

IFP MEDIATION CLUSTER

PERCEPTIONS OF INTERNATIONAL PEACE MEDIATION IN THE EU

A Needs Analysis

Antje Herrberg

November 2008

**CRISIS
MANAGEMENT
INITIATIVE**
Building Bridges for Sustainable Security



INITIATIVE FOR  PEACEBUILDING



THIS INITIATIVE IS FUNDED
BY THE EUROPEAN UNION

ABOUT IFP

The Initiative for Peacebuilding (IfP) is a consortium led by International Alert and funded by the European Commission. IfP draws together the complementary geographic and thematic expertise of 10 civil society organisations (and their networks) with offices across the EU and in conflict-affected countries. Its aim is to develop and harness international knowledge and expertise in the field of conflict prevention and peacebuilding to ensure that all stakeholders, including EU institutions, can access strong independent analysis in order to facilitate better informed and more evidence-based policy decisions.

This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of IfP/CMI and can under no circumstances be regarded as reflecting the position of the European Union. To learn more, visit <http://www.initiativeforpeacebuilding.org>.

ABOUT CMI

The Crisis Management Initiative (CMI) is an independent, non-profit expert organisation. The aim of CMI is to strengthen the capacity and professionalism of international actors in conflict resolution and management and to mount private diplomacy operations. The unique, multi-faceted approach of CMI draws upon field research and thematic projects to influence decision-making and shape crisis management policies. The Crisis Management Initiative analyses the changes in the global security environment and their impact on crisis response requirements. In support of the international community, it develops and tests more effective approaches and tools for mediation, state-building, mission support capabilities and evaluation. CMI and its close supporters form an experienced network of fieldworkers and private diplomacy actors. The website is www.cmi.fi

Picture front cover ©iStockphoto.com/Mlenny

© Initiative for Peacebuilding 2008

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution.

PERCEPTIONS OF
INTERNATIONAL PEACE
MEDIATION IN THE EU

CONTENTS

Executive Summary	6
Introduction	8
Meaning of Mediation	8
Understanding the Concept and Practice of International Peace Mediation within the EU Context	10
Present Ingredients for EU Mediators: Status, Personality and Skills	10
The Perceived Role of the EU as an Actor in International Peace Mediation	13
Value Added of the EU and of Mediation	14
Leverage vs. Coercion and Impartiality	14
The Problems of Balancing Peace and Justice	16
An Evolving Shift of Paradigm: The Role of Track II in International Peace Mediation for the EU	17
A Multi-Track Approach to Peacemaking for the EU?	19
Giving a Place to International Peace Mediation: Roles and Professionalisation	19
Professionalism: Not a Straightjacket, But an Opportunity	21
Do International Peace Mediators Require a Code of Conduct?	22
Professional Mediation through Training	22
Conclusion and Recommendations	24
Recommendations	24
Annex I	26

ACKNOWLEDGEMENTS

The author would like to thank all interviewees for their considerable time and attention during the months of March and July 2008. In addition, special thanks to Stephanie Broughton and Nicholas Beger for their input and support, and Lucia Montanaro and Juliet Schoefield from International Alert for their constructive comments, as well as for the very able assistance of Michael Savoleinen.

EXECUTIVE SUMMARY

The global role the EU plays in conflict resolution efforts will shape the way in which it engages in securing its interest in stability and security in the world. It will also shape a foreign policy culture that capitalises on its civilian power capabilities, its role as a donor and its presence in the international community.

Mediation, or more precisely international peace mediation, is a professional tool and instrument of conflict resolution that has not yet entered the consciousness of the EU.

What is the understanding of policy-makers on the issue of international peace mediation? What are the main issues and themes that pertain to the EU in this regard?

The purpose of this issue paper is to reflect on the perceptions and understandings of EU policy-makers, members of the European Parliament, and some key peacebuilding and conflict resolution experts, pertaining to the role of international peace mediation, and to provide recommendations on how some of these needs can be addressed in a coherent way. Research for this paper was undertaken from March until July 2008.

The results of the research conducted for this paper shows five key thematic areas:

- Policy-makers unequivocally accept and agree with the definition of international peace mediation. However, each individual, according to his or her perspective in the institutional framework, provides a “bouquet” of attitudes and understandings on the issue. When viewed together, these give a picture of the plethora of roles, practices and instruments that the EU has developed in its path to becoming an international actor. The reality is that the EU's assessment of its role as a peace mediator is often seen through a power-based lens, one which does not fully adhere to the central principles of mediation.
- Mediators are selected on the basis of their roles as political figureheads – leaders with personality traits like empathy, experience working with political actors and some expertise in handling conflict situations. Professional and technical expertise in mediation are not considered decisive factors in whether the EU should engage in mediation.
- Policy-makers of the EU institutions do not necessarily equate the EU's role to that of a mediator. Four key mediation efforts (the Ohrid Agreement, Ukraine Orange Revolution, and the Aceh and Middle East peace processes) are predominately cited as cases where the EU played a role as mediator. No full reflection has been undertaken as to what can be learned from this process, and whether these do actually constitute as mediation for the EU per se.
- The EU is often viewed as not being an impartial actor, but rather a player with a number of vested interests, particularly in areas of close geographic proximity to the EU or where there are former colonial interests at play. It also has the capacity to leverage considerable positive and negative conditionality.
- The role of Track II (non-state) organisations in the field of international peace mediation is underappreciated, not fully understood, and has not entered into EU policy community consciousness in terms of operationalising their role in the field of international peace mediation.

There are three paradoxes that derive from these issues in EU involvement in international peace mediation. The first concerns understanding and supporting mediation. While the facilitative, non-interventionist style

is generally favoured in EU conflict resolution efforts, the organisation relies on a power-based approach to mediation. Second, while the EU recognises the importance of Track II actors in mediation, it has struggled to structure and systematise a multi-track approach to international peace mediation. Third, although EU actors recognise international peace mediation as an important practice, they hesitate to implement measures that will allow its professionalisation. The challenge is to work further on these paradoxes and to reconcile them. From these follow five policy recommendations that would lead the EU to consider international peace mediation as a distinct tool and instrument in its quest to enhance global security and stability.

‘The European Union is one big mediation and conflict resolution machine, based on law and non-stop negotiations. This puts us in a position to not only advocate preventive diplomacy, but also to implement it’.¹

Javier Solana, High Representative for the Common Foreign and Security Policy

INTRODUCTION

As an emerging global actor, the EU has accumulated considerable experience and capacities in civilian crisis management. Whilst the role of mediation finds references in the Treaty Instruments, as well as in follow-up initiatives, mediation has not yet emerged as a conscious, institutionalised and professional practice of the EU's Common Foreign and Security Policy (CFSP).

Indeed, it is not the Treaty Instruments alone that will decide the foreign policy capability of the EU, but rather the spirit in which they are implemented. Informal norms and procedures and group-constructed habits and procedures, all gradually become institutionalised into a corporate body of European values and norms, which then further influence decisions.² The EU is, by the very nature of its history, a patchwork endeavour. Its legal grey areas are manifold. Despite these challenges, certain objectives have been realised – the crux being political will.

The EU has been able to increase its political capability through informal actions, even though this might not yet be evident in formal instruments. Abéles points out that the way in which “insiders” working for and with EU institutions think about “Europe” (or a specific thematic area that connects to it, such as international peace mediation) will gradually be integrated into routine management.³ This in turn will shape political processes beyond the limits and possibilities of formal texts. Instead of discussing various entry points in terms of treaty instruments or institutional framework, therefore, the purpose of this paper is to situate the actual perceptions of EU policy-makers and experts within the framework of operationalising mediation as a professional tool in conflict resolution for the EU. This will allow for a number of tentative suggestions on possible next steps toward making international peace mediation a distinguishable instrument of conflict resolution for the EU.

