

# Civil Society Dialogue Network Discussion Paper No. 14

## The European Union as a peace mediator

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The paper offers reflections on how the European Union (EU) is perceived as an actor in the field of peace mediation. These reflections are based on 32 in-depth interviews conducted between October 2019 and January 2020 with acting and former diplomats and officials from the EU and its Member States, Switzerland, the Organisation for Security and Co-operation in Europe (OSCE), the United Nations (UN), the Common Security and Defence Policy (CSDP), peacebuilding NGOs and individual experts from conflict parties. All interviewees were granted complete anonymity in exchange for speaking frankly and openly about their experiences with peace mediation.

The interviews were supplemented by an analysis of the policies, procedures and guidelines on mediation found in official documents issued by the EU and Member State foreign policy, security and development agencies; charters, resolutions and other documents adopted by the UN, OSCE, African Union (AU) and other inter-governmental organizations (IGOs); and in academic literature and various reports published by institutions and individuals from the mediation and peacebuilding “community of practice”.

### **Key EU policies, functions, instruments and actors in the field of mediation**

Although EU diplomats have been engaged in conducting international mediation since the 1990s, it only became formally recognised as an integral part of EU external relations after the Lisbon Treaty came into force in late 2009. Among the several *policy* documents that identify mediation as a tool in the EU’s foreign policy, peacebuilding and crisis prevention toolbox, the most important include the following:

- *Concept on Strengthening EU Mediation and Dialogue Capacity*.<sup>1</sup> Adopted by the Council in 2009, this policy and became the original basis for mediation as a tool of EU foreign policy. Mediation is understood as a cluster of mediation, facilitation and dialogue activities that are deployed as communication strategies to assist conflict parties in their search for mutually satisfactory solutions by non-violent means.
- *A Global Strategy for the European Union’s Foreign and Security Policy*.<sup>2</sup> At the political and operational level, EU mediation is part and parcel of its integrated approach to external conflicts and crises.
- *Council Conclusions on the Integrated Approach*.<sup>3</sup> This document places particular emphasis on the need to upgrade the in-house mediation expertise of the European External Action Service (EEAS), to streamline mediation support to the EU Delegations and local peacebuilding groups, to leverage the mediation expertise and experience of the Member States and to maximize mediation synergies with local and international organizations.
- *Council Conclusions on Women, Peace and Security*.<sup>4</sup> The importance of supporting and promoting women mediators and activists, as well as the necessity to integrate a gender perspective into mediation design and implementation are among key points in the document.

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<sup>1</sup> [Concept on Strengthening EU Mediation and Dialogue Capacities](#), Council of the European Union, Brussels, 10 November 2009.

<sup>2</sup> [A Global Strategy for the European Union's Foreign and Security Policy](#), Brussels, June 2016.

<sup>3</sup> [Council Conclusions on the Integrated Approach](#), 22 January 2018.

<sup>4</sup> [Council Conclusions on Women, Peace and Security](#), 10 December 2018.

In deploying mediation as a key instrument in its external relations, the EU performs the following *functions*:<sup>5</sup>

- Acts as a mediator itself
- Supports mediation by international organizations
- Supports mediation by NGOs
- Guarantees the observance of mediation agreements
- Donates material and other resources to the implementation of peace agreements

The European Union can call upon various *instruments and resources* in pursuing its missions in mediation and peacebuilding, including:

- European Resources for Mediation Support (ERMES), a specialized mechanism implemented by a consortium of NGOs that provide assistance and technical expertise to mediation and dialogue processes carried out by mediators from outside the EU and by conflict parties themselves.
- Various funding instruments managed by the European Commission, particularly the Instrument contributing to Stability and Peace (IcSP), which funds ERMES and supports the UN Standby Team, but also other work, and the African Peace Facility, which supports regional and sub-regional organizations in Africa engaging in mediating conflicts on the ground.
- Accession, pre-accession and Association Agreements with non-EU countries, allowing the EU to extend support to peacebuilding and other conflict-related projects in the countries in question. These are not mediation instruments *per se*, but they can be used to assist in various activities and projects addressing past conflicts, inclusion, governance, conflict sensitivity and the like through policymaking and development and help the country make progress on its Association or Accession agenda.<sup>6</sup>
- The Conflict Prevention and Mediation Division recently created within the European External Action Service (EEAS). The division includes a Mediation Support Team, which provides specialized knowledge and expertise to the EEAS and the Member States engaged in mediation.

