

International Peace Mediation: A New Crossroads for the European Union

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Working for
Security and
Democracy



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Geneva Centre for the Democratic Control of Armed Forces (DCAF)

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Table of Contents

1. Introduction: International Peace Mediation, Conflict Resolution and the EU.....	7
2. The Relevance of International Mediation in Conflict Resolution	9
2.1 Why the EU?.....	11
3. What Is Mediation and International Peace Mediation?	12
3.1 Defining Concepts	12
4. The Relevance of International Peace Mediation to the EU	15
4.1 The Common Foreign and Security Policy <i>acquis</i> Relevant to Mediation.....	15
4.2 The Institutional Framework for International Peace Mediation within the Council Secretariat	18
4.3 Promoting, Leveraging, Supporting and Financing Mediation: The Role of the European Commission and the External Action Service	20
4.5 To Be or Not To Be: Is or Can the EU Be a Mediator?.....	21
4.5 Structures and Functions.....	23
5. Recommendations	25
5.1 Professionalisation of Supporting Mediation as a Professional Practice	25
5.2 Code of Conduct	26
5.3 Knowledge Management	26
5.4 Enhance Cooperation	26
5.5 Solid Outreach	26
5.6 Training and Coaching.....	27
5.7 Funding	27
5.8 Hybrid Mediation Support Unit.....	27
6. Conclusion.....	28
About the Author	28

Executive Summary

The rising evidence that mediation is a useful tool in resolving intrastate conflicts is only beginning to reach the EU's policy makers. Working towards realizing the soft power potential of the EU as a civilian actor in this field requires a full, and not a superficial, understanding about the enormous value added that a structured, systematic approach in conflict resolution could bring. Too much time and energy is spent deciding on foreign policy actions that attempt to magnify the power of the European Union through leverage and pressure, where the aspect of responding to the need in helping conflict parties to resolve their disputes is often left aside. This is dismissive of the billions of euros that are spent for development aid and projects that involve civil society which work towards creating just and equitable societies that are not about conflict, but peace.

The purpose of this paper is to clarify the concept of international peace mediation for the European Union, establish its policy relevance, and analyse reigning perceptions and attitudes so as to identify key challenges in order to propose specific measures and institutionalised models that could enhance the 'soft power' potential of the European Union in this area.

Abbreviations

AAP	Annual Action Programme
ASEAN	Association of Southeast Asian Nations
AU	African Union
CFSP	Common Foreign and Security Policy
CHG	Civilian Headline Goals
CIVCOM	Committee for the Civilian Aspects of Crisis Management
CMI	Crisis Management Initiative
CRT	Civilian Response Team
CSDP	Common Security and Defence Policy
EC	European Commission
EEAS	European External Action Service
ESDP	European Security and Defence Policy
EU	European Union
EUMM	European Union Monitoring Mission
EUSR	European Union Special Representative
FYROM	the Former Yugoslav Republic of Macedonia
HR	High Representative
IfS	Instrument for Stability
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Cooperation in Europe
PSC	Political and Security Committee
RRM	Rapid Reaction Mechanism
SSR	Security Sector Reform
UN	United Nations
UNSC	United Nations Security Council
USA	United States of America

1. Introduction: International Peace Mediation, Conflict Resolution and the EU

There are three principle needs that provide an argument for advocating for a strong role of the EU as an international actor:

1. human security, encompassing the humanitarian concern of alleviating human suffering caused by violent conflict or the failure of the state to meet basic human needs;
2. development, which concerns aid effectiveness in a longer term perspective, taking into account the potentially high risks and costs associated with donors abandoning a country for a long period;
3. global security, linked to the dangers of isolating a country and the rise of extremism and terrorism in failed states.¹

Considerable efforts and resources are spent by international and regional organisations, including the European Union, to transform violent conflict into sustainable peace. As the politics of the 21st century are globalised, the values and interests of the so called international community are challenged by intra-state, resource-based or ethnic conflict, most often directed at civilians.² Nowadays, international efforts for conflict resolution have long and short term objectives: ending hostilities immediately, and in the long term helping war torn societies to create sustainable peace and ensure that violence will not recur.

The crises in North Africa in the Spring of 2011 have again confronted the world community, including the European Union, with the challenge to respond to today's conflict, although numerous opportunities continue to exist that call for effective response by supporting dialogue and mediation processes where nation-states are subject to violent conflict. Rather, to this date, the European Union has preferred to use traditional instruments of sanctions and issuance of black lists, and planning to provide for considerable financial assistance for post conflict scenarios. Crisis response through mediation was not a displayed function of the EU: it was, on the whole, left to member states.

At the same time, intrastate conflicts are not new phenomena to the EU. Its members both have struggled and continue to do so with these issues within their own region, such as in Northern Ireland, Spain, Cyprus and Belgium. In its own neighbourhood, the EU has been and continues to be a transformational actor in the Balkans as in its Eastern Neighbourhood. It continues to address protracted interstate conflicts in the South Caucasus as in the Balkans. Globally, it supports the United Nations and Regional Organisations financially, as well as politically in mediation processes.

As a peacebuilding achievement in itself, the European Union is indeed a suitable actor in the promotion of the practice of peace-mediation world-wide.

In many ways, however, the European Union, although an undeniable 'presence' in the World, has not fully utilized the natural attributes of its soft power through mediation. To a large extent it has been driven by traditional diplomatic thinking to position itself as an actor to project power in order to maintain its weight in the international community.

¹ This typology was set out explicitly in the 2003 European Commission Communication on *Governance and Development*, p. 20. See also: G. Banim, "EU Responses to Fragile States," in *Diplomacy, Development and Defense: A Paradigm for Policy Coherence. A Comparative Analysis of International Strategies*, ed. Stefani Weiss, Hans Joachim Spanger, and Wim van Meurs (Gütersloh: Verlag Bertelsmann Stiftung, 2009), pp. 303-357.

² See also: Mary Kaldor, *New and Old Wars* (Cambridge: Polity Press, 2006).

The fact that the practice of international mediation can be considered as a pivotal contribution in resolving conflicts has been exemplified in a widely cited Human Security Report, authored in 2005, which highlighted the mediation efforts of the international community and cited them as a main contribution to declining international and civil wars.³ The 2008 Human Security Brief suggests that the drivers of the remarkable decline in conflicts, like in the sub-Saharan Africa case, is actually due to a ‘surge’ of policy initiatives to stop wars – often labelled *peacemaking*. A number of academic studies have confirmed the widespread use of mediation and proved that the practice of mediation in intra-state and international conflict resolution has a success rate of around 50 percent.⁴

Whilst peacemaking is a broader concept, beginning prior to mediation, activities include third party mediation efforts, humanitarian missions, peacekeeping, and peacebuilding operations. All of these activities increased since the 1990s.⁵ Against this backdrop, traditional views continue to dominate the politics of conflict resolution. Indeed some argue that “the capacity and the will of global society to solve conflicts and address injustice peacefully are desperately inadequate in the face of today’s need, let alone tomorrow’s.”⁶ Some of this has to do with the way in which conflict resolution is being dealt with: it is not difficult to question the fate of state-centric diplomacy in a world where “non-state groups dominate military conflicts, with over 80% of the conflicts involving non state actors,”⁷ where non state organisations such as foundations, non-governmental organisations, as well as the private sector often outweigh the influence and reach of state actors.

The practice of international peace mediation adds to methods of diplomacy such as coercion and arbitration, and challenges the way in which decisions are taken by policy-makers. Basically, mediation is a way to reach decisions in a cooperative way, allowing for the development of open communication processes beyond hierarchical structures. Through mediation, conflicts can be solved in formal and informal ways. The way in which people resolve disputes has an impact on the way a society and its institutions are governed. It is not an exclusive activity reserved for state appointed diplomats, but an art, a handicraft as well as a science, and also mindset that can be learned and practiced by individuals with an aptitude in emotional intelligence.

“Being a mediator is a particular skill and it is not for everybody working with diplomacy in international relations.”⁸ The practice of mediation today is identified as an activity in which a specific know-how is required, which one can acquire through continuous professional training and practice. In national contexts, the work as a mediator is also usually conceived as free-lance, independent work. In North America, some parts of Europe, as well as in Asia and Africa, mediation is identified as a profession. Specific codes of conducts, ethical guidelines and specific training requirements exist. As the United Nations Department of Political Af-

³ Human Security Centre, University of British Columbia, *Human Security Report 2005: War and Peace in the 21st Century* (New York: Oxford University Press, 2005).

⁴ This is based on analysis of different scholars in the field of international mediation/relations. Northhedge and Donelan (1971) argue that there was a 23% success rate in mediation conflicts. Holsti (1983) evaluates 71% success in mediation. Zacher (1979) argues for 53% of successful outcomes in mediations. Butterworth identified 82% of all mediation attempts successful, whereas Bercovitch argues for 60% or recorded (official) mediations. What constitutes a successful mediation is of course debatable, but these figures should provide an indicator of the success rate.