MEANING OF MEDIATION

Just as conflict is part of everyday life, mediation can and is practiced everyday and everywhere. It is a way of reaching decisions in a cooperative, non-hierarchical way, allowing for clear and open communication processes. Conflicts can be resolved in a formal manner through courts, arbitration, ombudspeople, diplomacy and mediation, or an informal manner through friends, colleagues, religious and community leaders, and dialogue. The way in which people resolve their disputes has an impact on how societies and institutions are governed,⁴ as well as their ability to resolve conflicts with and within other communities.

As we will see, mediation often means different things to different people, even in a relatively homogenous setting – which in this case is the EU policy community.

1 J. Solana (2006). *Acceptance speech of Javier Solana, EU High Representative for the Common Foreign and Security Policy, on the occasion of receiving the Carnegie-Wateler Peace Prize*. 23rd November 2006. The Hague.

2 A. Herrberg (2001). *Towards a new Ostpolitik. The European Union's relations with the New Independent States of the European Union*. PhD Dissertation. Aalborg: University of Aalborg.

3 M. Abéles (1992). *La Vie Quotidienne au Parlement Européen*. Paris: Hachette.

4 M. Troja (2002). ‘Mediation als institutioneller Wandel der Demokratie’, *Zeitschrift für Konfliktmanagement*, 3. p.99.

The analysis which follows is based on the so-called interest-based, facilitative approach towards mediation. As such, mediation is defined here as:

*A voluntary and confidential method of a structured process, where one or more impartial third parties assist conflict parties to reach a mutually satisfactory solution. The mediator provides a framework, but makes no substantial suggestions or decisions in the case.*⁵

This is not to say that other perspectives on mediation do not exist. Mediators can be facilitators, formulators and manipulators.⁶ Essentially, the two main strands or categories of mediation are the power-based and interest-based approaches.⁷ A power-based approach would see the mediator playing a direct role in formulating solutions, enticing partners to come to a solution and often also tying his/her own interest into negotiations.⁸

The term “international peace mediation” needs to be qualified when used to describe the role played by the EU. In this globalised world, the word “international” may indeed be redundant. It is used because international conflicts refer both to interstate and intrastate conflicts. But the environment, the abuse of human rights and likely changes in the global order, are all concerns of the international community, thus providing a rationale for mediation.⁹ The term “peace” refers specifically to a sustainable, enduring resolution to conflict. It therefore attaches a value to international mediation as an integral – not isolated – part in the conflict resolution and peacebuilding cycle.

In terms of practice, both formal and informal mediation and dialogue processes in conflict societies have an important role to play in the overall success and sustainability of international peace mediation. The interplay of international and local processes in conflict resolution is vital to achieving durable peace.

In the field of international peace mediation, the perceived context of the international system (conflicts, issues, parties) and the identity of the mediator, shape the form and character of mediation. It is important to stress the reciprocal influence of each of these factors,¹⁰ which determine the shape of the EU’s international peace mediation efforts.

This paper analyses the understanding of a number of selected experts and 19 civil servants from the European Commission, Council of the European Union and European Parliament, on key issues pertaining to international peace mediation. Their thoughts, which they provided to the author in structured interviews, are summarised here in sections dedicated to the key thematic areas of international mediation, including an exploration of some of the key issues, ideas and interests.¹¹ The aim here is to provide a general state of understanding among officials and key experts, as well as to mirror the discursive environment for mediation, albeit framing each thematic area within theory and practice to allow the creation of a basis for ensuing recommendations.

5 See for example: V. Vindeløv (2006). *Mediation: A non-model*. Copenhagen: DJOF Publishing; C. W. Moore (2003). *The mediation process*. San Francisco: Jossey Bass; and H. Diez (2005). *Werkstattbuch Mediation*. Köln: Centrale für Mediation.

6 S. Touval and W. I. Zartman (Eds.) (1985). *International mediation in theory and practice*. Boulder, Colorado: Westview press.

7 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 – model. See M. Kleiboer (1998). *The multiple realities of international mediation*. London: Lynne Rienner.

8 See also R. Fisher, W. Ury and B. Patton (1991). *Getting to yes: Negotiation without giving in*. London: Penguin.

9 This raises of course the problematic dilemma of the ‘right to intervene’ and ‘responsibility to protect’.

10 J. Bercovitch (1997). ‘Mediation in international conflict’ in I. W. Zartman, J. L. Rasmussen and J. Lewis (Eds.). *Peacemaking in international conflict: Methods and techniques*. Washington: United States Institute of Peace Press. pp.125-153.

11 This research is based on 19 structured interviews conducted with policy-makers, officials and experts in the period May–June 2008. The interviewees included three officials from the Commission, one member of the CIVCOM Delegation (Austrian Diplomat), five Council officials, four members of the European Parliament, three peacebuilding/conflict resolution experts, one mediation expert working for the Swiss government, and the coordinator of the Mediation Support Project from the Swiss organisation swisspeace.

UNDERSTANDING THE CONCEPT AND PRACTICE OF INTERNATIONAL PEACE MEDIATION WITHIN THE EU CONTEXT

The way in which mediation is understood has an impact on how it is practiced and supported. Indeed, the professionalisation of peace mediation depends to some extent on a common understanding, and the development of a common terminology¹² and “language”. The concept of mediation is one in which a third party assists conflict parties and seeks to produce solutions acceptable to all. It operates on the principles of confidentiality, voluntarism and “all partiality” (i.e. the mediator supports all parties equally), and is met with general cognitive acceptance amongst EU policy-makers and experts.

International peace mediation is “complicated” and situation specific,¹³ especially in terms of supporting “all-partiality” so as to keep a balance and symmetry between conflict parties.¹⁴ The principle of helping each conflict party achieve balanced representation and an equitable outcome is pivotal as a mediator, and an objective which EU policy-makers might not always agree with.

The EU is therefore considered a facilitator on the one hand and an instrument of leverage on the other. This dual role is part of what the EU naturally “does”, yet it also leads to a diffuse understanding of mediation. This can be attributed both to the absence of a EU conceptual framework on mediation and to the fact that there is a “place” for mediation at all levels of civilian crisis management and peacebuilding.¹⁵

Discussions with each dialogue partner for this study exemplify a multitude of interpretations of international peace mediation, according to his or her perspective in the institutional framework. Taken together, these perspectives provide a colourful “bouquet” of attitudes and understandings. This bouquet portrays the wide range of roles, practices and instruments that the EU has developed in its history of both becoming an international actor and as one that engages in peacemaking. For example, in any given international conflict, the EU is not seen to be the only actor in the conflict resolution or confidence-building context. It “teams up” with other actors in the process. At this point, the understanding of mediation is attributed to a facilitative role which aims ‘to create an environment of trust for direct talks of conflict parties’.¹⁶ A mediator should be able ‘to listen and understand, [...] to be able to synthesise, to see things that others may have not been able to see’ and to bring parties to a ‘common ground’.¹⁷ Most important in EU engagement, however, has been how the question of what constitutes mediation interlinks – sometimes in a contradictory fashion – with the one who mediates.

PRESENT INGREDIENTS FOR EU MEDIATORS: STATUS, PERSONALITY AND SKILLS

In *Kings of Peace, Pawns of War*, a publication that describes and sheds light on the personalities and tactics of international conflict mediators, Harriet Martin points out that the ‘fascinating human variable of character is

12 It is without doubt that the field of mediation has developed its own specific terminology. It suffices to consider the subject indexes of standard works of mediation, which feature a weighty 40 pages. See C. Moore (2003). *The Mediation Process: Practical Strategies for Resolving Conflict*. San Francisco, US: Jossey-Bass.