*Actors* that take on mediation roles include EU Delegations (EUDELs), EU Special Representatives (EUSRs), CSDP missions, the HR/VP, the European Commission, and others. As stressed in interviews with the author by a former EU and Member State diplomat (November 2019) and an UN official (January 2020), mediation is not a primary function of any of these actors nor a required professional skill. Instead, it may be explicitly added to their defined tasks or practised as a policy tool in an *ad hoc* fashion under certain circumstances. The Mediation Support team provides training, coaching and other types of support to the EU field mediation actors, EU Delegations and EUSRs, including with the help of external mediation experts. Specialists from the Mediation Support Unit also occasionally engage in mediation missions jointly with EU diplomats. Regardless of the growing interest

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<sup>5</sup> See [Concept on Strengthening EU Mediation and Dialogue Capacity](#), Council of the European Union, Brussels, 10 November 2009.

<sup>6</sup> See L. Debuysere and S. Blockmans (2019), “[Europe’s Coherence Gap in External Crises and Conflict Management: The EU’s Integrated Approach between Political Rhetoric and Institutional Practice](#)”, Bertelsmann Stiftung, 2019.

in mediation on the part of EUSRs, EUDELs and other EU actors, this type of support is provided on request but is not mandatory for the preparation of deployment in conflict zones. As general practice, however, diplomatic competence is assumed to encompass mediation knowledge and skills.

The inter-relations between various functions, instruments and actors condition the overall progress in the EU mediation efforts in any given conflict. Since they can either reinforce or undermine each other, synergies and potential antagonisms should be carefully factored in at the earliest possible stages of design and implementation. For example, the deployment of a combination of military missions by the EU and by individual Member States in parallel or before a mediation process is launched in which the EU is involved may backfire if local residents have negative perceptions of the military engagement by the European powers.<sup>7</sup> Conceptual disagreements on the mediation strategy and tactics on the ground between EUSRs and EUDELs as well as between decision-makers in Brussels and missions in the field negatively impact the mediation progress and may be the result of inter-agency incoherence, such as between the EEAS and DEVCO, or divergent political courses pursued by individual Member States and the EU.<sup>8</sup> Conversely, as argued by a CSDP mission officer interviewed by the author (November 2019), if well aligned, various EU missions can reinforce its mediation strategy through the supply of accurate information, presence on the ground, support for local development and confidence-building.

### **What are the sources of the EU's mediation mandate?**

When a conflict party or parties are members of an IGO, the mediation mandate is stipulated by the norms enshrined in their charters, such as the African Union (AU) or the UN Charter,<sup>9</sup> and the procedure of deployment of mediators is straightforward.<sup>10</sup> The EU mediates in the conflicts that unfold outside its territory between conflict parties which are not EU Member States, which makes it different from the UN and regional IGOs that mediate between their

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<sup>7</sup> On the perceptions of CSDP missions, for example, see Terri Beswick, Nabila Habbida, Colin Cogitore and Anna Penfrat, “[Dealing with the Human Factor: Conflict Prevention and Civilian CSDP](#)”, EU-CIVCAP Conflict Prevention Report No. 1, December 2017.

<sup>8</sup> Interview, former EU diplomat, November 2019; interview, former EU official, January 2020; interview, UN official, January 2020

<sup>9</sup> See Laurie Nathan, “Marching Orders: Exploring the Mediation Mandate”, *African Security*, Vol. 10, Issue 3-4, 2017.

<sup>10</sup> A constitutional or normative mandate defines responsibilities, obligations and rights of the parties and the mediator. A political mandate that implies an agreement on the architecture of the mediation effort, including the composition of the mediation team, timeline, *milieu*, preparatory stage and the like consolidates the terms of the mediation engagement. In the case of the UN, OSCE or the African Union (AU), the source and the procedure is clear because these organizations mediate between their member states or between their member states and non-state actors. For example, if international security and peace are endangered, Chapter VI, Article 22, Article 33 and Article 36 of the UN Charter prescribe that the parties to the dispute must seek a solution by peaceful means, mediation being mentioned explicitly. UN mediators receive their mandate from the Security Council. The AU is mandated to mediate in the disputes in Africa or by the AU Peace and Security Council. Sub-regional bodies such as the Economic Community of West African States (ECOWAS) or the Intergovernmental Authority on Development (IGAD) follow the same procedure to act as mediators according to their geographic mandate. The OSCE has its own formalized procedures in which all member states reach decisions by consensus. See <https://legal.un.org/repertory/art36.shtml>; <https://peacemaker.un.org/peacemaking-mandate/security-council>; <https://www.osce.org/secretariat/conflict-prevention>; <http://www.osce.org>

members or help their members to resolve internal conflicts. There is no standard procedure that grants the EU its mediation mandate in a given conflict case. Sometimes specific ad hoc circumstances on the ground, relations between the EU or individual Member States and the conflict parties, history of EU diplomatic involvement in the region in question, EU presence on the ground, or political expediency shape the EU mediation mandate. On the one hand, as observed by a former EU official interviewed by the author (October 2019), the flexible procedure creates “constructive ambiguity” that may help the EU to manoeuvre between the role of acting as a first-line mediator and a supporter to other mediators or to mobilize versatile EU instruments to help alleviate humanitarian, economic or socio-political difficulties to indirectly pave the way for future mediation. On the other hand, as pointed out by the same interviewee, a lack of clarity in how the EU mediates may affect the risk-benefit calculations of the EU and Member State diplomats and officials and discourage them from engaging in this form of conflict intervention, or the parties themselves or other mediating bodies may question the legitimacy of the EU mediation mission.