⁵ Simon Fraser University (Canada), *Human Security Brief 2007. Human Security Report Project*, accessible under <www.humansecuritybrief.info>.

⁶ Simon Fisher and Lada Zimina, *Just Wasting Our Time? Provocative Thoughts for Peacebuilders* (Berlin: Berghof Research Centre for Constructive Conflict Management, January 2009).

⁷ Carne Ross, “It’s Time to Scrap Ambassadors and Their Embassies,” *Europe’s World* (Spring 2009): 15-18.

⁸ M. Ahtisaari, “Mediation Capacity and Opportunities for International Peace Mediation,” Keynote address at the European Mediation Conference, Belfast, 10 April 2008.

fairs pointed out in a newsletter: “Third party mediation has proven to be one of the most important means at disposal of the United Nations to prevent and resolve deadly conflicts around the world. The image of the dashing peace envoy is only the tip of the iceberg. Successful mediation is so much more than the personalities involved: it requires preparation and technique, knowledge, resources and a support system backing up the envoy.”⁹ Ever since the publication of the UN High-level Panel,¹⁰ the support for mediation efforts is rising and in greater demand. The growing trend for increased systematized knowledge, for more resources and for recognition points to the creation of a new profession: that of the International Peace mediator.¹¹ The main difficulty in acquiring a global acceptance in mediation, either in the national or international context, is the nature of the practice itself. Mediation is a practice that empowers parties, rather than mediators. This in turn entails a decisive change in the traditional practice of diplomatic negotiations.

The conscious and professional application of mediation is of primary importance if it is to be followed through as a tool for conflict resolution by any third party.

Deeply entrenched conflicts, often having escalated to wars, require approaches that move parties beyond their positions and their conflict perspective within zero sum terms,¹² not at least because the understanding and practice of mediation is culturally conditioned.¹³ In an international mediation case it is crucial to clarify and define the process, rules and principles so as to provide a “safety net” to disputants in explaining and clarifying the mediation process and the role of the mediator. The detailed explanation of what the mediation process will entail and how it can be engineered and designed, leading to an endorsement of the main principles guiding mediation, creates the indispensable accountability of the mediator to its parties. The fact that this is presently a key principle in international mediation has an impact on its legitimacy and acceptance as tool for conflict resolution, not least because this it is of outmost importance to create and mainstream the defining features of the process within the international community.

2. The Relevance of International Mediation in Conflict Resolution

In 2004, the UN Secretary General’s High-level Panel on Threats, Challenges and Change¹⁴ recognised the positive contribution of mediation. It takes note that the demand for the good offices of the UN and mediation has ‘skyrocketed.’ With a view to strengthening its mediation capacity, the UN established the Mediation Support Unit of its Department of Political Affairs.¹⁵ Four years later, on the 23rd of September 2008, the Secretary General Ban Ki-Moon requested that the Security Council and UN member states invest further in mediation activi-

⁹ *Politically Speaking*, Bulletin of the United Nations Department of Political Affairs (Summer 2007).

¹⁰ United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change (New York: United Nations, 2004).

¹¹ I have chosen the term international peace mediator and not the political mediator to exactly denote that this profession is about peace building that is international, i.e. cross boundary. The term political mediator, used for example by the Henri Dunant Centre for Humanitarian Dialogue is a term that could apply to non violent mediation processes as well as in national contexts. See also footnote 25.

¹² See also G. Richard Shell, *Bargaining for Advantage* (New York: Penguin Books, 2000), pp. 120-128.

¹³ The literature on this is ample for a usefulness on ‘conditioned’ views of local communities as regards to conflicts. See Elizabeth Colson, “The Contentiousness of Disputes,” in *Understanding Disputes. The Politics of Argument*, ed. Pat Caplan (Oxford, UK: Berg Publishers, 1995), pp. 65-82.

¹⁴ United Nations, *A More Secure World: Our Shared Responsibility*.

¹⁵ See United Nations Fact Sheet: Strengthening the Department of Political Affairs “Strengthening the UN’s capacity to step in – to resolve conflicts earlier rather than later – is among the smartest investments we can make,” Secretary-General Ban Ki-moon address to the Fifth Committee on the 2008-2009 Budget, 25 October 2007, see <<http://http.www.un.org/Depts/dpa/peace.html>>.

ties applied in different conflict scenarios and contexts, and insisted on the need to coordinate and harmonise them.¹⁶

The ensuing 2009 Report of the Secretary General on *Enhancing Mediation and Its Support Activities* acknowledges that "... the practice of mediation has received remarkably little attention or support. Instead, our efforts have been concentrated on the more costly tasks of dealing with the shattered remnants of devastated lives, communities and institutions of state, while the daunting challenge of reconstruction has absorbed resources that could have gone into early conflict resolution."¹⁷ The report recognizes mediation as a professional tool for conflict resolution, emphasizes that the practice of mediation requires specific skill sets and expertise, and signals to the international community that acquiring and applying these techniques require substantial efforts, both in financial terms but also in terms of systematized learning as to its practice. Initiated by Finland and Turkey, which have created a UN Group of Friends of Mediation, a UN General Assembly Conclusion in June 2011 stressed the continued need for resources, capacity building, and the professional practice of mediation.¹⁸

Whilst the various documents outline the specific functions and advantages of the UN to maintain peace and security, the organisation has not been the only state-based actor to begin to develop mediation support systems. In particular, small, neutral states such as Norway and Switzerland have developed and supported mechanisms that sustain and implement mediation efforts for conflict resolution. These have shown remarkable openness and flexibility of who engages in or supports a peace process. Their ability to engage in a quiet and discreet way in peace processes has not gone unnoticed and been instrumental for the practice of peace mediation.

On the African continent, where violent conflicts frequently erupt, the African Union is making efforts at the continental-level in partnership with the African Regional Economic Communities to build capacity in mediation and mediation support in an effort to shift from an ad-hoc approach toward more strategic and professional mediation interventions, and have been or are currently developing action plans to fully integrate the practice of international peace mediation in conflict resolution on the continent. Other regional organisations such as the OSCE have begun to follow suit.

Though only hesitantly acknowledged in the report of the UN Secretary General,¹⁹ a considerable number of specialised non-state actors such as NGOs have been working in this field for years and have managed to broker peace with remarkably little resources where state actors could not intervene,²⁰ either due to lack of access to conflict parties and lack of trust, or due to constraints of the international legal system. An *Economist* article acknowledged the increased relevance of non-state actors in their role in resolving armed conflict, and the fact that governments are increasingly handing over the early stages of conflict resolution to independent organisations with an article entitled "privatising peace."²¹ These actors have a less threatening presence especially for actors who do not desire a full internationalization of 'their' conflict.

¹⁶ Intervention of Ban Ki-mon, United Nations, Security Council, 5979th meeting, Tuesday, 23 September 2008, New York.

¹⁷ *Report of the Secretary General on Enhancing Mediation and Its Support Activities* (S/2009/189).

¹⁸ United Nations: General Assembly 65th session, "Strengthening the role of mediation in the peaceful settlement of disputes and conflict prevention and resolution," A/65/L79.

¹⁹ See: United Nations, *Report of the Secretary General on Enhancing Mediation and Its Support Activities* (S/2009/189), Annex, Point 4.

²⁰ For a survey of some of these non-state actors: Private Diplomacy Actors, refer to the Private Diplomacy Survey 2008, <www.initiativeforpeacebuilding.eu/mediation.html>.

²¹ "Privatising peace," *Economist*, 30 June 2011.

2.1 Why the EU?

The European Union, as the world largest donor, active in the field of crisis management, conflict resolution and prevention, with a non-negligible record of 15 currently running CSDP Missions all over the world,²² has only recently begun to reflect on its own capacity and resources in international peace mediation. In recognition of the need for a more coordinated and focused approach in the field of international peace mediation, the European Union has, in November 2009, adopted a Concept on Strengthening EU Mediation and Dialogue Capacities.²³

This concept was as needed as it was timely, being produced by the Swedish Presidency of the European Union just prior to the launch of the EU's External Action Service (EEAS). The fact was, and to some extent still remains, that the Union has not been considered by itself nor by others as a full-fledged actor in the domain of mediation, in spite of having been involved in, acted on, and supported a variety of mediation efforts. At the same time the concept allows for the EU to be more conscious about its role, which has not been the case until recently. During the past years, discussions and debates on the role of the European Union have shown the contours of a growing recognition of the importance of conflict resolution as its professional practice. Moreover, it continues to be a legitimate thought that in light of the implementation of the Lisbon Treaty, and particularly the European External Action Service, the EU will further seek to consolidate and strengthen its presence as an international actor in the world, secure its neighbourhood and help to secure global peace.