13 Interview with Commission official, Peacebuilding Partnership.

14 Interview with Vice President of European Parliament, Luisa Morgantini, 21st May 2008.

15 Interview with Council official, DG IX.

16 Interview with Council official, Policy Unit.

17 Interview with EU Special Representative Peter Semneby, 16th June 2008.

an element which theory will always find hard to capture, yet it is vital to what goes on around the negotiation table'.¹⁸

Members of the EU policy community point out that mediation in the international environment is dependent on the personality of a mediator and his or her basic empowering attitude. In fact, even professional mediation experts assert that mediation is not only a job, or an assignment, it is an art. It requires know-how, an internalised approach and posture which are to be performed with virtuosity.¹⁹ Experience has shown that although technical and scientific know-how can be relatively easily acquired, the actual "internalisation" of key values and beliefs of mediation, as well as substantial self reflection and authenticity, "makes" the mediator.²⁰

Desired qualities in a mediator include the ability to see conflict as a chance for further development, personal emotional stability, and an outstanding capacity to listen and really "hear" conflict parties.²¹ A good mediator must also be able to recognise the needs of conflict parties through effective communication, group analysis and "out-of-the-box" skills. This comes with a certain degree of emotional maturity (though not necessarily connected to age). Indeed, more than a hundred specific mediation functions and behaviours have been identified.²²

In the book *Making Peace*, which describes the Aceh Peace Process, the author Katri Merikallio hints at the 'excellent ability' of former President of Finland, Martti Ahtisaari, to create an environment of inclusion that got people to commit to a common goal. Those party to the conflict point out that his honesty, his ability to create empathy and his talent to create personal relationships with those with whom he works, were qualities that made him a trustworthy mediator.²³

At the same time, mediator traits like empathy and impartiality are important, but are rated at the same level of importance as professional credibility. Others, such as Christian Berger of the European Commission points out the importance of personal characteristics, but also previous background, knowledge of processes, the experience of the mediator, his or her relation to both parties, the need for prior knowledge of the conflict and trust with the parties.²⁴

For a number of policy-makers and experts in the high-paced policy environment of Brussels, however, it is "standing" that matters in international peace mediation: 'the dynamics of the conflict we deal with will often require someone who has a standing and not one who has mediation expertise per se'.²⁵ According to a conflict resolution specialist, parties to an internationalised conflict are not interested in the mechanics of the process, but in the status of the mediator. 'You could have the world's best mediator and the best mediation network', says Nick Grono, of the International Crisis Group, 'and that would make no difference whatsoever'.²⁶ From this angle, mediation is seen through the prism of power brokerage or problem solving, which considers the eminence of a mediator as leverage in getting parties to the table. Such approaches are outcome (rather than process) oriented, and are characterised by their largely reactive nature and short time dimensions. Mediation is just one tool amongst many others for conflict settlement²⁷ and expresses the "legitimate" interest of the international actor involved.

The Alternative Dispute Resolution practice similarly points out that maturity and age, in addition to the rank and status of a mediator, increases his or her acceptance by parties to a conflict.²⁸ In Brussels policy circles, there

18 H. Martin (2006). *Kings of peace: Pawns of war*. London: Continuum.

19 See also T. Trenczek (2008). Gute Mediatoren - Zur Fachlichkeit von Konfliktmittlern, *Zeitschrift für Konfliktmanagement*, 1/2008.

20 M. Oboth (2001). 'Persönlichkeitsentwicklung als notwendiger Bestandteil der Mediationsausbildung', *Zeitschrift für Konfliktmanagement* 5/2001, p.236.

21 Hearing and listening is one essential skill of a mediator. For example Schulz von Thun developed the theory that one needs to listen on four levels: relational, action, thematic/subject, and self revelation. See F. Schulz von Thun (1992). *Miteinander reden 1. Störungen und Klärungen. Allgemeine Psychologie der Kommunikation*. Reinbeck: Rowohlt. Chapter 2.

22 J. Wall (1981). 'Mediation: An analysis, review and proposed research', *Journal of Conflict Resolution*, 25(1). pp.157-80.

23 See K. Merikallio (2006). *Making peace. Ahtisaari and Aceh*. Helsinki: WS Bookwell Oy.

24 Interview with Commission official, Christian Berger, 21st May 2008.

25 Interview with Nick Grono, International Crisis Group, 28th May 2008.

26 Ibid.

27 See M. Kleiboer (1998). *The multiple realities of international mediation*. London: Lynne Rienner Publishers.

28 See for example, M. Oboth (2001). 'Persönlichkeitsentwicklung als notwendiger Bestandteil der Mediationsausbildung', *Zeitschrift für Konfliktmanagement*, 1/2008.

is a fascination with, and predisposition towards, mediators who are a 'personality' or eminent person.²⁹ This assumption is inspired by the visibility of eminent figures in conflict resolution. That said, the majority of mediation processes in conflict zones led by other actors are rarely seen or publicised. Yet, rather than suggesting that the common preoccupation with eminent mediators is amateur, it is important to acknowledge that from a Brussels perspective, the importance of eminence relates to the complex multi-levelled nature of EU policy-making: any mediator will have to seek support of all Member States of the EU – and this requires a high degree of 'political fame'³⁰ – in addition to being able to acquire the trust of the conflict parties. At times, even the appointment of "eminent" people in a Track I format is not an easy task. This was evidenced during the EU crisis intervention in Sri Lanka in 2006, for example, when Member States found it difficult to agree on the appointment of former French minister Bernard Kouchner to the International Eminent Persons Group, charged with facilitating a peace agreement under the Rapid Reaction Mechanism.³¹

While not contradictory, the juxtaposition of mediation skills and "standing" is problematic for the EU if it wants to gain further credibility and recognition in the field of peacemaking. If the EU chooses international peace mediators solely on the basis of their "standing", this might actually stand in the way of developing the much-needed professional practice of international peace mediation and recognition thereof. This in turn would inhibit the development of EU mediation skills and expertise.

One way of capturing both expertise and "standing" – the technician and the personality, so to speak – would be to allow for supporting roles, or co-mediators, who could simultaneously employ political leverage and experience. This idea will be explored in more depth below.

29 Interview with Commission official, Peacebuilding Partnership.

30 Interview with Council official, Tania von Uslar Gleichen, 12th June 2008.

31 Interview with Commission official, Christian Berger, 21st May 2008.

THE PERCEIVED ROLE OF THE EU AS AN ACTOR IN INTERNATIONAL PEACE MEDIATION

Whilst the EU's lack of pro-activeness in certain areas of foreign policy-making is sometimes criticised from a mediation perspective, it is in fact best to wait until parties request EU involvement. It is often Track II actors and NGOs, rather than the parties in conflict, who take the initiative in requesting EU involvement in a particular conflict/crisis.³² The relative openness of the European Commission is deemed to be useful to this end. It is the European Commission which then engages with the Council of the European Union when considering support for, and during, peace mediation.

A broad consensus reigns that the EU is a logical support network for international mediation, which might be interpreted as a readiness or willingness to engage in mediation. Yet, the question seems to be *how*, *when* and, to some extent, with *whom*. And here, further reflection is required. Possibly due to the fact that there is no overall agreement on *what* mediation actually constitutes, there is no distinct agreement on the extent to which the EU has been actively involved in international mediation. That said, Javier Solana, High Representative for the CFSP, has been seen as providing 'good offices'³³ by the EU, whereas the EU Special Representatives are seen as "official" mediators on a daily basis, travelling, representing and attending meetings for the EU in specific regions.

When questioned whether the EU has been active in international peace mediation, the most prevalent answer is that it has not been. Interestingly enough, when asked to consider specific cases where the EU did play a distinctive and successful mediation role, there are a number of almost exclusively cited cases. Up until July 2008, the following cases have been mentioned:³⁴

- 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 François Léotard, former Defence Minister of France) and the US (James Pardew, former US envoy to the FYROM), with support of the US, NATO and Organisation for Security and Cooperation in Europe (OSCE), engaged in what was essentially power (strongly outcome-oriented) mediation using the possibility of NATO troops and strong EU financial support as leverage.
- The Ukrainian Orange Revolution, in which Ukraine's 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 enough of an incentive for all Ukrainian parties to 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.