The fact that the EU mediates beyond its Member States stipulates another crucial difference between the EU and IGOs and regional organizations. The latter cannot – due to political and procedural constraints – take sides, at least explicitly. The downside of this arrangement is that regional organizations may be paralyzed if one of the conflict parties vetoes mediation. The EU often has a position on the conflict and may appear as politically partial. EU mediators may carefully observe impartiality and fairness in the process of mediation, but in a real political and geopolitical conflict, the role of the EU may be perceived differently.

In the absence of a formal mandate and given its contested impartiality, the question in essence is what sources of legitimacy can the EU call upon to obtain a mediation mandate?

The EU considers that its mandate to support peace, and more specifically to mediate naturally derives from its own experience of a living “peace project”, according to the former HR/VP Federica Mogherini, “...we have a good story that could represent not only success in itself, but also an inspiration for the rest of the region, for Africa, for the Arab world, and for our world in general.”<sup>11</sup> Apart from being a “peace project”, the EU, as the largest global donor and the most sought-after trade partner, brings an important incentive for conflict parties to accept its mediation and engage in peaceful conflict resolution. The EU offers its assistance with the transition to peace through a long-term engagement.<sup>12</sup> Positive incentives do not constitute a mediation mandate but they influence conflict parties' acceptance of the EU as mediator.

In this regard, the EU differs from individual states that have a recognized mediation record, such as Switzerland or Norway. These countries are called upon by conflict parties because they do not pose a threat to anyone and have no significant resources to entice the parties to engage in mediation. Most importantly, as opined in separate interviews with a Swiss government official and a Swiss diplomat (November 2019), these countries can ensure discretion and confidentiality and do not impose their expectations or values on the conflict parties. Their mediation is process-focused. In contrast, the EU is a different type of a mediator due to its political, economic and geopolitical significance as well as its clear adherence to the principles of human rights and liberal values not only internally, but also globally. The EU Global Strategy states that “living up to our values will determine our

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<sup>11</sup> “The European Union and the European Member States have significant experience on how to live together peacefully and cooperatively, even when tensions arise”, [https://eeas.europa.eu/topics/common-foreign-security-policy-cfsp/70298/eu-supports-peace-and-security-through-maximum-diplomacy\\_en](https://eeas.europa.eu/topics/common-foreign-security-policy-cfsp/70298/eu-supports-peace-and-security-through-maximum-diplomacy_en)

<sup>12</sup> EU Global Strategy, 2016.

external credibility and influence”.<sup>13</sup> As a result, it is not only a process-focused but also a goal-focused mediator, a quality that may drive some conflict parties away from its offer of mediation.

That the EU is an “outsider partial” mediator<sup>14</sup> is not a direct counter-indication for its engagement in mediation. However, this circumstance needs to be reflected upon to ensure that its bias does not undermine the mediation process and in certain cases works to facilitate that process. For example, when conflict parties the same geopolitical or geoeconomic aspirations, such as the EU membership, their acceptance of the EU as mediator is more likely (see illustration of this principle in the case study highlighted in Box 1 below).

#### Box 1. The Pristina-Belgrade technical dialogue

The Pristina-Belgrade technical dialogue is a case in which the EU and the parties have carved out a niche for mediation that enabled Serbia and Kosovo to negotiate and agree on practical matters critical for the bilateral and regional trade and for combatting the "grey economy", regardless of the unresolved conflict. The dialogue was considered facilitated by a regional trade framework (CEFTA), a clear need to address the situation that was hurting both sides and the creativity encouraged by the mediator. The talks lasted for several years, during which the process verged on collapsing several times, but a breakthrough agreement was finally reached. The "peace dividend" that stemmed from the agreements was felt in both economies. While this rare technical dialogue has not been transformed into a sustained political dialogue, the results achieved in making commercial relations more orderly, boosting trade and mobility and improving security on the ground should not be underestimated<sup>15</sup>.