One of the explaining factors why mediation has not been picked up as a central tool and instrument in the evolving CFSP and ESDP environment, could be due to the extremely dynamic nature within which this policy area is evolving, which up until recently continued to be dominated by an intergovernmental mode of decision-making, resulting in a lack of strategic policy thinking and overall reflection.

At the same time, the general competing paradigms in European Foreign Policy which reigned at the beginning of this millenium continue to exist: the "human security" paradigm on the one hand, taking a key interest in the root causes and long term implication of conflict, and on the other hand, a more realist "hard security" approach focusing on power projection, which to some extent was embraced by the European Security Strategy of 2003. These strands of thinking continue to echo in Brussels as a competitive debate between a civilian and military approach on European foreign policy. Yet, as evidenced by the Report on the Implementation of the European Security Strategy in 2008, the importance of conflict prevention requires the EU to expand dialogue and mediation capacities.²⁴

Assuming a role (whatever this might be) in the practice of mediation will necessitate, among other developments, the building of capacity in mediation within an enhanced and clarified conflict resolution and peacemaking policy. For this, mediation as a practice must be fully understood, its added value recognised and consequently accommodated within the strategy and planning of European foreign policy.

²² See <http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=268&lang=EN&mode=g>.

²³ Council of the European Union, *Concept on Strengthening EU Mediation and Dialogue Capacities* (Brussels: 15779/09, 10 November 2009).

²⁴ *Report on the Implementation of the European Security Strategy – Providing Security in a Changing World*, S407/08 (Brussels, 11 December 2008).

3. What Is Mediation and International Peace Mediation?

In international affairs it appears that the term and concept of ‘mediation’ is one denoting the willingness to resolve a conflict through peaceful means via a third party, mainly through negotiation, but not really used to describe a specific method or practice. In order to understand my emphasis on the need for the professionalization of mediation in the current discourse, it is important to develop a nuanced understanding of the terms and practice of mediation.

International peace mediation as a practice can be located in the exercise of preventive diplomacy, peacemaking, and peacebuilding, as well as in peacekeeping operations. Whilst not a synonym for mediation, peacemaking *includes* mediation as a tool for conflict resolution.²⁵ The contemporary conceptual bases of these concepts remain anchored in the *Agenda for Peace* by the former Secretary General of the United Nations, Boutros Boutros Ghali.²⁶

3.1 Defining Concepts

A plethora of definitions of mediation exist, some of which differ in terms of their methodological premise. In its most “purist form,” for this analysis, mediation is considered as an interest-based method. Thus, a baseline for defining mediation denotes:

*A voluntary and confidential method, through a structured process, where one or more impartial third parties assist parties to reach a mutually satisfactory solution. The mediator provides a framework and conducts the mediation, but makes no substantial suggestion or decisions in the case.*²⁷

It needs to be recognized that especially within the international field of conflict resolution, mediators can be facilitators, formulators, and manipulators.²⁸ Two main distinguished strands or categories of mediation that can be contrasted are the power-based and interest-based approaches.²⁹

- ✓ In the *power based approach* of mediation, the mediator plays a directive role in formulating and introducing solutions, enticing parties to arrive at a solution. By using a “carrot and stick” tactic it increases the costs of non-agreement to the parties. Also, the mediator ties his/her own interests into the negotiations.³⁰ In international relations, this type of mediation is often associated with actors who have large power resources (hegemonic status, military might/financial resources).
- ✓ As defined above, the *facilitative and interest-based* mediation approach primarily seeks a role in the structuring and guiding of a process, supporting parties in the search for solutions, moderating, establishing common understanding of the problem area, and summarising the content of discussions. The interest-based approach takes the

²⁵ *Peacemaking* is defined by Chapter IV of the UN Charter as a tool that can be called upon by the UNSC for the pacific settlement of disputes. Article 33 of the UN Charter outlines a range of actions including “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies and arrangements or other peaceful means of their own choice.”

²⁶ A/47/277 – S/24111, 17 June 1992, *An Agenda for Peace* (Report of the Secretary General pursuant of the statement adopted by the Summit Meeting of the Security Council of 31 January 1992).

²⁷ Christopher W. Moore, *The Mediation Process* (San Francisco: Jossey-Bass, 2003); Hannelore Diez, *Werkstattbuch Mediation* (Köln: Centrale für Mediation, 2005).

²⁸ Saadia Touval and William I. Zartman, eds., *International Mediation in Theory and Practice* (Boulder, Colorado: Westview Press, 1985).

²⁹ Marieke Kleiboer distinguishes between four main forms of international mediation. These are the power brokerage model, the domination model, the political problem-solving model and the transformative-restructuring relationships.

³⁰ See also Roger Fisher, William L. Ury, and Bruce Patton, *Getting to Yes: Negotiation Without Giving In* (London: Penguin, 1991).

perspective that, in addressing the real needs of parties, the root causes of a conflict can be resolved by the parties themselves. It is value-based and stresses the need of empowering parties, providing a safe space, and supporting the recognition of different perspectives between conflict parties.

A word of caution in this regard is warranted. In thinking of, and practising international peace mediation,³¹ it needs to be taken into account that mediation styles might change during a mediation process depending on a number of factors, including the length of the conflict and the pressure applied by outside actors.³² At the same time, the systematization of the practice of international peace mediation does not entail the ‘forcing’ of specific models that might not work in various cultural contexts; yet, it is acknowledged by anthropologists that most dispute settlement mechanisms follow a certain structure,³³ more or less ritualized. In fact, the concern and art of international peace mediation is that of structuring dialogue and creating a ‘safe space’ for parties in conflict.

The way in which mediation is understood has an impact of how it is being practiced or supported as a practice. Unlike the institutionalization of mediation as a professional practice in the national scenes, the professional practice of international peace mediation does not yet exist. The initial institutionalization of international peace mediation is evolving to some extent on a common understanding as well as a common ‘language’ that reflects practice.

It is thus of interest to note that the EU concept on strengthening EU mediation and dialogue capacities is formulated in such a way that it allows both practices: The term mediation is consciously formulated to allow for power-based approaches “... usually based on a formal mandate from the parties to a conflict, the mediator gets involved both in the process and substance of the negotiations by making suggestions and proposals,” whereas the concept explicitly makes reference to dialogue which is similar to mediation, but less directive, and less involved in shaping the substance of the negotiations.”³⁴

In national realms, and particularly in the Western world, mediation can be practiced by any private or public individual, providing that he/she is committed to the principle of impartiality and will bring the necessary training and credentials to actually perform a mediation in a professional manner. In contrast, the practice of international peace mediation is often confounded with diplomacy enacted by public officials. The fact is, however, that traditional diplomacy is enacted as instrument to protect the interests of the sending state, rather than universal values.³⁵ Likewise, even post Lisbon decision-making structures within the European

³¹ The term *international peace mediation* is not yet a universally accepted one. In fact, the term ‘international’ as in “international conflict” in a globalised world might be redundant. For clarity of terminology, however, it is useful to remind ourselves that “*international* conflicts can refer to both interstate conflicts and domestic ones ...” The abuse of human rights, the environment, or the likely change of global order, are a concern of the international community, which entices third parties to intervene, providing a rationale for a mediation. Conversely, the term *peace* refers to the creation of a condition which is sustainable, referring specifically to an enduring process of conflict resolution. In that sense, it inserts a specific value to all of those practicing as well as supporting by seeing international mediation as an integral, not isolated, part in the conflict resolution circle.

³² Some mediation experts argue that the directive, power based approach should not be labelled as mediation as the distinctive normative dimension of mediation that empowers parties is not enshrined in such an approach. See Kimberlee K. Kovach and Lela P. Love, “Mapping Mediation. The Risk of Riskin’s Grid,” *Harvard Negotiation Law Review*, Vol. 3 (Spring 1998): 71-110.

³³ See for example: Colson, “The Contentiousness of Disputes,” pp. 65-82.

³⁴ See Council of the European Union, *Concept on Strengthening EU Mediation and Dialogue Capacities*, 15779/09 (Brussels, 2009), p. 3.

³⁵ Carne Ross, *Independent Diplomat: Dispatches from an Unaccountable Elite* (New York: Hurst Books, 2007).

Union and CSDP is carefully built around member states interests on matters of crisis management and conflict resolution.

Whilst status and mandates do matter in international peace mediation, it is not a domain reserved to public officials: *au contraire*, the issue of conflict of interest of state actors including the EU, as impartial actor, is a key issue to be taken into account.