32 Interview with Hubert Gambs, cabinet member of the Commissioner for External Relations Ferrero Waldner, European Commission, 23rd May 2008.

33 The term 'good offices' is borrowed from the UN and relates to the prestige and the weight of the UN Secretary-General in the world community in meetings with world leaders, either publicly or privately, in an effort to prevent international disputes from developing, escalating, or spreading.

34 This is not to say that the EU has not been active as an international peace mediator in other regions, for example, Bosnia, Iran and Kosovo. Many respondents today also point to the intervention of the French presidency, in particular Sarkozy and Kouchner, as regards the Georgian-Russian conflict during August 2008.

Ahtisaari used his friendship with Javier Solana as an entry point to acquire EU support for a monitoring mission, which arguably served as leverage.

- The Middle East Process, where the EU has attempted to play a role within the Middle East Quartet, attempting to do so 'impartially and independently', 'advising and serving as intermediaries'.³⁵ The EU is arguably the next important actor after the US in this instance.

Whilst these cases are important achievements for the EU, all point to the multiple opportunities for engaging in international peace mediation. The cases distinguish themselves by the use of the "personality" intervention format, rather than a conscious technique in the application methods. There is insufficient reflection from the point of view of peace mediation in any of these cases in order to make a judgment on the approaches applied and whether these cases indeed, from a technical point of view, fulfil any of the criteria of mediation, in the strict sense. In none of these situations was the professional practice of mediation called for and, in a way, success was a combination of outstanding personalities, leverage and a call from the international community for the EU to play a role. To some extent, this also explains the overemphasis on the "standing" of mediators, rather than the process itself.

VALUE ADDED OF THE EU AND OF MEDIATION>

What *is* clear, however, is that there is a general view that the practice of mediation is of added value to the EU in its role as a regional actor in conflict resolution. Although international peace and security is to some extent viewed as falling under the remit of the UN, there is a perceived added value of the EU in peace mediation, as it can act as an alternative player. Other regional organisations see the EU as more their equal than the UN,³⁶ for instance, and it provides an alternative to the wider internationalisation of a conflict. In addition, mediation is seen as a cost-effective way of managing crises.³⁷ Indeed, mediation is seen as a vital and useful approach in European Security and Defence Policy (ESDP) missions.³⁸ As discussed, mediation and negotiation modules are already an element of some training programmes (i.e. in Finland) of Civilian Response Teams. This perception points to an understanding that mediation can be useful at different levels of operations within the EU.

LEVERAGE VS. COERCION AND IMPARTIALITY>

The issue of impartiality and neutrality is one of the central principles in national and international peace mediation and can be found in most codes of conducts for mediators.³⁹ Perceived impartiality is as important as actual neutrality. The two central questions are: to what extent the mediator *may take an influence over the outcome* of mediation, and to what extent the mediation *must take an influence over the content* of an outcome. The latter refers to the principle of fairness⁴⁰ and neutrality, which are important considerations in the self-reflection processes of a professional mediator.

The EU is seen as an actor with a multitude of interests, which often raises conflicting opinions within the EU.⁴¹ Most people interviewed in Brussels policy circles would hesitate in labelling the EU's efforts in conflict resolution as "mediation", because the EU cannot be seen as "impartial" or "neutral". Rather, the EU is seen as a 'vested interested mediator' i.e. one that has a definite interest in a specific outcome of mediation and one who would use strong leverage or coercion to achieve an agreement.⁴² It would be extremely difficult, according to

35 'Interview with Javier Solana: Why the EU Matters to the Middle East Peace', *Spiegel Online International*, 11th July 2005, accessed 4th November 2008, at <http://www.spiegel.de/international/spiegel/0,1518,364800,00.html>.

36 Interview with Nick Grono, International Crisis Group, 28th May 2008.

37 Interview with Austrian diplomat Phillipe Agathonos. In a mediation process, the mediator and the mediation team will need compensation, whilst on the other hand hundreds of deployed troops will have to be compensated in a peacekeeping operation. Such an argument, however, does not foresee any possible monitoring or deepened EU engagement following a peace process. At the same time, the "costs" of engaging in conflict rather than peace are considerable, even though they have not yet been fully quantified.

38 Council officials Tania von Uslar Gleichen, Gyorgy Tatar, Veronika Cody, Austrian diplomat Phillipe Agathonos, 15th May 2008.

39 Including that of the European code of conduct.

40 S. Breidenbach (1995). *Mediation: Struktur, chance und risiken von vermittlung und konflikt*. Köln: Verlag Dr. Otto Schmidt. p.169.

41 Interview with Hubert Gambs, cabinet member of the Commissioner for External Relations Ferrero Waldner, European Commission, 23rd May 2008.

42 See C. Moore (2003). Op. cit. p.45.

one diplomat, for the EU 'as an organisation, as a very large actor, to be impartial in most conflicts'.⁴³ The colonial history of a number of EU Member States in countries like Zimbabwe and Sri Lanka, for instance, makes it very difficult for them to be perceived as impartial.⁴⁴ Involving small, and neutral states such as Norway (as in Sri Lanka and the Middle East) and Switzerland, is often pointed to as an example of playing a role as an effective broker. The challenge for individual states is that they do not have sufficient leverage to compel parties to reach an agreement. On the other hand, the EU as a collective might be a better alternative than a single (large) Member State assuming such a role in peace mediation.⁴⁵ That said, being an "interested" mediator does not mean that the EU cannot play the role of an "honest broker".⁴⁶ When the EU as an institution has an interest in taking a role in conflict resolution and/or as a mediator in a particular region, it tends to be or will be in there for the long term, which then provides it with considerable leverage.⁴⁷ An extra benefit is that the power of EU leverage (such as an offer for deepened relations or an offer for EU membership), proportionally increases within its geographic proximity. The phenomenon of leverage thus limits the argument of neutrality of the EU as a mediator in terms of peace mediation to one that gains from conflict resolution and thus it assumes, even if not deliberately, the role of a power mediator.⁴⁸

The EU's impartiality or neutrality in mediation is not necessarily compromised by the fact of it maximising its interests in stability and security; rather, it is the question of the methods and ways of how agreement is reached. Leverage ("carrots", or positive conditionality) and coercion ("sticks", or negative conditionality) have different functions in mediation. Coercive influence, entailing the use of (non-physical) force to change another's opinion or behaviour against his or her will, decreases a conflict party's choice for settlement and this increases the damage to the party in the event of a non-agreement. It is a practice that does not typically lend itself to mediation – least of all international peace mediation – and, if at all, in a very narrow form, where issues are negotiated in a directive form by the mediator possibly giving focus, but not necessarily providing a fruitful basis for sustainable peace.⁴⁹ Coercion remains in the realms of negotiation and power diplomacy. In intractable conflicts, however, 'coercive diplomacy and the use of powerful sticks are sometimes necessary to get the parties back to the negotiation table'.⁵⁰ This is especially the case in violent conflicts, where the international community would enact a "responsibility to protect" principle for mediation. For example, the use of coercive diplomacy in the Bosnian conflict, which produced the 1995 Dayton Accords, were the product of, and benefited from, coercive mediation. Crocker et al. argue that the combination of coercive bargaining strategies and softer (facilitative mediation and dialogue) strategies, can lead mediation forward.⁵¹ For the EU, sanctions might in effect also hinder its own engagement as a mediating actor. In the case of Sri Lanka, for example, the EU called for a travel ban for members of the Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers), which meant that meetings could not be held on EU territory and that it could not engage itself in any talks.⁵²

Leverage then refers to the means that assist the accomplishment of mediation, such as the monitoring of a peace agreement (as in Aceh), considerable economic support, or even the prospect of eventual membership in the EU (as was the case with the FYROM). As such, EU initiatives in conflict resolution 'tend to resemble an enforcement of a contractual relationship with key incentives and sanctions, as opposed to mediation seeking to reconcile the parties'.⁵³ Seen through this lens, mediation is considered an instrument to maximise the EU's interest, rather than solely an EU interest in overall conflict resolution. This suggests a dichotomy in the perception of the role of the EU as an agent for restructuring relationships through interest-based or facilitative mediation on the one hand, and as a tool to increase its own security on the other. This also reflects, not surprisingly, the two key discursive frameworks in which the EU operates: a hard security military perception, which sees mediation as a tool for power brokerage or political problem solving; versus a

43 Interview with Austrian diplomat, Phillip Agathonos, 15th May 2008.

44 Interview with Robert Evans, Member of European Parliament, 25th June 2008.

45 Interview with Austrian diplomat, Phillip Agathonos, 15th May 2008.

46 Interview with Commission official, Mark van Bellinghen, 10th June 2008.

47 Interview with Joost Lagendijk, Member of European Parliament, 3rd June 2008.

48 Interview with Joost van Lagendijk and Martina Weitsch of the Quaker Council for European Affairs, 3rd June 2008 and 16th May 2008.