As explained to the author in an interview with a former EU diplomat (November 2019), in more geographically remote conflicts, a party that positions itself as pro-democratic, non-violent, anti-authoritarian, a victim of systematic discrimination and human rights abuse, and an advocate of political and economic reforms that are consistent with human rights and liberal values also often favour the EU as a mediator. Conflict parties that actively seek EU engagement as a third party perceive the EU – based on its political position – as always being on their side. At the same time, however, in the views of an UN diplomat, an EU diplomat, a former CSDP mission officer and a UN official, all interviewed by the author in the 4-month period November 2019 to January 2020), EU mediators must adhere to the principles of a fair and inclusive mediation process, transparency and a commitment to implementing all agreement reached, which the sympathizing conflict party may not always live up to. Besides, the dynamics between the conflict parties may evolve, and their value systems, positions and methods may shift away from democracy and non-violence. As underlined in an interview with a former EU diplomat (November 2019), the protracted and multi-layered conflicts between and within Soudan and South Soudan or between Israel and Palestine illustrate these challenges for the EU mediation efforts.

When peace talks stagnate and the parties become more deeply entrenched in their own positions, the EU may use its authority and advise the party that regards is an ally to adopt more conciliatory rhetoric and to demonstrate greater flexibility. The example taken from the

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<sup>13</sup> [https://eeas.europa.eu/topics/eu-global-strategy/49323\\_en](https://eeas.europa.eu/topics/eu-global-strategy/49323_en)

<sup>14</sup> According to the typology of mediator roles developed by J.P. Lederach, *Preparing for Peace: Conflict Transformation across Cultures*, Syracuse, NY: Syracuse University Press, 1995.

<sup>15</sup> P. Bjelic, and B. Tachi, “Kosovo-Serbia: Regulatory aspects of trade and economic relations”, in Natalia Mirimanova (ed.), *Regulation of trade across contested borders: The cases of China/Taiwan, Kosovo/Serbia and Cyprus*, International Alert, 2015; and interview with conflict party, December 2019



context of the Georgian-Abkhaz conflict shows how such an opportunity has been missed (see Box 2).

Box 2.

The “Hammarberg report” case illustrates how the EU missed a chance to scale up its mediator role due to political inertia and risk aversion that prevented it from the effective use of its leverage with one of the conflict parties. The report was commissioned by the EUSR as a step towards meaningful engagement with the breakaway Abkhaz society and *de facto* authorities on human rights, in line with the “engagement without recognition” policy. This was the first independent external assessment of the human rights situation in Abkhazia. It stirred protests among Georgian authorities because of the use of terms such as "Constitution", "Lawmaking" and similar. The authors claimed these were used with no prejudice to the disputed status but were necessary as a point of reference for gauging individual human rights vis-à-vis institutions and laws that constitute authority on that territory. Yielding to the pressure from the Georgian side which saw the report legitimizing the *de facto* institutions, the EU decided not to publish it<sup>1</sup>. The EU treated it as an internal working document. It was published by the authors on the website of the Olof Palme International Center, a Swedish NGO, but without the EU logo.

This move by the EU in response to the protest by the Georgian government undermined its own policy towards the breakaway regions that aimed at the re-invigoration of the Geneva International Discussions, a flagship mediation format where the EU played a lead role<sup>1</sup>. The EU has underestimated its leverage with the Georgian side and missed an opportunity to advance its mediation role in the conflict. Furthermore, the concern of the *de facto* authorities over the EU impartiality has been validated<sup>16</sup>.

The EU can build its mandate for future mediation through its pro-active and collaborative engagement in the design of “the day after peace” mediation processes linked with the implementation of the peace accord. While it is the UN that leads on political mediation amidst the ongoing war in Syria, the EU fully backs this format and engages regional and external actors in the discussion on post-conflict peacebuilding in Syria and is raising funds to ensure that there is no gap between the political process and peaceful transition on the ground.<sup>17</sup> When the time to consolidate and implement a peace agreement comes, such as in the case of Syria, the EU would be ready to facilitate multi-stakeholder dialogue or mediate between various factions should it be called upon or its engagement be considered as useful by the parties.

Apart from receiving the acceptance by the conflict parties, some sort of "green light" should be given by the Member States in order for the EU to legitimately engage in mediation. Despite mediation having made its way into policy documents and received institutional and financial support, it would be an overstatement to say that mediation is an instrument of first choice for the EU in its foreign policy. EU and Member State diplomats not familiar with the nuts and bolts of mediation may fear to be perceived as interfering in the sovereign affairs of a non-EU state or undermining the EU own interests. The primacy of the political expedience and risk aversion coupled with the lack of experience and knowledge of mediation assets makes acquiescence – whether formal or informal – to EU mediation in certain conflicts