This point is stressed as conflicts today are intrastate and require creative solutions to respond to present-day conflicts. This requires a paradigm shift of how diplomacy is conducted. A growing number of policy makers and diplomats recognize that where there is a question of impartiality of the EU in key conflict situations, there is a profound need for trust-building, engagement and dialogue on the ground, and at the same time requires filling a gap in peace mediation. Where sufficient political will for an official EU intervention cannot be gathered, non-state actors become essential partners. Indeed, their role has taken an important place in international peace mediation for the EU.³⁶ However, their role is only beginning to be appreciated as partners, both as implementors of dialogue and mediation projects on the ground to flank other, official EU measures and in those areas where it is more difficult for the EU to act,³⁷ but also because some of them have profiled themselves through thought leadership and best practice.

Officially mandated mediators are pressured to produce a result with little flexibility for outreach. This pressure takes time from the participants and limits the possibility to create a proper space for the parties to achieve a long-lasting solution.³⁸ As inter or intrastate conflict requires a sufficient amount of time and space to consult with and reach out to their respective constituencies, much can be done to allow grassroots constituencies to express themselves and therefore to ensure that a broad societal ownership of a peace agreement is of crucial importance for a peace process.

On the one hand, with the a new strategy of decentralisation, which empowers the EU delegations to take the lead with this type of work, important steps have been taken to allow for this. On the other hand, the typical constraints of bureaucratic procedures and fairly limited staff resources sometimes prevent a genuine partnership or engagement with local projects. There are dedicated staff devoted to dealing with projects coming from the Instrument for Stability, which is a positive step into the right direction. Equipping this staff with the right analytical tools to assess project proposals and empower local mediation activities could further improve this practice.

³⁶ As pointed out by one EU Special Representative: "... there is still some potential here to see how we can use this channel a bit more. We haven't tried in earnest, other than on the margins, to get civil society involved in mediation."

³⁷ Organisation such as the Crisis Management Initiative (with the work in Indonesia, Aceh in particular), the Community of St. Egidio (i.e. Mozambique), the HD Centre (Indonesia/Aceh, Thailand, etc. and hosting the Annual Mediators Retreat in Oslo), Conciliation Resources (Georgia, Kashmir, Uganda), International Alert (South Caucasus, Sri Lanka), or Interpeace (Somaliland) are cases in point.

³⁸ This said, parties to a mediation might also use the factor of time to delay a solution. There is inconclusive anecdotal evidence about the "right use of time."

4. The Relevance of International Peace Mediation to the EU

In the last decade, the European Union institutions have been increasingly active in engaging in peacemaking, either as a supporter or as a negotiator. In parallel, the EU acts in international forums and engages both in military and civilian crisis management missions, and has supported the mediation initiatives of non-state actors, the UN, and regional organisations such as the African Union.

However, *international peace mediation* has been largely left out of the European foreign policy rhetoric: As the former French foreign minister Bernard Kouchner asserted in the Security Council meeting on mediation in September 2008; “the EU believes, somewhat legitimately, that the association of its 27 countries can play a political role in some areas and that it is not used enough. It is used more for giving money than for mediation. We have the experience, and it has not always been negative.”³⁹

The certain degree of passiveness of the EU in this field is unlike the UN, and the involvement of the former in international conflict resolution is relatively recent. Its identity is strongly shaped by the quest for peace and consensus-building and for promoting a culture of peace through deepened integration and cooperation, and the EU arguably has a vocation to project these ideals worldwide. In fact, the European Union and, possibly to a lesser extent the OSCE and NATO, are the only inter-state actors that have a foreign policy remit beyond their borders and neighbourhood, but with a global reach and proclaimed commitment to security and stability in the world.

It is worth noting that the EU Concept of Mediation at great length underlines that, next to its own role as an ‘institutional’ mediator, it can fulfill important roles that will promote its practice by promoting mediation as a value-based tool for non-coercive actions in the field of conflict resolution, providing leverage to gain commitment to a peace process, as a supporter of mediation processes led by other actors, and as a funder of mediation activities by non-state actors.

4.1 The Common Foreign and Security Policy *acquis* Relevant to Mediation

Considering the relatively brief history of European Common Foreign and Security Policy, the European Union has catapulted itself into an important position in international conflict resolution practice. This might not have been the initially foreseen intention, but a combination of factors evolving from outside demand and necessity. One of the reasons for this has to do with the impact of the European Union impact as a donor in the world, which has allowed it to gain increasing leverage on crucial development and security issues.

The first milestone in the field of crisis management was the adoption of the “Petersberg tasks” at the Ministerial Council of the Western European Union in 1992 Single European Act and now an integral part of the Common Security and Defence Policy (CSDP). Explicitly included in the Treaty on the European Union (Article 17),⁴⁰ these issues cover: humanitarian and rescue tasks, peacekeeping tasks, and tasks of combat forces in crisis management, including *peacemaking*. In contrast, the European concept of civilian crisis management, launched at the European Council in Feira in 2000, whilst promoting measures for greater coherence, has not alluded to issues concerning conflict resolution.

³⁹ United Nations, Security Council, 5979th meeting, Tuesday, 23rd September 2008, New York.

⁴⁰ This task is covered by the provisions on a Common Foreign and Security Policy (Title V Article 17 2.TEU) including peace making and political dialogue with third parties (Article 26).

Following this, an oblique reference on conflict resolution was provided for at the European Council in June 2001, through the Swedish Presidency, during which the European Council continued a rebalancing of the military bias of CFSP by endorsing the EU Programme for the Prevention of Violent Conflicts, the so-called Gothenburg Programme.⁴¹ In contrast, the Commission Communication on Conflict Prevention that fed into the Gothenburg conclusions makes ample reference to the importance of mediation and dialogue activities.⁴² It is important to note that the Feira and Göteborg conclusions combined and gave way to a practice that is now commonly called civilian crisis management,⁴³ referring to “all non-military instruments or policies of the EU dedicated to crisis management.”⁴⁴ In theory, this statement could have provided space for the implementation of international peace mediation. From there on, incremental steps have led to the gradual implementation of conflict and crisis management measures as defined in the Treaty of the European Union, none of which have enabled the European Union in the practice of International Peace Mediation, until now. Nevertheless, these measures point to a platform from which it can be promoted and implemented, as well as understood.

The Civilian Headline Goals (CHG) 2008 concluded during the Dutch Presidency in 2004 (and prepared during the Irish presidency) provided a frame of reference in terms of the capabilities that the EU should develop, relating to civilian capacity and notably in the field of conflict prevention. However, they still failed to mention mediation.⁴⁵ At the same time CHGs stressed the importance of conflict prevention. Neither the CHG in 2008 nor 2010, which follows the previous catalogue, mentioned peacemaking or mediation capacity.⁴⁶

The Civilian Response Teams involves a concept by the General Secretariat of the EU on how multifunctional civilian crisis management resources in an integrated format could be deployed, resulting in the proposal of creating rapidly deployable Civilian Response Teams (CRT's). The CRT pool should provide the expertise of “...conflict prevention, *mediation*,⁴⁷ stabilization and confidence-building measures...”⁴⁸ in order to provide reinforcement of existing EU mechanisms.

The Austrian Presidency stressed the need of the EU and its Member States to broaden and reinforce the existing network of actors working on crisis response. It was recommended to act by “including more conflict prevention and peace-building experts from governmental and non-governmental levels,”⁴⁹ thus providing an unexploited venue for discussion of mediation-related activities. The strengthening of cooperation and networking with non-state actors “in

⁴¹ Presidency Conclusions, Göteborg, 15 and 16 June 2001, SN 200/1/01 REV 1.

⁴² European Commission, Communication from the Commission on Conflict Prevention, COM (2001), 211 final, available at: <http://ec.europa.eu/external_relations/cfsp/crisis_management/docs/com2001_211_en.pdf>.

⁴³ See for civilian crisis management the pages of the Commission: <http://ec.europa.eu/external_relations/cfsp/cpcm/cm.htm> and the Council <http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1346&lang=en&mode=g>.

⁴⁴ Agnieszka Nowak, *Civilian Crisis Management: The EU Way*, Chaillot Paper no. 90 (Paris: European Institute for Security Studies, June 2006).

⁴⁵ The areas mentioned in the Headlines are: police, rule of law, civil administration, civil protection, monitoring missions and support for EU special representatives.

⁴⁶ See Council of the European Union, *I/A Item Note*, 14823/07, Brussels, 9 November 2007.

⁴⁷ Emphasis is added.

⁴⁸ See Council of the European Union, *Civilian Headline Goal 2008*, General Secretariat Document: Multifunctional Civilian Crisis Management Resources in an Integrated Format, Civilian Response Teams, 10462/05 (Brussels, 23 June 2008).

⁴⁹ The German Presidency of the EU one year later recognises the importance of short term crisis management with a strong need for a more effective and efficient conflict prevention policy “which would reduce the need for a more costly crisis management operations. See Council of the European Union, *Presidency report to the European Council on EU activities in the framework of prevention, including implementation of the EU Programme for the Prevention of Violent Conflicts* (Brussels, 19 June 2007).

particular NGO's, academia, and the private sector in the area of conflict prevention" and the need to strengthen capacity of civil society in "promoting dialogue and reconciliation"⁵⁰ was consequently formulated.