49 See C. Moore (2003). Op. cit. p.387.

50 C. Crocker, F.O. Hampson, and P. Aall (2004). *Taming Intractable Conflicts: Mediation in the Hardest Cases*. Washington: United States Institute of Peace Press. p.169.

51 Ibid. p.169.

52 Interview with Member of European Parliament, Robert Evans, 25th June 2008.

53 See S. Gentz (2007). *EU influence in conflict: power to mitigate or to mediate?* Paper produced for the Oslo Forum 2007. Geneva: Centre for Humanitarian Dialogue.

“soft” human security approach, which sees mediation as a tool for restructuring relationships in a longer-term perspective.

THE PROBLEMS OF BALANCING PEACE AND JUSTICE>

For a governmental, Track I actor, one of the most challenging issues in international peace mediation is to realise and confront the challenge of transitional justice in peace processes. The issue of balancing a human rights approach with a pragmatic way of peacemaking are issues that might not be reconciled.⁵⁴ The interconnection between justice and peace, and between the EU as a subject of international law and mediator, is not openly debated. Yet, mediation in transitional justice processes ‘has to take place in the shadow of – and with close reference to – the fundamental norms of public international law’.⁵⁵ For the EU, as promoter of human rights, it might be a sheer impossibility. It may not be an option to act as a mediator in cases where atrocities – genocide, war crimes and crimes against humanity – were committed. In these instances, the EU’s role as a mediator, just as any other actor of the international community, could be a disincentive for conflict parties to agree to a Track I mediation or international involvement. On the other hand, ‘if negotiations for conflict resolution would only be conducted with those who are unblemished’, the EU might not be able to hold any consultations in the first place.⁵⁶ Without wanting to open a Pandora’s Box on the (as yet unresolved) issue of achieving the balance between peace and justice, this important aspect also needs to be considered in relation to the EU’s overall approach to peacebuilding. At the same time, it also points to the importance of non-state actors at both the international and local levels as confidential and approachable actors.

54 Interview with Member of European Parliament, Robert Evans, 25th June 2008.

55 L. Kirchoff (2007). *Linking mediation and transitional justice*. Paper presented at the International Conference, Building a Future of Peace and Justice, p.21. 25–27th June 2008, Nürnberg.

56 Interview with Council official, Tania von Uslar Gleichen, 12th June 2008.

AN EVOLVING SHIFT OF PARADIGM: THE ROLE OF TRACK II IN INTERNATIONAL PEACE MEDIATION FOR THE EU

As discussed above, international peace mediation is practiced through both formal and informal channels. The role of non-state actors involved in the field of unofficial and official peace processes can be of tantamount importance to peace processes, in particular for the EU, which as a donor supports various initiatives of international or local NGOs. At the same time, so-called Track II actors can, in the minds of EU policy-makers, render an important service through their track record and specific expertise.

Impartial or not, the engagement of the EU in a mediation effort depends on its political will. The commitment of political will for a specific mediation intervention from 27 Member States is not, for the most part, a given, principally because it may require follow-up. As an actor that often develops its political will in an incremental way over time, EU engagement in conflict resolution depends on the support of a critical mass of Member States interested in a particular region, the EU resources available and not devoted to other conflicts and its capacity to respond in the face of the multiple foreign policy interests of Member States. In times of a complex crisis intervention and the consequent peace mediation process, diplomats and civil servants do not have the luxury 'of endless discussions and trying to find the right balance'.⁵⁷

Where EU political will for an engagement has not been acquired, the need for impartiality and to fill the gap in peace mediation is and can be filled by non-state actors. Collaboration between governmental and official Track I actors and specific Track II and non-governmental actors involved in the peace process is an effective way to engage in conflict resolution, provided it is done in a structured and coordinated fashion.

Informal mediation by NGOs and faith-based organisations holds an important place in international peace mediation and this is recognised by many in the Brussels policy community. However, 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'.⁵⁸ Far from being fully realised by all EU constituencies, the practice of international diplomacy finds itself in a paradigm shift: from top-down, hierarchical modes of decision-making, to more horizontal ones practicing cooperation, negotiation and mediation.⁵⁹ As an actor, the EU thus provides an opportunity to empower additional actors in conflict resolution who can, in turn, act as conflict mediators. This does not need diplomats alone. The first visible indication of how the EU can engage in a multi-track process was the Aceh Peace Process. Many other NGOs – a number of which are funded by the EU – operate in conflict regions. Yet the EU is acutely unaware of its own impact in this arena, which might simply be because the work of Track II organisations is not being properly understood by policy-makers. Track II organisations, like small states, to some extent, usually have different entry points to international peace mediation – their only leverage is the endorsement of mediation by the parties. However, the acceptance of a mediator without the military, political and economic leverage needs a clear indication of commitment by the parties involved.

Track II initiatives therefore provide a possible entry point for the EU. If such initiatives prove "promising," meaning that conflict parties are seriously engaged and have an advanced agenda that might point to an agreement,

⁵⁷ Interview with Commission official, Christian Berger, 21st May 2008.

⁵⁸ Ibid.

⁵⁹ For a full discussion on this, see W. Ury (1999). *Getting to peace. Transforming conflict at home, at work and in the world*. New York: Viking.

the EU can step in to provide the necessary leverage for the implementation of a peace agreement through its support of a follow up (i.e. monitoring, post-conflict rehabilitation etc). Cynics could argue that this strategy would force non-state actors to take the blame if mediation fails, whereas the EU would take the credit if it is successful. While this might be true, the importance of a necessary complementarity should not be understated. Either one could be the initiator and mediator, whilst the EU can only be the guarantor of a peace agreement.

In EU institutions there is a realisation that many aspects of what is traditionally called diplomacy are no longer owned by governments alone. The EU might be the fulcrum in the field of conflict prevention, crisis management and peacebuilding, but the role of civil society is increasingly acknowledged. Whilst cooperation is not yet fully mainstreamed, important steps have been taken to give some voice to NGOs. While it may not be clear to EU officials whether there should be formal or informal dialogue between actors in mediation processes, it is recognised that information flows between parties and the EU decision-makers are important. “Quiet” diplomacy between non-state actors (NGOs) and state actors (EU) can deliver an important service, especially in the early stages of a crisis.⁶⁰ Particularly actors with a good track record in mediation, with good relationships on the ground and with a desire for long-term engagement, can enjoy at least the same trust and acceptance of the parties as diplomats do.