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<sup>16</sup> The “engagement without recognition” policy that had been designed before 2008 by the back then EUSR in the South Caucasus policy had been documented as a non-paper, but never published hence unavailable for general public, de Waal, T. (2017) Enhancing the EU’s engagement with separatist territories, Carnegie Europe, <https://carnegieeurope.eu/2017/01/17/enhancing-eu-s-engagement-with-separatist-territories-pub-67694>); Hammarberg, T. and Grono, M. (2017) Human Rights in Abkhazia today, July 2017, <https://www.palmecenter.se/wp-content/uploads/2017/07/Human-Rights-in-Abkhazia-Today-report-by-Thomas-Hammarberg-and-Magdalena-Grono.pdf>; Kucera, J. (2017) Georgia Thwarts EU Engagement with Abkhazia, <https://eurasianet.org/georgia-thwarts-eu-engagement-with-abkhazia>

<sup>17</sup> [https://eeas.europa.eu/headquarters/headquarters-homepage/12250/mogherini-announces-dialogue-key-regional-actors-prepare-ground-political-transition-and-post\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/12250/mogherini-announces-dialogue-key-regional-actors-prepare-ground-political-transition-and-post_en)

difficult or impossible. It seems that collectively Member States are still more willing to mandate CSDP missions than to support a mediation effort.

### **The EU and its Member States as mediators: a choir or a contest between soloists?**

Some EU Member States have been playing the role of international peace mediators for decades. This is an immense mediation resource for the EU. Nordic countries, for example, place peacebuilding at the top of their foreign policy agenda, each having its priorities and style, but collectively contributing to the "Nordic peace brand".<sup>18</sup> Finland, Sweden and Germany have elaborate peace mediation strategies and action plans<sup>19</sup> that can serve as an inspiration and practical reference for the EU in its efforts to scale up its mediation concept and refine its mediation *modus operandi*.

The EU has both advantages and disadvantages in pursuing its mediation role compared to the individual Member States. Its major disadvantage, as observed in an interview with an EU Member State diplomat (November 2019), is its inability to practice discretion and lack of agility due to the complex and time-consuming political and bureaucratic procedures. These qualities are key when shuttle diplomacy between conflict sides is required at the earliest stages to secure their agreement to come to the talks, when the agenda of the talks is being formed, or when one or more parties cannot appear publicly to seek peace with their rival or fear persecution on legal or political grounds. Member States can carry out these tasks more comfortably and effectively.

Mediation efforts by the EU and the Member States are not always synergistic, while rivalries are often the norm. Political disagreements, historical relations with conflict parties, economic interests and varying security imperatives may hinder overall progress with the mediation effort. Some interlocutors insist that it is not merely a lack of understanding of how mediation works and different calculations of the risks and benefits on the part of the Member States that prevent effective alignment between the EU and Member States' mediation engagement in a given conflict case. They suggest that this is a reflection of a deeper structural incapacity to formulate common security goals, to distil unified interests and to effectively project these onto the external world. In other words, as expressed by one former EU official (interviewed December 2019), a lack of coherence in mediation is a reflection of the lack of the overall foreign policy consolidation and commitment within the EU.

Smart combinations of the mediation mandates and capacities of the EU as a whole and its Member States may produce better results than individual efforts. For example, former colonial powers, such as France and the UK, have extensive knowledge, important connections and a common language with conflict-affected countries, which is an asset for a more refined conflict analysis and mediation strategy building. They may or may not be

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<sup>18</sup> A. Hagemann and I. Bramsen, *New Nordic Peace: Nordic Peace and Conflict Resolution Efforts*, Nordic Council of Ministers, 2019.

<sup>19</sup> Peace Mediation Framework, Federal Foreign Office (<https://www.auswaertiges-amt.de/blob/2247136/a19a78d2e10cdca5401bf9f15c8931bf/peace-mediation-framework-data.pdf>); <https://um.fi/documents/35732/0/Action+Plan+for+Mediation.pdf/1177fa11-cbf9-1425-3129-b1d8e12d7952>; <https://www.sida.se/contentassets/69bb013c27e64cfc8b6c6e05aeb71ab/dialogue-facilitation-and-mediation.pdf>).



welcome as mediators by all or some conflict parties in their former colonial regions. The EU as an entity with no colonial history – not a state, for that matter – may be a preferred choice by the parties, as observed in interviews with two former EU Member State diplomats (November 2019) and a former EU diplomat (December 2019). Member States that have no colonial history (such as Finland) may also be a more acceptable mediator.

### **EU leverage: a curse or a blessing in its role as mediator?**

The EU does not have many coercive instruments with which to exert pressure on the parties, except for economic sanctions, which, in the view of one EU diplomat interviewed by the author (October 2019), makes the EU more acceptable than some other mediators. However, the EU's major incentivizing leverage, i.e. financial support to peace processes and the implementation of peace agreements, may also impact the dynamic of mediation and of what follows.