In June 2007, the German Presidency opened an opportunity for policy debate on the role of the EU in international peace mediation in the framework of conflict prevention.⁵¹

A growing interest and recognition of International Peace Mediation was evidenced in the 2008 Report of the Secretary General/HR Report on the Implementation of the European Security Strategy, acknowledging the need to "expand dialogue and mediation capacity" in the context of the EU's preventive engagement.

Following a first CIVCOM discussion on the topic of mediation during the Czech Presidency, the 2009 Report on the implementation of Göteborg notes the creation of a procedure to develop EU mediation capacities as an efficient and effective tool for conflict prevention and resolution, stating in particular that "Further strengthening EU *mediation and dialogue capacities* will be given priority within its CFSP/ESDP agenda with a view to contribute more effectively to settlement of disputes, preventing deterioration of stability and escalation of conflicts to avoid duplication of efforts."

In 2009, a number of high-level meetings—bringing together experts and officials from the UN and the OSCE, with the EU institutions selecting member states as well as EU Special Representatives—provided for a consensus on the key relevance of mediation for the European Union.

As mentioned, the 2009 Swedish Presidency of the European Union has intensified dialogue on mediation at all levels of the EU, including through the Political and Security Committee which, on the 31st July 2009, tasked the Council Secretariat to develop a concept on EU Mediation, consequently approved on 10th of November 2009, which furthermore tasks a working group to develop an action plan within one year.

Somewhat disappointing are the rather uncommitted measures, lacking a concrete basis, that have been enshrined through the Council Conclusions on Conflict Prevention, marking the 10th Anniversary of the Gothenburg Programme on the Prevention of Violent Conflict issues by the EEAS, which recognises the value and role of conflict prevention. The Conclusion stresses the need for early action and recognises the role of mediation, making reference to its EU concept, and states the continued importance of supporting local regional and international organisations, as well as non-governmental actors to assist in the resolution of conflict.⁵²

⁵⁰ The report realises the need for a greater mainstreaming of conflict prevention and resolution within the existing EU framework and explicitly mentions the need for increased cooperation at all levels (international and other regional organizations and civil society). See Council of the European Union, *Presidency report to the European Council on EU activities in the framework of prevention, including implementation of the EU Programme for the Prevention of Violent Conflicts*, 10158/06 (13 June 2006).

⁵¹ See Council of the European Union, *Presidency Report to the European Council on EU activities in the framework of prevention, including implementation of the EU Programme for the Prevention of Violent Conflicts*, 11013/07 (Brussels, 2007).

⁵² European Council, Council conclusions on conflict prevention, 3101st Foreign Affairs Council meeting (Luxembourg, 20 June 2011).

4.2 The Institutional Framework for International Peace Mediation within the Council Secretariat

Until present, within the CFSP and ESDP framework, the first and present ‘face’ and provider of good offices’ of the EU in the world has been its *High Representative*,⁵³ Lady Catherine Ashton.⁵⁴ Together with the *Special Representatives* of the EU, she has constituted the “public face” of the Union in terms of conflict resolution, although with defined mandates.⁵⁵

The substance of a mandate depends on the political context of the deployment, which is unlikely to change with the implementation of the Lisbon Treaty. In practice, the EUSR’s have been tasked with covering the entire spectrum of conflict prevention, crisis management, conflict resolution and peacebuilding. According to Giovanni Grevi, EUSRs on the ground carry out various tasks, including “mediation, confidence building, [and] conciliation.”⁵⁶ Of ten EUSRs active at present, eight are explicitly charged with a function that is related to peacemaking and mediation (conflict resolution), often termed *facilitation*, a conscious formulation one step short of mediation, although seen through the EU concept of Mediation the practice of facilitation can be equated with the practice of mediation. In addition, and with the exception of the EUSR for the Middle East and for conflicts in Georgia whose mandate is closest to something of a mediation role, the EUSRs seem to be mandated to play a supporting role, assisting the settlement of conflicts, rather than having a mandate actively engaging in peace mediation with the purpose of the settlement of conflict. It remains to be seen in what sense the role of EUSRs will be upgraded further to take up explicit mediation roles.

Yet, fulfilling the role of a mediator would require more support than presently available.⁵⁷ This is acknowledged in the EU concept on Mediation. Whilst until recently the EUSRs have acted as information brokers to the EU, notably the Political and Security Committee (PSC), and act as policy makers in implementing their broad mandates, they are now much more closely associated to the EEAS. Their ability to engage in a mediation role depends on their mandates, but also at the same time to walk the tight rope of accountability to the EEAS and its Managing Directors, whilst able to flexibly respond to the needs of the situation to which they are assigned to. As crisis managers also providing policy leadership to the head of ESDP operations, the EUSRs must coordinate local, national, regional organizations and EU policy, and implement communication policy.⁵⁸ In this sense it can be a challenge for the EUSRs to assist both a mediation process providing extensive reporting to and representing the EEAS. Currently, none of the present EUSRs have been provided with an explicit function of mediation – except for the EUSR for the South Caucasus, presently Philippe Lefort who is also a co-facilitator of the Geneva talks on the conflict in Georgia. It is up to the EUSRs to apply mediation and facilitation techniques, depending on their skills – with limited room for manoeuvre.

To date, the EUSRs receive very little training or coaching in mediation, or guidelines of how to practice their role. The EUSR staff by extension is in the same situation. The fact that, in

⁵³ Upon the entry into force of the Lisbon Treaty, the terminology has changed. Please note that the official terminology changes from High Representative for the Common Foreign and Security Policy (HR) to High Representative of the Union for Foreign Affairs and Security Policy in the Lisbon treaty. This is due to the merge of the current post of the HR with that of the European Commissioner for External Relations.

⁵⁴ In a way similar to the Treaty of Nice, Article 27 of the Lisbon Treaty on CFSP envisions a role for the High Representative under the remit of conducting “political dialogue with third parties,” allowing for preventive diplomacy under the Common Security and Defence Policy.

⁵⁵ An EUSR is appointed by the Council of the European Union through the legal act of a Joint Action.

⁵⁶ Giovanni Grevi, *Pioneering Foreign Policy. The EU Special Representatives*, Chaillot Paper no. 106 (Paris: Institute for Security Studies, 2007), p. 43.

⁵⁷ Interviews with several officials, including one of the EUSRs, 16 June 2008.

⁵⁸ Grevi, *Pioneering Foreign Policy*.

general, mediation and conflict resolution are not yet part of the traditional diplomatic training course results in a culture not always amenable to the practice of conflict resolution. No specific ad-hoc thematic expertise such as transitional justice, constitutional issues, issues of international law are available for advice to date to the EUSRs, which puts them at a comparative disadvantage to other mediation teams.

In terms of mandating mediation for the European Union, and because member states decide upon EU crisis management, the *Political and Security Committee* (PSC) of the European Union, which was set up in 2000 and has been fully operational since January 2001, plays a key role. In cooperation with other technical committees, it prepares all relevant EU acts and initiatives. The committee plays an instrumental role in developing a common political understanding to crises and providing policy guidance and strategic direction to crisis management operations.

In this sense, the PSC is of crucial importance for endorsing and backing international peace mediation and providing its support for follow up. This can be exemplified in the successive endorsements and engagement for a monitoring action in Aceh⁵⁹ and Georgia. However, those sitting at the PSC to date argue that the question of possibility of mediation engagement rarely enters the room, which is possibly due to the highly stretched agenda items, and the lack of consciousness of how and in what way a mediation process could be proposed. Much more needs to be done to ‘enlighten’ participants of the PSC to approaches amenable to mediation.

In this context it is also worth mentioning that the *Committee for Civilian Aspects of Crisis Management* (CIVCOM), which was created in 2000 and reports directly to the PSC, has a different perspective as a body that provides expert advice on all aspects of EU civilian crisis response.⁶⁰ CIVCOM regularly involves and engages with non-state actors. Since 2007 CIVCOM hosted presentations provided by representatives from civil society.⁶¹ (It has been recognized for playing a vital role in the creation of the Civilian Response Teams (CRTs)⁶²). Until 2008 CIVCOM has not consciously preoccupied itself with those specific aspects of mediation, although its role is to “help consider the possibilities of developing common methods, procedures and routines.”⁶³ Some of this might be due to the conceptual nature in which civilian capabilities were conceived: “to back up military capabilities and help to restore civil governments after crisis.”⁶⁴

Therefore CIVCOM and the PSC are the relevant fora to continue the discussion on international peace mediation – while the discussions also have to be continued in the capitals of the member states and the other EU institutions (Commission, Parliament) in order to build political support.