Conflict resolution efforts, and the efforts and record of Track II organisations, have engendered a growing “culture of cooperation” in the field of mediation with the European Commission, clearly expressed by the Peacebuilding Partnership.⁶¹ This partnership, which has outsourced much of the work in conflict resolution and mediation to non-state actors, confirms this point to a certain degree. As one European Commission official argues: ‘We are providing a certain amount of soil for something, but the actual growth has to come from elsewhere’.⁶²

Yet for international peace mediation, it is mainly the diplomats who are convinced that government actors such as the EU will have a greater potential to be accepted than an actor with “expert power” alone. While many in the policy circles are positively inclined to support international peace mediation implemented by non-state actor partners, there is a genuine concern that this requires trust: ‘Actors here in Brussels who outsource certain projects, need to be able to trust in the professionalism of those colleagues that they are handing the project over to: that they are not counterproductive in the process’.⁶³ There is an apprehension that the involvement of non-state actors could ‘confuse the influence, the faith’ of the EU.⁶⁴ There may also be a sense of competition, which will call for greater cooperation: ‘There might be conflicts between the efforts we undertake ourselves and the Track II, and this has to be reconciled in one way or the other’.⁶⁵

In order to build effective partnerships between Track II actors and the EU requires being ‘really selective’, because ‘the danger of [...]political correctness creates an additional hurdle for professionalism, despite all good will’.⁶⁶

60 Interview with Council official and Austrian diplomat, Philippe Agathonos, 15th May 2008.

61 European Commission (2008). *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. PbP-2008-1-2007/2008.

62 Interview with Commission official, Peacebuilding Partnership.

63 Interview with Council official, Tania von Uslar Gleichen, 12th June 2008.

64 Interview with Council official, Gyorgy Tatar, 19th March 2008.

65 Interview with EU Special Representative, Peter Semneby, 16th June 2008.

66 Interview with Professor Marta Martinelli, 21st May 2008.

A MULTI-TRACK APPROACH TO PEACEMAKING FOR THE EU?

The EU's realisation of the importance of civil society in shaping knowledge and capacity on mediation, and its role of implementing mediation in partnership with state actors, naturally relates to the issue of multi-track approaches for the EU. The challenge of multi-track dialogue is actually both a matter of creating trust and confidence between different "players" in peace mediation, but also in conceptualising how such multi-track diplomacy for the EU could actually work. There is no EU track record of systematising a multi-track approach in conflict resolution – when it is applied it is usually ad hoc.⁶⁷ The key question to ask is whether the choice of using a Track II approach is deliberate, or simply the best alternative because the EU is not 'reflecting on how to get engaged directly'.⁶⁸ A lack of reflection on how to realistically analyse what can be done at the political level, at the middle leadership level, as well as at the grassroots level, and the kind of expertise required for each level of engagement, runs the danger of continuing ad hoc approaches. It also risks disconnectedness of various initiatives. That said, the design of a multi-track format certainly seems possible, with shifting responsibilities for different tracks depending on the state of the process in question.

The lack of development of multi-track approaches at present is an expression of caution on the side of policy-makers, which is basically due to the reticence of the EU to engage pro-actively in international peace mediation. The multi-track approach is not yet seen as a necessary practice in the field. Due to this fact, any cooperative partnership in conflict resolution depends on the willingness of cooperation with EU diplomats and this within a highly complex EU decision-making machinery. It is thus not surprising that Track II initiatives are called to apply pragmatism and not to have over-idealistic expectations on the engagement of the EU. To date, engaged Track II organisations or "outsiders" seeking to work with the EU are at the "mercy" of the complex decision-making machinery. It is for this reason that policy-makers call for caution that non-state actors are both aware of the limits and the potential of the EU and to be realistic about follow-up actions (such as an ESDP mission). The perception of Track II organisations as "outsiders" indicates a fundamental lack of understanding about the basic role of non-state actors in conflict resolution, but also of the need for legitimisation in international peace mediation by providing entry points to civil society engagement during a peace process.

Notwithstanding, according to policy-makers, if a genuine multi-track approach is to work, it would be important to provide detailed input into contingency planning for the EU, so as to prepare for the outcome of a successful (or unsuccessful) mediation.⁶⁹ Hence, there must be a clear understanding of the needs of Track II actors, which are not as straightforward as one might think. As with anybody in a civilian mission, mediators from Track II organisations require resources to do their work (with the additional workload such as travel, logistics and facilitating communication etc). The bureaucratic nature of the European Commission makes it quite difficult to deal with non-project and crisis needs related to mediation, even though there seems to be openness in dealing with such issues.

GIVING A PLACE TO INTERNATIONAL PEACE MEDIATION: ROLES AND PROFESSIONALISATION

The question of who mediates depends on the individual positions of the actors involved, who see the prism of international peace mediation in different ways depending on their place of work, their training and their

67 Interview with Professor Marta Martinelli, 21st May 2008.

68 Ibid.

69 Interview with Austrian diplomat, Phillipe Agathonos, 15th May 2008.

exposure to international conflict resolution. Confronted with polarised positions, the question should be whether “eminent people” with “standing”, experts and non-state actors can all mediate, but also whether they could take different roles in mediations. These roles need not be fixed, but have to be flexible according to context.

According to a recent newsletter of the United Nations Department of Political Affairs:

‘Third party mediation has proven to be one of the most important means at the 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.’⁷⁰

Ever since the publication of the UN Secretary General’s High-level Panel report on ‘shared responsibility’,⁷¹ the support for mediation efforts is rising and in greater demand. The growing trend for increased systematised knowledge, more resources and recognition, points toward an increasing professionalisation of the international peace mediator.⁷²

Thus the practice of international peace mediation needs to distinguish between two essential roles: those of the *mediator* and the *mediation supporter*. Mediation support is playing an increasing role. This concept, driven by the Mediation Support Unit of the UN, has its merits in bridging the gap between eminent people on the one hand, and that of mediation professionals on the other. A number of NGOs and academic institutes have readied themselves to provide mediation support, in particular in small, neutral countries such as Norway and Switzerland.⁷³

In EU institutions, it is not only one mediator that supports a process, but ‘it is always some figure which crystallises the process and many who work in support.’⁷⁴ Hence, the bridging of this gap in the practice of peace mediation is an important one. Nevertheless, this should not divert attention from the fact that a mediation support team needs a sufficient amount of resources, training and knowledge about mediation, and can provide key aspects and ingredients to a peace agreement.

As one official of the EU Council confirms: ‘It is never only one person who supports a process of [...]magnitude. It will need a number of supportive staff who will take responsibility for different tracks of negotiation’.⁷⁵ Different roles would be ‘the persons, the personalities who are able to do that (mediation)’, and teams consisting of experts.⁷⁶ According to Christian Berger, who has been involved in the Middle East peace process, there are at least four specific roles to be fulfilled: ‘The mediator (as a professional), the person(ality), the lead person and the support team’,⁷⁷ clearly indicating that the person representing a third party in a peace process need not necessarily be a driver or a designer. The concept of a lead person that policy-makers refer to is the team leader who liaises between the mediator, the personality or ‘door opener’, and the support team involved. The realisation of the distinction of such roles would make remarkable differences in the way in which one would engage in mediation. Does the EU have the capability to create such roles? There is not too much convincing evidence that it already does. The problem, according to one expert, is that: ‘The EU is not drawing on its resources[...], its functionaries [...], to initiate what would be commonly called a Track II approach’.⁷⁸

The idea is of having a mediation support team to support and complement a mediator’s standing and ability to build trust, with expertise applied on how to structure and organise meetings, how to structure discussions and

70 United Nations Department of Political Affairs (2007). *Politically speaking*. Bulletin of the United Nations Department of Political Affairs. Summer.

71 United Nations (2004). *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.

72 I have chosen the term “international peace mediator” and not “political mediator” to exactly denote that this profession is about peacebuilding and that it 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.

73 The Swiss organisation *swisspeace* is a notable example: it provides research, networking and training as a service for the Swiss government as well as to the UN. The Norwegian Refugee Council is another example, providing a mediation standby support team to the UN Department of Political Affairs.