Two diametrically opposite views were elicited on the question of whether the EU should use its massive financial leverage when engaging as the first line mediator. According to one line of argument, the EU leverage may either make the parties feel they are being “bribed” and intimidated and hence resist mediation or encourage them to inflate their commitment to the talks, which obfuscates the actual incentives. In either case, the danger of a stillborn agreement is great. Supporters of this view warn that combining the role of a donor to the parties and to other third parties with their own political activity on the conflict, including in the role of mediator, poses a risk of the EU being perceived as a stakeholder on the ground. Other third parties, including IGOs, may regard this as the imposition of a “mediation hierarchy”, which, in turn, hinders cooperation of mediators. In this regard, funding mechanisms play an important political role and should be aligned with the mediation imperative. Big contracts in support of peacebuilding that fit into the administrative logic of the Commission can be managed only by big contractors on the ground or by international agencies. Often these contractors are the governments because it is they who have the required administrative capacity to manage the EU grants and contracts. In the absence of transparency on behalf of the governments and due to their stringent accountability to the EU sometimes due to political fragility of the bilateral links, the funds may end up in the budgets of GONGOs (government-organized non-governmental organizations), while genuine community groups, local NGOs or civic activists in opposition to the government are far less likely to benefit from the EU funding. As pointed out in interviews with a former OSCE official (January 2020) and a former UN mediator (November 2019), this leads to the broader society being progressively disenfranchised and discouraged from engaging in peacemaking and peacebuilding. Another grave risk associated with the politically motivated use of funding to create incentives for elites to accept mediation and engage in earnest peacebuilding is that this practice eventually makes the EU dependent on the goodwill of these same elites, which diminishes their willingness to seek conflict transformation and move away from the status quo. The very establishment of the funding support to the countries is a political message on behalf of the EU, it is an encouragement and a signal of the willingness to follow the “more for more” principle. As warned in an interview with a UN official (January 2020), a downside of this dominant political imperative is that less attention is being paid to the quality of the mediation and dialogue programmes selected for funding on the ground.

The opposite view of the EU leverage and its mediation role holds that by its nature the EU has leverage because of its role as a major donor for inter-governmental organizations, NGOs and governments. Therefore, playing a “no leverage” role is not an option. Instead, the EU should maximize its positive leverage and make it synergistic with mediation efforts of its

own or of other partners. The positive example of the Peace Fund set up for Northern Ireland in 1995 supporting only bi-communal activities and projects proves that leverage helps anchor the political process in the daily life of people, thereby making peaceful co-existence a “new normal”. The financial assistance that the EU provided to South Africa for the transition from *apartheid* to democracy was critically important and effective at the time not least because the request for funding had grown from the needs on the ground<sup>20</sup>. There is empirical support to the position, namely that the “leveraging peace” approach makes prospects of reaching a peace agreement statistically greater.<sup>21</sup>

The EU’s role in the peace process in Afghanistan is an interesting case where its leverage combined with its values make it a strikingly different third party, the one that responds to the principle of a neutral outsider that nevertheless has critically-needed resources and competence to “give peace a chance” after the talks with the Taliban and other political mediation formats deliver an agreement.<sup>22</sup> Being the largest donor to Afghanistan and a non-military actor, the EU has the potential to mediate along the way of the implementation of the prospective peace agreement.

The EU has been supporting the Colombian peace process through the Trust Fund, to facilitate the switch from a war economy to a peace economy in the rural areas, while at the same time playing a role in the mediation segment and providing assistance to the political peace process.<sup>23</sup>

Due to the creative use of the EU’s trade leverage, mediation may become an overarching strategy rather than a particular tool and other EU institutions, such as the European Commission, may well advance conflict resolution within an aligned strategy (see Box 3).

### Box 3. Moldova-Transnistria conflict

In the case of the Moldova-Transnistria conflict, the EU is not a mediator, but rather an observer. In this instance, however, the EU managed to use its leverage – trade preferences in the form of the Deep and Comprehensive Free Trade Area (DCFTA) – to open a mediation dimension where the EEAS and the European Commission’s Directorate General for Trade engaged the two sides in a pragmatic discussion on the cost-benefit analysis of mutual concessions for mutual benefit. This creative and “outside the box” thinking resulted in the consent by the two sides to include Transnistrian private companies in the DCFTA, but with certain administrative caveats that were satisfactory to both Chisinau and Tiraspol and did not significantly infringe on either side’s political self-understanding<sup>24</sup>

### EU values and mediation: incompatible or inseparable?

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<sup>20</sup> Interview, former EU diplomat, November 2019

<sup>21</sup> See M. Lungdren and I. Svensson, “Leaning and dealing: Exploring bias and trade leverage in civil war mediation by international organizations”, *International Negotiation*, 9(2):315-342 · June 2014

<sup>22</sup> “The EU’s role in promoting ‘Peace Dividends’ in Afghanistan”, European Institute of Peace (EIP) and Ministry of Foreign Affairs of Finland, October 2019  
(<http://www.eip.org/sites/default/files/Peace%20Dividends%20in%20Afghanistan.pdf>).