⁵⁹ In this context it was crucial to provide regular briefings and contacts to individual members of this Committee, to allow for a consistent exchange of information, also as a way to bolster the support of the EU 27 for engagement in international peace mediation.

⁶⁰ *Council Decision of 22 May 2000 (2000/354/CFSP)*.

⁶¹ Since 2007, it has been hosting briefings by selected representatives of civil society on key aspects of crisis management in both thematic and geographic areas.

⁶² See Page 31 in Valérie Peclow, “Le Conseil et la gestion de crises,” in *L’Union Européenne et la gestion de crises*, ed. Barbara Delcourt, Marta Martinelli, and Emmanuel Klimis (Bruxelles: Institut d’Etudes Européennes, 2007) and Civilian Capabilities Improvement Conference 2006, *Ministerial Declaration*, 13 November 2006.

⁶³ Council of the European Union, Preparatory document related to CSDP: “Establishment of a European Union Committee for Civilian Crisis Management,” Press Release 10.3.2000 Nr: 6755/00 (2000).

⁶⁴ See page 28 in Nowak, *Civilian Crisis Management*.

That said, general awareness and recognition of the added value that mediation can bring to the leadership of the EEAS is the indispensable link that will transform and empower European foreign policy to upgrade its profile as a meaningful soft power actor.

4.3 Promoting, Leveraging, Supporting and Financing Mediation: The Role of the European Commission and the External Action Service

Apart from the role of High Representative and the EUSRs in mediation processes, the EU has a number of other possibilities to engage in and support international peace mediation: the *promotion* of mediation, the *leveraging* of mediation, the *support* of mediation processes, and the *financing* of mediation processes.⁶⁵

In terms of *financing* international peace mediation, the European Commission has devoted considerable financial support to informal mediation and facilitation in crisis and conflict regions both through the Rapid Reaction Mechanism⁶⁶ from 2001 to 2006 and through the Instrument of Stability after 2007.

Created in 2001, the *Rapid Reaction Mechanism* (RRM) was set up as a response to the need for flexible and urgent responses to non-humanitarian crises. With a relatively small budget (around 30 million Euros per year), projects were limited to an operational duration of six months. Since 2001, the RRM allocations included a horizontal budget line for policy advice, mediation and reconciliation programmes. Although not widely communicated, the RRM funded a considerable number of projects that supported peace processes and the engagement of non-state and state actors in peace mediation processes.

A number of actions, supported by the EU through the European Commission, point to the growing importance for supporting mediation activities, including support to peace processes, contribution to resolution of intra-state conflicts, and support to non-state as well as state-based mediators. Unfortunately, little reflection or evaluation on the substance of this work has been done on the impact of this funding, with the possible exception of the Aceh peace process. The Aceh peace process, financed by the RRM, initially supporting the Centre for Humanitarian Dialogue and consequently the Crisis Management Initiative was followed up by a joint EU/ASEAN civilian monitoring mission under the auspices of the ESDP.⁶⁷ It could be argued that this “success story” has helped to inspire the Commission’s newly launched Instrument for Stability, recognizing the EU’s “political commitment to pursue conflict prevention as one of the main objectives of the EU’s external relations.”⁶⁸ It also recognised the role of key non-governmental organisations or individuals in this field.

The *Instrument for Stability* (IFS), established through Regulation (EC No 1717/2006) of the European Parliament and the Council, was launched in 2007 with the purpose of enhancing the European Union’s crisis response capacity. This instrument has enjoyed considerable financial allocations (an average of 230 million Euros per year during the period 2007-2013). The IFS can be mobilised for crisis response “in the case of a major new political crisis or natural disaster, or a window of opportunity to pre-empt a crisis or an opportunity to advance

⁶⁵ While mediation describes the direct involvement in a mediation process, *mediation support* is the expertise and services that individuals or institutions provide to the mediator so as to facilitate her/his practice.

⁶⁶ See Council Regulation (EC) 381/2001.

⁶⁷ For a full reflection of the Aceh Peace Process see Aguswandi and Judith Large “Reconfiguring Politics: The Indonesia – Aceh Peace Process,” *ACCORD series*, Issue 20 (London: Conciliation Resources, 2008).

⁶⁸ *Regulation (EC) No. 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability*. See Art. 3, 2a) “Technical and financial assistance referred to in paragraph 1 shall cover the following area: (a) support, through the provision of technical and logistical assistance, for the efforts undertaken by international and regional organizations, state and non-state actors in promoting confidence-building, mediation, dialogue and reconciliation.”

conflict resolution....”⁶⁹ Mediation implemented through state but also non-state actors is covered in the heading of “pre- and post-crisis capacity building measures,” commonly called crisis preparedness, under Art.4.3.

Part of the Stability Instrument, the 2007 Annual Action Plan of the *Peacebuilding Partnership*, is based on an extensive “informal dialogue with civil society” and specifies the area of mediation very clearly.⁷⁰ The inclusion of the thematic area of mediation is a particular result of this interactive dialogue between the stakeholders of the peacebuilding community and the Commission. The overall purpose of this dialogue is to strengthen the capacity of civil society actors, regional and sub-regional organizations, and the EU institutions to “anticipate and respond to situations of crisis through developing a partnership with, and between, specialised civil society actors at policy and operational level.”⁷¹ However, mediation or other thematic projects do not enjoy any specific evaluation standards, and it is not clear in terms of substance, what kind of mediation expertise will be chosen to fill the vacuum in this area. In the words of a Commission official, speaking about the role of mediation for the EU, “we are providing a certain amount of soil for something, but the actual growth has to come from elsewhere.”⁷²

This said, the support given by the Commission to different private mediation processes has been substantial. For example, combining both the Rapid Reaction Mechanism and the Instrument for Stability, in terms of mediation activities, between 2001 to 2007 the European Commission supported Mediation activities in FYROM, Indonesia/Aceh, Somalia, Sri Lanka, Northern Uganda, the Democratic Republic of Congo, Liberia, the Middle East (including the Geneva Initiative) and Sudan/Darfur, including the contribution of 3 million Euros to the creation of a Trust Fund for AU/UN Joint Mediation.⁷³ In addition, the EU funds also two members of the UN Standby team on Mediation.⁷⁴

4.5 To Be or Not To Be: Is or Can the EU Be a Mediator?

Questioning policy makers and experts as regards to whether and how institutional mediation fits into present day policy making of the EU, a broad consensus in the Brussels policy community reigns that the EU has the strongest potential as a support network for international peace mediation. While there is consensus that the EU shall continue to be somehow *engaged*

⁶⁹ Commission Staff Working Document, Accompanying document to the Report from the Commission to the Council and the European Parliament, *Annual report from the European Commission on the Instrument for Stability in 2007 – Executive Summary*, SEC (2008) 446 (Brussels, 11 April 2008).

⁷⁰ European Commission, Instrument for Stability, Crisis Preparedness Component, Annual Action Programmes 2007-2008, Peace-building Support, Guidelines for grant applicants responding to the call for proposals, Restricted call for Proposal, Reference: PbP-2008-1-2007/2008. One of the three specific objectives of the Peace-building Partnership as stated in the 2007 AAP is to “strengthen the institutional capacity of non-state actors specialised in mediation, the delivery of assistance in fragile states and in post-crisis early recovery.” The “development of capacity for informal (‘track II and III’) mediation” is also listed among the priorities and foreseen results of the Peace-building Partnership.

⁷¹ Interview with Commission official, Peacebuilding Partnership.

⁷² Ibid.

⁷³ Commission Staff Working Document, Accompanying document to the Report from the European Commission to the Council and the European Parliament, Annual Report from the European Commission on the Instrument for Stability in 2007 – Executive Summary, COM (2008) 181 Final.