74 Interview with Council official, Tania von Uslar Gleichen, 12th June 2008.

75 Ibid.

76 Head of Unit for Crisis Response and Peace Building at the Directorate General for External Relations

77 Interview with Commission official, Christian Berger, 21st May 2008.

78 Interview with Professor Marta Martinelli, 21st May 2008.

understanding the conflict. According to some officials, professionals of different backgrounds are deemed to be the right combination here.⁷⁹ Support teams are supposed to build professional practice within the field of peace mediation itself. Mediation support teams could and should also include facilitators, who have teams to help in preparing mediation, possibly support teams to conflict parties who would be aware of the psychology of mediation.⁸⁰

PROFESSIONALISM: NOT A STRAIGHTJACKET, BUT AN OPPORTUNITY>

The sharpening of a division of labour and respective roles also points further to the need for increased professionalisation of mediation, if the project of realising the EU's soft-power potential is to be galvanised. The practice of mediation today is identified as an activity in which specific know-how is required, which one can acquire through continuous professional training and which can generate an income. Mediation is, at least in most parts of the world, identified as a profession, visibly institutionalised in North America, but increasingly also in Europe (especially Northern Europe) and other parts of the world such as Asia and Africa.⁸¹ In each of these continents, mediation professionals have specific codes of conduct, a set of ethical guidelines and specific training requirements. National chapters or professional bodies are further segmented into specialities of mediation i.e. inheritance mediation, divorce mediation, health care etc. International peace mediation is just beginning to feature in national mediation associations, but is “delinked” and not yet recognised.⁸²

No group of peace mediators has emerged to create a global coalition to agree on either a code of conduct or a common set of guidelines. Others, such as NGOs – to differing degrees – do promote professionalisation, however. Given this fact, and taking into account the relatively brief history of mediation as a profession, and the important challenges mediation continues to face in terms of its institutionalisation and acceptance in national contexts, this might hardly be surprising.

With such broad realisation and acceptance that mediation is a “good thing”, what could be the reasons for the reticence in promoting it? One answer is that increased professionalisation would create more competition for peace envoys or eminent personalities. However, and as pointed out above, the need for both personality and skill sometimes do not match: it is often the case that ‘your special envoy does not know what they are doing’.⁸³

The main difficulty in acquiring global acceptance of the practice of mediation, either in the national or international context, is indeed to recognise it as a practice that empowers parties, rather than the mediator. The fact, for example, that parties choose their mediator and drive the mediation process, reduces – at least in the eyes of an amateur – the role of the mediator to nothing but a facilitator. Yet this role is an essential one. Indeed, the dramatisation that ‘the mediator is nothing, but the parties are everything’, explains the difficulty of professional recognition.⁸⁴ After all, the mediator has the power to do his/her “magic” and design the process him/herself with a level of autonomy. This is not seen in other professions like law or medicine. The non-recognition of this aspect, it can be argued, leads to a practice that is more political than professional mediation. EU Special Representatives are a case in point. These individuals are largely seen to be chosen as a result of political interests, rather than by merit or professional standards. As a consequence, they do not follow mediation practice but ‘impose the solution because they want to get rid of it and go to the next conflict’.⁸⁵ This practice ignores the need for professional tools ‘to do conflict prevention, to do facilitation, to do mediation’ and does not recognise that a

79 Interview with Commission official, Christian Berger, 21st May 2008.

80 Ibid; Interview with Austrian diplomat Phillipe Agathonos, 15th May 2008.

81 For a general introduction on ‘Mediation in the World’ see for example: C. Moore (2003). Op. cit. pp.20-42.

82 National mediation associations have only begun to consider the potential of an international dimension. The first real attempt to provide a linkage between national and international dimensions of mediation and the need to connect these has been made at the European Mediation Conference, organised by the Scottish Mediation Network and Mediation Northern Ireland on 10–12th April 2008. In terms of other aspects of professionalisation, for example, the International Mediation Institute aims to create a global certification programme for the year 2008, a subject not without controversy.

83 Interview anonymous.

84 See Kai-Olaf Maiwald (2004). ‘Zu welchen lebenspraktischen Konfliktlagen pass Mediation? Probleme des mediatorischen und professionssoziologischen Umgangs mit dieser Frage’ in *Beziehungsgewalt und verfahren: Strafprozess mediation gewaltschutzgesetz und schuldfähigkeitsbeurteilung im interdisziplinären diskurs (Relationship violence and Procedure: Criminal, Mediation, Violence Protection Act and debt capacity assessment in interdisciplinary discourse)*. pp.261-269.

85 Interview with diplomat, Veronika Cody, 20th April 2008.

professional mediator would be perceived as neutral.⁸⁶ This is an indication of the diametrically opposed forces encapsulated in the present EU approach to peace mediation.

These forces can be merged by providing continuous training and the creation of complementary roles. Many argue that while the EU is not really lacking in qualified personnel or skills, capacity-building for pre-mission training, to match training in the field of conflict prevention and in the area of ESDP, are much called for.

DO INTERNATIONAL PEACE MEDIATORS REQUIRE A CODE OF CONDUCT?>

There is a new EU directive on certain aspects of mediation in civil and commercial matters, which was published on 23rd April 2008 and includes a voluntary code of conduct and the perspective of professionalising mediation. However, the question of a code of conduct for international peace mediators has not received much attention among EU stakeholders. For reference, the European code of conduct mentions competence (training and continued practice, having regard to relevant standards and accreditation schemes), appointment (parties agree to appointment before mediation starts), independence and neutrality, impartiality, communication of procedures, fairness of procedure, and the ability of parties or mediators to withdraw from the process.⁸⁷ For international peace mediation, a code of conduct could possibly involve binding clauses with regards to human rights, an area in which the EU has, in many instances, asserted its influence through sanctions and other tools of conditionality.

For civil servants of the EU, the existence of a code of conduct in international peace mediation is not seen as a problem. Its application, however, is viewed with some hesitation and reservation.⁸⁸ A code of conduct needs to be applied with flexibility, although this might seem like a contradiction in terms. It should allow for guidance.⁸⁹ Such a code of conduct could be seen as a service to the parties, notably so that 'the parties who may want to avail themselves of this service know already what they are dealing with. It is part the confidence building and trust building exercise'.⁹⁰ Generic issues, such as confidentiality, impartiality and/or reference to the Charter of the United Nations, are deemed as useful, but there is a realisation that the code of conduct might have to be adapted to specific situations.⁹¹

PROFESSIONAL MEDIATION THROUGH TRAINING>

John Paul Lederach argues that training in mediation should be understood and integrated coherently into an overall peacebuilding framework, oriented towards social empowerment and change.⁹² Training of EU staff in the field of mediation thus requires a commitment to peacebuilding, per se, as well as an overall change in the culture of EU intervention.

It is probably due to virtually non-existent training for international peace mediation,⁹³ or the lack of a mainstreamed training, which leads EU officials, diplomats and others to suggest that it is the single most important pre-requisite to "professionalising" mediation. The development of an eventual code of conduct is viewed as a natural progression, once policy-makers and officials have been sensitised to its approach and practice.

The considerable enthusiasm with regard to more training is possibly also due to the fact that there is a general "thirst" among officials, diplomats and others to upgrade their skill-sets in the face of the rapid development of the peacebuilding sector within the EU, which is currently richer in knowledge than skills transfer. For example, generic training in mediation could be relevant to ESDP daily crisis management training for civilian or military

86 Interview with Austrian diplomat, Philippe Agathonos, 15th May 2008.

87 European Code of Conduct for Mediators. Available at http://ec.europa.eu/civiljustice/adr/adr_ec_registration_form_en.doc.

88 Interview with Commission official, Christian Berger, 21st May 2008.

89 Interview with Council official, Gyorgy Tatar, 19th March 2008.

90 Interview with Commission official, Christian Berger, 21st May 2008.

91 Interview with Commission official, Christian Berger, 21st May 2008.

92 J. P. Lederach (1995). *Preparing for peace. Conflict transformation across cultures*. Syracuse: Syracuse University Press.