<sup>23</sup> The European Union’s Global Strategy: Three years on, looking forward  
([https://eeas.europa.eu/sites/eeas/files/eu\\_global\\_strategy\\_2019.pdf](https://eeas.europa.eu/sites/eeas/files/eu_global_strategy_2019.pdf)).

<sup>24</sup> Interviews with EU diplomat (November 2019) and with representative of the conflict party (December 2019).

Mediation as a component of the broader peace support by the EU cannot be reduced to mere facilitation of talks. At the bare minimum, some principles define the "red lines" concerning the substance in the talks and of the agreement that are identical in the UN, the OSCE, EU and other lead mediation bodies.<sup>25</sup> However, it is not easy to organically blend human rights, international law, and peace mediation.<sup>26</sup> On the contrary, "a tough and principled democratic stand by the mediating body might make the process of conflict resolution more difficult and protracted".<sup>27</sup> Most of the contemporary conflicts are asymmetric, have a salient exclusion and discrimination component and display massive violations of human rights. The rhetoric of peace and reconciliation may be more appealing to the ruling party, to the majority and state authorities, while a minority, the opposition or other non-state actors in the situation of stark power imbalance would mobilize the "rights" discourse in an attempt to become visible and gain external support.<sup>28</sup> The contrary may be the case as well when armed non-state actors are primary perpetrators of crimes, but due to their existence beyond the international system, it is hard to hold them accountable.

A mediator should undoubtedly practice cultural sensitivity and respect for diverse traditions and not let frontal advocacy for human rights directly interfere with the opportunity to keep communication channels with various stakeholders open. However, against the background of the EU's foundation and its vocal promotion of human rights and freedoms, the least-useful strategy for the EU as a mediator would be to try to appear "value-free" or neutral to the outcome.

Where EU engages in the long-term and where it has the greatest credibility, such as in the Western Balkans due to the European accession perspective and in the Eastern Neighborhood where it is regarded as a counterexample to the external influences that promote illiberal policies, its mediation and peace support would only be strengthened by its principled

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<sup>25</sup> The UN as mediator "cannot endorse peace agreements that provide for amnesties for genocide, crimes against humanity, war crimes or gross violations of human rights, including sexual and gender-based violence; amnesties for other crimes and political offences, such as treason or rebellion, may be considered – and are often encouraged – in situations of non-international armed conflict" (The *United Nations Guidance for Effective Mediation* was issued as an annex to the report of the Secretary-General on *Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution* (A/66/811, 25 June 2012), [https://peacemaker.un.org/sites/peacemaker.un.org/files/GuidanceEffectiveMediation\\_UNDPA2012%28english%29\\_0.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/GuidanceEffectiveMediation_UNDPA2012%28english%29_0.pdf), p.17). The same principles are copied in the OSCE mediation guidelines (Mediation and dialogue facilitation in the OSCE: Reference guide, OSCE Conflict Prevention Centre, p.21, <https://www.osce.org/secretariat/126646?download=true>) and in the Concept on Strengthening EU Mediation and Dialogue Capacity (Concept on Strengthening EU Mediation and Dialogue Capacity, Council of the European Union, Brussels, 10 November 2009, [https://eas.europa.eu/topics/eu-global-strategy/49323\\_en](https://eas.europa.eu/topics/eu-global-strategy/49323_en))

<sup>26</sup> The Concept on Strengthening EU Mediation and Dialogue Capacity acknowledges that "tensions between the EU's normative commitments in the area of human rights and international law and short-term conflict management objectives may pose additional challenges and prevent the EU from becoming involved in a mediation process", Concept on Strengthening EU Mediation and Dialogue Capacity, Council of the European Union, Brussels, 10 November 2009, p.7.

<sup>27</sup> Laurie Nathan, (2017) "Marching Orders: Exploring the Mediation Mandate", *African Security*, Vol. 10, 2007.

<sup>28</sup> Rajan Hoole., "Sri Lanka: Ethnic Strife, Fratricide, and the Peace vs. Human Rights Dilemma", *Journal of Human Rights Practice*, Vol. 1, No. 1, March 2009; C. Bell and M. Fitzduff, "Principles versus pragmatism", Carnegie Council for Ethics in International Affairs, 25 March 2002 (retrieved from [https://www.carnegiecouncil.org/publications/archive/dialogue/2\\_07/articles/243](https://www.carnegiecouncil.org/publications/archive/dialogue/2_07/articles/243)).

position on the matters of inclusion, governance or the rule of law, which are at the heart of structural conflict transformation.<sup>29</sup>

Some strategies may be useful in view of integrating human rights and engaging conflict parties in an egalitarian process that gives all participants an equal voice. Human rights, peacebuilding, international law and mediation experts, both external and in-house, including the EUSR on Human Rights, the European Parliament, and others, should be better mobilized to provide their advice to the EU-appointed and EU-supported mediators to help them follow the integrated approach to mediation and conflict resolution.<sup>30</sup>