⁷⁴ Finally, the European Commission’s Instrument for Democracy and Human Rights (EIDHR) makes mention of the 2007-2010 Strategy Paper whereas Objective 2 concerns the “strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and consolidating political participation and representation.”

in mediation processes,⁷⁵ there seems to be no consensus of *how* this could be done. The cases that are most frequently cited until today are the following:

- ✓ The mediation between the *Macedonian* majority and *Albanian* minority in the FYROM that led to the Ohrid Agreement, which in essence was a joint EU/US effort, where the EU (Javier Solana and Francois Leotard, former Defence Minister of France) and the US (James Pardew), with the support of the USA, NATO, and OSCE, engaged in what was essentially a power mediation (strongly outcome-oriented) which used the possibility of NATO troops and strong EU financial support as leverage.
- ✓ The *Ukrainian* Orange Revolution, in which its Parliament voted to ask for international mediation. Here, the role of former President of Poland, Alexander Kwasniewski (an expert of the region and personal friend of Ukrainian President Leonid Kuchma) was coupled with the institutional weight of the EU, personified by Javier Solana. This team proved to be an incentive for all Ukrainian parties in the conflict to agree to a central role for the EU as a mediator, which resulted in the settlement in December 2004.
- ✓ The *Aceh* Peace Process, where former Finnish President Martti Ahtisaari, supported by the Crisis Management Initiative, mediated a peace agreement between the Government of Indonesia and the Free Aceh Movement, using his personal relationship with Javier Solana as an entry point to acquire EU support for a civilian monitoring mission, which arguably served as leverage for the accomplishment of an eventual Memorandum of Understanding.
- ✓ The *Middle East* Process, where the EU has attempted to play a role within the Middle East Quartet, arguably the most important actor after the U.S.
- ✓ The Georgian Russian *Peace Plan* negotiations, led by French President Nicolas Sarkozy for the EU Presidency in August 2008, resulting in a 7 point plan and leading to the Georgian Monitoring Mission (EUMM), which sought to build local confidence. Here the EU stood firmly on the principle of territorial integrity. In addition, the EU appointed the Special Representative Pierre Morel for the crisis in Georgia to prepare the international talks under point 6 (international talks about security in South Ossetia and Abkhazia) of the settlement plan whilst “establishing the EU’s position and represent it in this talks.”⁷⁶
- ✓ The first consciously labeled EU mediation process is brokered by Robert Cooper, between Serbia and Kosovo since 2011 whose aim is to provide opportunities to find peaceful solutions to the outstanding issues between Belgrade and Pristina within the context and prospects of security in Europe with a view to eventual EU membership.

In none of those situations were these negotiations guided by ‘code’ of professional practice of mediation. Their success was a combination of outstanding personalities, leverage, and a call from the international community for the EU to play a role, which to some extent also explains the emphasis on the standing of mediators, rather than the process itself. Taking these cases into account, and also considering the definition of mediation as laid out in the EU concept, it is widely recognized by its own policy makers that the EU as a foreign policy actor possesses distinct interests and that there are cases that some interests of the EU might favour one outcome over another in a particular conflict situation. These do not seem evenly spread

⁷⁵ This information is based on qualitative interviews with 20 policy makers and experts from the EU institutions and member states. It is remarkable that other key engagements of the European Union to support mediation and dialogue have gone unnoticed, which is possibly due to the fact that there is no established system for lessons learned and gathering best practice of EU Delegations.

⁷⁶ See Council Joint Action 2009/131/CFSP of 16 February 2009.

geographically. The EU as such is to be considered as an ‘interested’ and sometimes not a fully impartial mediator. In that sense there is a danger that the term mediation is sometimes seen more as an instrument to maximise EU’s interests, rather than an EU interest in overall conflict resolution. There appears to be the case that the EU’s role in its neighbourhood (such as Georgia or the Balkans) increases its level of self-interest where it might not be seen as an impartial actor, whereas in more distant regions, it is seen as being able to play a more impartial role. As such the EU’s role in Mediation contains two concepts, which are potentially difficult to reconcile with full impartiality or multi-partiality on the one hand, and leverage on the other. Whilst the use of positive conditionality as a leverage for engaging in a mediation process (such as financial aid, the offer of deepened relations (monitoring, etc.) might not compromise impartiality for a mediation process, the application of negative conditionality (sanctions for refusing dialogue, embargos, etc.) is an even more difficult matter. Coercion might only apply in specific and rare cases and is not necessarily conducive to a mediation process, especially in the initial phases.

The issue of full impartiality gains in complexity if we take the role of the European Union as an “ethical actor” into account. For the EU as a promoter of human rights it might be a sheer impossibility and not an option to act as an impartial mediator where atrocities were committed. The EU mediation concept recognizes that “EU mediation efforts must be fully in line with and supportive of the principles of international human rights and humanitarian law, and must contribute to fighting impunity for human rights violations.” The Draft Document on “Transitional Justice and ESDP” recognizes the need to provide guidance in facilitating peace processes, also in reference to the work of EUSR’s.⁷⁷ This also has implications regarding if and how the EU works with non-state mediators such as Track II (non-governmental organisations active in peace mediation).

4.5 Structures and Functions

As a result of consistent lobbying, notably from peacebuilding NGOs, the External Action Service has integrated mediation in its services, now with growing staff resources of around 15 not thematically distinct in the Unit for conflict prevention and security policy, which deals with peacebuilding, conflict prevention and mediation. The development is remarkable as in the beginning of 2011 this unit was staffed with only one part-time position. The European Parliament, through the initiative of a Green MEP Franziska Brandtner allocated 600.000 Euros to boost the capacity of the Unit in order to allow for the setting up of a more permanent mediation cell, which pays for a staff, training and coaching and other services.

Whilst this is a good development for the European Union, it is—compared to other organisations such as the United Nations or indeed the African Union—a relatively small amount. More important, however, is that there will be sufficient leadership to ensure that these resources are used strategically and effectively.

What remains is the inherent contraction of the European Union’s self-interests and the challenge of early and flexible deployment of Mediators due to its complex decision-making machinery. Added to this is very little capacity and expertise in the field of peace mediation. This is coupled with the pressing need for the EU to respond effectively to crisis through mediation and mediation support. These lacunae could be filled through the possible setting up of a European Institute for Peace, initially proposed by the Swedish and Finnish Foreign Ministers Carl Bildt and Alexander Stubb, and communicated in a non-paper in 2010 to the High Representative.

⁷⁷ See: Council of the EU (2006), *Draft Document of Transitional Justice and ESDP in view of the PSC meeting on 20 June 2006* (Doc 10674/06), para.8. in Consilium (2008).

Whilst this initiative is still developing, and the EEAS is evaluating its merits through a cost-benefit analysis, a support structure for the European Union in the field of peace mediation will enhance its ability to engage more efficiently and effectively.

Within the field of peace mediation, such supporting structures are not uncommon. Integrated, hybrid and autonomous structures do exist that will allow for the exploitation of mediation resources and mediation capacity building. An example of a hybrid model would be the UN Mediation Standby Team, which is managed by the Norwegian Refugee Council. Another one is the model of Swisspeace which supports the Swiss Ministry of Foreign Affairs in providing expertise and training to advance its mediation practice. That said, important autonomous structures do exist through independent NGOs that can equally benefit from an organised mediation broker such as the possible European Institute for Peace.

Box: Models for Organising Peace Mediation and Mediation Support

Integrated Model

Form: An integrated model of mediation support entails a specialised unit or department that is created within a governmental or inter-governmental institution with a dedicated unit or department that can support peace-making efforts in terms of logistical, technical and expert advice.

Assumptions: a) there is a conscious recognition of the role of mediation in conflict resolution and b) resources and a certain degree of autonomy are available to operate in a highly volatile policy environment.

Example: UN Mediation Support Unit.

Hybrid Model

Form: Body that can be, but must not, be fully integrated into the institutional architecture of a particular governmental institution, and has a flexible *modus operandi*, including in relation to Track II diplomacy, albeit bridging the interests of the Institutions and actors in the field.

Assumptions: a) there is no inherent competition with existing EU structures; b) roles need to be clearly defined; c) the added value of impartiality, professional approach of mediation is recognised; d) commitment to advance mediation practice.

Examples: UN/NRC mediation standby team, Mediation Support Project (Swisspeace), United States Institute of Peace.

Autonomous Model

Form: Structures/institutions outside the EU institutions that could provide support to the EU and its member states in an independent fashion, thus taking largely an advisory role. The focus is self initiated, with the provision of expertise, technical advice and managerial competence coming whenever required.

Assumptions: a) recognition that peace mediation is best managed and executed by outside independent organisations; b) the EU will consistently award organisations with assignments that have mediation potential; c) commitment to advance mediation practice.

Examples: HD Centre, CMI, St. Egidio, International Alert.

5. Recommendations

While the often voiced argument that everything that the EU does has aspects of mediation is a valid one, this should not serve as an excuse for not formulating a framework as to what mediation as a conscious practice actually means for the EU and its stakeholders. In the design of methods, mechanisms and even structures of the European Union, it is important to take into account the current needs of effectively performing conflict resolution, whilst taking into account EU specific constraints, solutions that facilitate, rather than constrain, effective practice of international peace mediation.

Clearly, the European Union can effectively unleash more of its potential by allowing and committing space and resources for enhancing the building of its soft power through mediation. The new EU concept has tasked a Mediation Support Group consisting of the European Commission and the Council to be coordinating strategic aspects of operational support, training, knowledge management and outreach and cooperation.

The measures proposed are both relevant and ambitious, which gives room for recommendations.