93 With some notable exceptions, in the EU, for example, a two-week course offered by the Folke Bernadotte Academy or with some specialised training, for example, the Finnish Crisis Management Centre.

presence on the ground, taking into account that friction arises when deploying a new mission. At least, according to one diplomat, 'they can have approaches that [...]don't make conflicts worse'.⁹⁴ Others see it as a matter of importance that Member States' diplomats receive mediation training in their basic training. This in itself would create a basis for a different type of diplomacy and thus foreign policy-making: 'We need to mainstream this into diplomacy, into the normal work of diplomats'.⁹⁵

Yet, it is recognised by some, especially those that have been sensitised to the topic of international peace mediation, that training might have its limits. Mediation, as one Member State diplomat put it, is also a question of "talent". It is true that the practice of mediation training has shown that, due to different psychological dispositions, the practice of mediation might not be appropriate for all people.

The question of who is "trainable" is something that is considered to be a question of seniority as well. For example, some recognise the need for training senior figures within the EU institutions, including Special Representatives. However, there is an apprehension that high-level EU staff might either think that they do not require training, or might even take offence at being required to complete such training.⁹⁶

94 Interview with Austrian diplomat, Phillipe Agathonos, 15th May 2008.

95 Ibid.

96 At this stage it should be noted that, in fact, most mediators in the national scene are not young but rather fall in an age bracket from 30 years upwards. The minimum age for example in Austria to acquire certification is 28 years with a minimum of three years of work experience. See www.uni-ulm.de/akademie/kurse/zusatz for more information.

CONCLUSION AND RECOMMENDATIONS

From a dialectic perspective, this needs analysis brings out three paradoxes. The first is that the understanding and support of mediation. While the facilitative, non-interventionist style is generally favoured as a way to restructure relationships, and for which there are sufficient instruments to integrate aspects of mediation, the way in which the EU role is understood in present-day conflict resolution is through a power-based perspective i.e. where its leverage and weight is seen as a determining factor for the outcome of a mediation. The second is that, whilst the EU recognises the importance of Track II actors, it struggles to structure and systematise a multi-track format for international peace mediation. The third paradox is that, although EU actors recognise international peace mediation as an important practice, they hesitate to implement measures that will allow for its professionalisation. The challenge now is to reconcile these paradoxes, in order to produce concrete proposals for the EU.

RECOMMENDATIONS

Five key recommendations for operationalising international peace mediation in the EU emerge from this needs analysis.

- On the level of strategy and vision, it would be timely indeed to formulate the value added by soft power instruments, such as mediation, which are decisive in the EU's standing as an actor in the international community. The point of departure for the thematic field of international peace mediation is to engage in institutional and policy analysis of the EU's professional approach to international conflict resolution and, consequently, international peace mediation. This would include a systematic evaluation of the EU's past political and financial engagements, so as to reflect on the costs and benefits of committing considerable financial and human resources to global peace processes. Evaluation of peace mediation processes are still, at best, in their infancy, and recent efforts through the Initiative for Peacebuilding have been to provide starting points for doing so.
- The Secretariat of the Council of the EU and/or the EU Presidency should address this question, possibly developing options of how mediation “fits” in and how it could be operationalised, but also taking care to consider the relevance of international peace mediation in relation with other essential thematic fields, such as transitional justice, climate change, security sector reform (SSR), disarmament, demobilisation and reintegration (DDR), gender etc.
- This needs analysis has demonstrated that there a number of ways the EU can be involved, arguably as a mediator on the one hand, and in providing mediation support on the other. The roles of these functions are different, and might also reconcile the different perspectives: of convening power on the one hand (through eminent personalities) and professionalism on the other (through expertise). Both roles are equally important and their interplay is of crucial significance to a peace process, and there are a number of ways in which these could be organised and optimised. Thus, in operationalising the EU's role in international peace mediation, structures and approaches need to allocate different roles for mediation and mediation support.
- The role and distinct value of non-state actors in international peace processes requires a thorough assessment and appreciation by the EU. It is difficult to conceive of international peace mediation as an activity that can be conducted by state actors alone. The question is thus not whether or not strengthened partnerships need to be built between Track I and II actors, but rather how to systematise effective multi-track approaches. This

effort should come from both sides and might require additional efforts within the Track II “community”. It is important to create sufficient flexibility in mediation support, in order to rely on specific process and content expertise, as well as the possibility to engage in non-bureaucratic, rapid deployment and discreet Track II activities. A number of actors, including the UN, Switzerland and Norway, have supported and benefited from such an approach.

- Policy-makers can be sensitised to the practice of international peace mediation by providing support and encouraging exchange of lessons learned, seminars and training. Although the EU and other organisations provide mediation training to officials, which is a useful approach to sensitise participants, the training is both generic and not necessarily integrated and adapted to the needs of the EU as a peacemaker. With the emergence of a more consolidated concept of international peace mediation for the EU, the EU should allow for additional opportunities for training in this field, possibly with curricula or specifically tailored programmes for ESDP missions, military staff, special representatives and even members of parliament. Such an approach could possibly result in the development of a code of conduct.

The EU has considerable potential to engage as a competent and capable actor in peacemaking. This needs analysis has shown that diplomats, officials, Members of Parliament and experts, understand and recognise the importance of international peace mediation to the EU. Not to follow through on this debate would be to miss the opportunity to enhance the civilian (and military) capabilities of the EU's role in international peace mediation – a capacity in which it has the potential to play a genuine and meaningful role as a global actor.

ANNEX I

INTERVIEWS:

ALL THESE INTERVIEWS WERE STRUCTURED, TAPED AND TRANSCRIBED WITH THE PERMISSION OF THE INTERVIEWEES.

Philip Agathonos, Austrian Representative to the Civilian Crisis Management Committee, 15th May 2008.

Angelika Beer, Member of European Parliament, written response, 29th May 2008.

Christian Berger, Head of Unit, Civilian Crisis Management and Peacebuilding, European Commission, 21st May 2008.

Commission Official, Unit Civilian Crisis Management and Peacebuilding, European Commission, 16th May 2008.

Veronica Cody, Director for Civilian Crisis Management, 20th April 2008.

Robert Cooper, Director General, Council of the European Union, 15th May 2008.

Robert Evans, Member of the European Parliament, 25th June 2008.

Hubert Gumbs, Member of Cabinet Ferrero Waldner, Directorate General for External Relations, European Commission, 23rd June 2008.

Nick Grono, Vice President, International Crisis Group, 28th May 2008.

Julien Hottinger, Mediation Expert working for Swiss government, 14th June 2008.

Joost Lagendijk, Member of European Parliament, 3rd June 2008.

Martha Martinelli, Pole Bernheim Chair in Peace and Conflict Studies, Universite Libre de Bruxelles, 21st May 2008.

Luisa Morgantini, Member and Vice President of European Parliament, 21st May 2008.

Peter Semneby, European Special Representative to the South Caucasus, 16th June 2008.

Mathias Siegfried, Coordinator of the Swiss Mediation Support Project, swisspeace, 14th June 2008.

György Tatar, Advisor to Policy Unit, Council Secretariat, 19th March 2008.

Marc van Bellinghen, Deputy Head of Unit, Crisis Management and Peacebuilding, 10th June 2008.

Tania von Uslar Gleichen, Advisor to Policy Unit, Council Secretariat, 12th May 2008.

Martina Weitsch, Quaker Council for European Affairs, 16th May 2008.

INITIATIVE FOR PEACEBUILDING

c/o International Alert
205 Rue Belliard, B-1040 Brussels Tel: +32 (0) 2 239 2111 Fax: +32 (0) 2 230 3705
lmontanaro-jankovski@international-alert.org www.initiativeforpeacebuilding.eu



THIS INITIATIVE IS FUNDED
BY THE EUROPEAN UNION

PARTNERS



International Alert.

