earn a reputation as a pioneer of mediative decision-making in the international arena.

CONCLUSIONS

The legitimacy and effectiveness of the EU's future activities 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 approach convincingly. Clarifying these questions will also help political decision makers and implementation actors in crisis situations decide whether mediation is the appropriate instrument and whether the EU – in which role and function and using what kind of approach – can make a positive contribution to a peace process.

From a systemic perspective, an institutionally integrated steering or coordination mechanism for EU peace mediation seems to be worth further reflection. As a central interface it could connect every structure and activity relevant to mediation measures in the EU, coordinate difficult decision-making processes between member states, as well as the actual organisation of mediation processes and engagements using mediation as a tool (timing, actors, approach, etc.), foster methodological professionalisation, and generate and monitor human and conceptual resources.

In spelling out the methodological principles of EU mediation, the EU should build on the initiatives of the United Nations to professionalize the field of peace mediation – the recent UN Secretary-General's Report on the implementation of the General Assembly Resolution on "Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution" includes a Guidance on Effective Mediation with a list of Mediation Fundamentals. The guidance draws on the broad experience and expertise of the international mediation community.⁹³

However, when it comes to positioning the EU as a credible player in international peace mediation, its unique potential definitely lies in a concept and approach that also reflects and represents the EU's specific identity, values and objectives as authentically and coherently as possible.

93 Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution: Report of the United Nations Secretary-General (A/66/811, 6 August 2012) including Annex I: United Nations Guidance for Effective Mediation. See also the MSN Discussion Points No. 2 of the international Mediation Support Network that reflect on the UN Guidance from the mediation support perspective and translate it into practice, available at <http://www.mediationsupportnetwork.net>.