5.1 Professionalisation of Supporting Mediation as a Professional Practice

The activities of international peace mediation are most often associated with high level personalities, who often have the convening power for bringing parties to the table, but who sometimes do not consciously apply the full range of mediation skills. Whilst these personalities have a role to play through their convening power, they are in need of technical expertise to support the process as well as very specific elements that are part of a peace process. In other words, the convening personality might be the artists and well versed and needed diplomats on the spot, whilst the crafting of a sustainable peace agreement requires technical expertise, and further learning requires scholars and reflective practice.

The call for professionalization that the practice of international peace mediation is to be enhanced as clearly vocalized as a first step to shaping a practice field that the EU can engage with more clout.

Insofar as it is important to enhance the EU's capacity, as otherwise its main role will continue to be either a *financier*, but also because—as consistently argued in this chapter—it would otherwise miss the point in exploiting the EU's strengths as a soft power and as a civilian actor. If this task is not taken up seriously, the EU would fail to meet its challenge to enact its principles of peace and stability. The EU has a considerable inflationary tendency to believe that mediation is a solution to any conflict and that it can be practiced by anybody, has the danger in undermining its professional practice. Mediation expertise should be one ingredient to the comprehensive approach of the European Union as a conflict prevention actor, rather than the sole answer.

Caution should be applied when, as mentioned, the EU concept explicitly considers that the mediation might be included in the mandate of role of ESDP missions, as these mandates are usually quite restrictive, giving little leeway to change the EU position, when augmenting the capacity to enact mediation and dialogue might change the way in which the mission might be implemented.

One of the ways to allow for promoting the practice of mediation could be the eventual creation of a post of an *EU Special Representative for Mediation* which could facilitate the mainstreaming of principles of mediation within the European Union and the setting up of a (hybrid) mediation support unit.

5.2 Code of Conduct

In addition, in order to allow for a clear adherence to principles and workings of international peace mediation, a *code of conduct for mediators* working for the European Union should be considered. Whilst this cannot be a straight jacket, it allows for transparency and clarity as regards professional standards by the EU, which consequently can be used in the communication of the EU's policy on conflict prevention.

5.3 Knowledge Management

The European Union should recognize the importance of systematic knowledge management. Indeed, it is of outmost importance to evaluate and analyse the mediation cases in which the European Union has supported or even engaged itself in. This requires the development of a clear methodology, but also sufficient expertise to actually evaluate these cases in their nuances. A worthwhile case to consider could, for example, be the EU's support to resolve the crisis in Togo in 2004, or the remarkable role played by the former EUSR van der Geer in the Great Lakes region until 2011. The purpose of this would be to create a lessons learned repository that can shape future engagements. Equally, the development of joint diagnostic capabilities with other international and regional organisations will be crucial to forge a professional identity of international peace mediation.

5.4 Enhance Cooperation

Even if the External Action Service will successfully integrate and mainstream the practice and support of Mediation, it is nevertheless important to provide for the development of a *'culture' for international peace mediation*. It will be important not to leave out member states in the shaping of, and enacting of mediation and mediation support. There needs to be a clear awareness of what resources are already available and how they can best be used to build awareness in the foreign ministries of member states. This could either be done through a 'mediation' audit with the ministries of foreign affairs or through further national roundtables including diplomats, mediators and experts. It also means that the practice of mediation should be advocated for in other realms of EU policy, ranging from personnel politics to other areas of policy such as enlargement, industry or even youth policy.

5.5 Solid Outreach

The European Union concept considers the possibility of creating a roster of experts in mediation processes and thematic experts with partners. It needs to take into account that rosters are static. Sufficient resources need to be devoted to allow for the forging of expert communities that could allow joint learning, coaching and regular training, which could eventually inform the furthering and deepening of know how in the field of mediation, if attached to an institution that can act as a repository for lessons learned. Such a pool should be small enough to 'nurture' professionalization, but also allow for space for future generations of peace mediators.

At the same time, it should be taken into account that the EU should have sufficient flexibility to utilise professional resources based on the needs and by professional merit rather than based on national quotas, requiring a shift in practice up until today. EUSR's should be able to use existing expertise available in this field. These could be financed through the Stability Instrument (Art. 4.3) or by the contribution of member states.

5.6 Training and Coaching

The EU concept recognised that the training aspect is quite important for allowing the EU to gain understanding in mediation, tailored to a) sensitise EU diplomats about mediation; b) for Crisis Response Teams and the Heads of ESDP Missions and military personnel; c) for Senior Personnel such as the EUSRs and Heads of Delegations. Such training is now envisaged in the elaboration of training programmes for the External Action Service.

This provides an opportunity to create a Mediation Curriculum working group to pool together sufficient existing expertise of organisations and individuals already providing training in Member States.

5.7 Funding

In light of this, the *Budget of the Policy Advice and Mediation Facility of the Stability Instrument should be revisited and augmented*. Its present budget of 12 Million Euros annually provides some but not sufficient financial resources to fully realize the building of genuine mediation support capacity by learning, through training and action. It would be useful to create a separate Mediation Facility or budget lines within the Stability Instrument to allow for the development of key terms of reference, that takes into account some key principles regarding mediation, which would allow for activities both in mediation and mediation support.

5.8 Hybrid Mediation Support Unit

Allow for the setting up of a *hybrid mediation support unit*. At present, the need for a rapid, flexible, and possibly independent structure, which can be deployed without complicated legal mandates, is best fulfilled by a hybrid or independent mediation support structure. A hybrid mediation support unit for the European Union would be an ideal method for enhancing its capacity as a peacemaker in a structured and coherent way, allowing a sufficient amount of flexibility. Such a model can be envisaged through the provision of specific funding initially allocated from the European Commission, possibly through the Instrument for Stability (Art. 4.3). It requires a sufficiently long funding period (3-5 years) to allow for its development. Such an entity or “EU Mediation Support Project” could consist of a core team of full mediation support specialists who would have mediation experience and be able to manage logistical requests for the facilitation of meetings. At the same time, such a unit can manage a database of experts, including ‘eminent’ people and personalities for possible Track II actions. Such a hybrid unit would also provide a bridging function on the particular issue between the different EU institutions, especially at a time when the direction and future shape of the European External Action Service is not clear, whilst it could well respond to the needs of it, once it is established.

A suitable alternative, combination or answer to the recommendations as mentioned above, could be the setting up of a *European Institute of Peace*, alongside the model of the United States Institute of Peace. Such an Institution could be based on the premise of the European Institute for Security Studies, which already has a legal foundation. Such an Institute could allow the bloc to offer mission relevant training, allow for a lessons learned repository, allow for centralized sharing of information within the EU, as well as between specialised organisations, and provide logistical support to mediation. It would also allow for the necessary flexibility required for the coordination of expert and stand-by support for mediation activities.

6. Conclusion

The increasing evidence that mediation is a useful tool in resolving intrastate conflicts is only beginning to reach the EU's policy makers. Working towards realizing the soft power potential of the EU as a civilian actor in this field, requires a full, and not a superficial, understanding about the enormous added value that a structured, systematic approach in conflict resolution could bring. Too much time and energy is spent deciding on foreign policy actions that attempt to magnify the power of the European Union through leverage and pressure, where the aspect of responding to the need of helping conflicting parties to resolve their disputes is often left aside. This is dismissive of the billions of Euros spent on development aid and projects—that involve civil society—which work towards creating just and equitable societies that are not about conflict, but peace.

Part of this problem is of course that mediation as a tool for conflict resolution has not fully found its way into the realms of foreign policy making although there is current wave of enthusiasm that sweeps through the UN system. There is indeed an internal resistance to 'open' its dense, somewhat stifling and intricate system of foreign policy that sometimes prevents a breath of fresh air, or thinking to come in. To change the system of how diplomacy is conducted, much effort and work is required, through training, reflective learning and through the setting up of a 'space' for mediation. The EU needs to give the practice of international peace mediation a genuine chance. The foundations are now created which could lead us to a new and promising era of foreign policy making.

About the Author

Dr. Antje Herrberg is the co-founder and CEO of mediatEUr. She has been researching and working on European foreign policy issues since 1992 and specialised on conflict resolution and mediation in 2004. From 2004-2010 she was a Director of Mediation and Dialogue at the Crisis Management Initiative. Previously, she was a regional Director for the EastWest Institute, and worked as a lecturer and strategic advisor to public and private clients. As a cluster coordinator for the Initiative for Peacebuilding, she supported the creation of the EU concept for mediation. Amongst others, Dr. Herrberg worked on Aceh peace negotiations and follow up, the African Union's mediation support capacity building, created the Black Sea Peacebuilding Network, was the EU policy advisor to the Georgian State Ministry for Reintegration and worked in Africa and Asia on conflict resolution issues. She is a member of the UN roster for mediation. She conducts frequent trainings and coachings for decision- and policy makers in international peace-mediation. She holds postgraduate qualifications in European Economic and Public Affairs, International Relations and Intercultural Communications, and Mediation.

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