EUDELs and their international or local partners should encourage local peace and mediation and human rights communities to come together to discuss and develop ways to incorporate transitional justice and rights into the peace process. Innovative mediation structures may become both the instrument and the message for advancing and mainstreaming gender into mediation. The Nordic Women Mediators Network established by the governments of the Nordic EU Member States and Norway is one such example. As a mediation authority, it advances feminist mediation politics, which implies that women design and drive mediation as opposed to making mediation teams look gender-balanced by numeric criteria. This empowers women within the conflict parties to step forward and fosters gender aspects of war and peace to feature prominently in the process of mediation and in resulting peace agreements.

### **Conclusion: main takeaways**

- Mediation has been included in the EU foreign policy, institutionalized within the EEAS and implicitly or explicitly incorporated into the mandate and the toolkit of various EU actors. In practice, however, mediation is not unanimously accepted as the tool of choice for conflict intervention, while conventional diplomacy and development assistance frames and instruments remain dominant. More work is needed to be done to explain and promote mediation within the EU and its Member States, most notably through the documented EU mediation experience, participatory inclusive discussion on the merits and risks of engaging in mediation, as well as training for the EEAS, the Commission, including DEVCO and the European Parliament.
- The gap between EU mediation and peacebuilding policies and frameworks and their implementation on the ground should be closed. This can be done through establishing clear political, programmatic and financial mechanisms for the long-term accompaniment of peace agreements, coherence and continuity of the EU-led or EU-assisted mediation and dialogue, despite the emerging new geopolitical priorities and enhanced capacity of the EU Delegations to closely monitor conflict dynamics, issue early warnings and respond, including through mediation.

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<sup>29</sup> Interview, former OSCE official, December 2019; K. Bassuener, V. Perry, T. Vogel, and B. Weber, “The EU Must Shift Out of Neutral in Its Enlargement Strategy: Championing Liberal Values Means Choosing Sides”, DPC Policy Note, *Series on Rebooting European and Transatlantic Institutions* #1, 2019.

<sup>30</sup> Concept on Strengthening the EU Mediation and Dialogue Capacity, 2009, p.8.

- The Concept on Strengthening EU Mediation and Dialogue Capacities clearly states that the EU's value-added as mediator is its ability to "provide incentives to the conflict parties", assisted by a host of Community instruments and facilitated by the presence of EUDELS on the ground. Since mediation in the situation of highly complex multi-stakeholder conflicts is a non-linear, iterative process, EU assistance with the transformation of the socio-political context and long-term support for conflict transformation before, during, after and beyond mediation increases the chances of every subsequent round of mediation to bring the conflict parties closer to a peaceful solution. However, this leverage should be applied strategically, with the utmost conflict sensitivity built-in, attuned to the humanitarian, human rights and legal criteria for a mediated peace. Otherwise, financial assistance and trade preferences may have negative and potentially dangerous consequences on the ground due to their magnitude and the potential to affect conflict dynamics, reinforce structural root causes or create new division and exclusion lines.
- The EU should assertively and creatively keep the focus on human security in its mediation design to break the perceived incompatibility between the "rights" and "peace" discourses. The way is to combine the two through fostering cooperation between the human rights and conflict resolution practitioners and building partnerships, sequencing of interventions and promoting cross-disciplinary fora.
- The EU should engage in mediation where it has credibility and it is easier to leverage an agreement. The immediate neighbourhood regions are a clear priority in this respect. However, as a global actor, it should not disregard the complex violent conflict situations further away. This touches upon the EU's commitment to the Responsibility to Protect principle and concerns its credibility. Supporting other mediators may be a good option, but the EU may consider its role, including as mediator. For this, the EU should go beyond the risk analysis for itself as a mediator and do more of conflict analysis focused on the affected population, regional security and global threats, such as climate change.
- The EU rarely engages in mediation solo. It is well aware of the need to coordinate and cooperate with other international and regional organizations that have a normative mandate to mediate. Knowing it remains a key actor with an unparalleled capacity to accompany the entire peace process, the EU should not strive for leadership at the table, but practice its integrated approach to mediation and use its leverage to support conflict transformation, strategically back other mediators and step in as mediator at a strategic time. The EU as an outsider to all conflicts in which it mediates may be a unique mediation resource where regional organizations stall due to the objection on behalf of one or several conflict stakeholders or reinforce the existing rifts. Where individual states have a baggage of colonial history that may be an obstacle to their mediation efforts in the former colonial region, the EU may step in and mobilize its bilateral and multilateral policies and instruments.<sup>31</sup>

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<sup>31</sup> EU Global Strategy, 2016.