

Factsheet – EEAS Mediation Support Project – Knowledge Product

Mediation and Dialogue in electoral processes to prevent and mitigate electoral related violence

This factsheet is designed to provide a brief "snapshot" insight to EU officials engaged in advising, planning or implementing mediation and dialogue activities related to electoral processes and electoral conflicts. It is designed to be of use for those working in specific geographic contexts or thematically on related issues. It covers electoral processes throughout the entire electoral cycle.

These factsheets are "work in progress" and feedback is welcome. More information and support on the issues presented are available from the Mediation Support Team of the K2 Division of Conflict Prevention, Peace Building and Mediation Instruments of the EEAS at K2@eeas.europa.eu

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01 Background and Scope

This factsheet deals with EU mediation and dialogue in the context of electoral processes. The EU approach to mediation and dialogue in electoral processes is informed by practice and by the 2009 EU Concept on Mediation and Dialogue. The starting point of this factsheet is that elections will take place, and the focus is on elections in post-conflict environments characterised by fragile institutional settings and a heightened risk of return to instability and electoral violence. It points to possible entry points for preventive mediation efforts around elections as well as providing an overview of key dilemmas regarding mediation and dialogue as part of electoral support in the context of electoral disputes, electoral violence and failed elections. Elections can be a major catalyst for democratic change but they can also reveal underlying conflicts, exacerbate tensions, lead to violence and ultimately may undermine the legitimacy of elections as a democratic mechanism, if poorly conducted². Conflict may erupt throughout the whole electoral cycle and is not limited to the election day itself. Research suggests that the 3-month lead-up to elections poses particular risks for violence. Mediation and Dialogue therefore plays an important role in three different phases.

- a) Prevention of electoral disputes. Preventive mediation and political dialogue can help prepare the ground for peaceful elections through building the social climate for successful elections, breaking deadlocks and reducing the likelihood of violence and of outcomes that are perceived as illegitimate⁴.
- b) *Mitigation of acute electoral conflicts and violence*. Mediation can be equally important for electoral conflict management if tensions are acute and in case violence breaks out.
- c) Post-election follow-up. Mediation and dialogue are important tools in the post-election period, in case the results of elections are disputed but also to address remaining tensions and complaints and strengthen trust in the democratic process.

Mediation and dialogue can support the electoral process at different levels, ranging from formal processes to more informal ones and from the direct higher-level mediation and dialogue efforts (Track 1) to the more indirect roles of supporting, promoting, leveraging or funding mediation.

The EU electoral support comes in two forms: EU Electoral Assistance as well as EU Observation Missions. While the European Commission's Methodological Guide on Electoral Assistance⁵ mentions mediation and dialogue as tools to prevent conflict it is usually providing more technical assistance. It is usually also not the task of the Electoral Observation Missions to engage in such activities. Yet, these two are often not enough to address the patterns of electoral violence, which are mostly related to political problems. Beyond the usually more technical electoral assistance, the EU has in fact a wide range of roles it can potentially play in relation to mediation and dialogue in electoral processes.

Box 1: Key Messages for EU Officials

- 1. Assess early on how mediation and dialogue can fit into the broader EU electoral support and EU political/development approach to the country during the whole electoral cycle.
- 2. Adopt a holistic and context-sensitive approach to electoral support and assess risks, trade-offs and trigger points for violence to inform the EU approach to mediation and dialogue in electoral processes.
- 3. Proactively use preventive mediation and dialogue tools in the long-term lead up to elections.
- 4. Seek alternative ways of supporting local electoral mediation capacity and civil society if direct mediation involvement is not possible due to engagement as election observer or if the political actors are opposed to direct intervention.
- 5. Combine short-term mediation and dialogue measures to manage electoral conflict with long-term efforts to address root causes of electoral violence and conflict and fragility more generally.

Table 1: EU various potential roles in relation to mediation and dialogue and electoral processes

The EU in mediation and dialogue	Examples of potential EU roles
European Union as a mediator or facilitator to dialogue:	The former High Representative for the Common Foreign and Security Policy, Javier Solana, was involved in mediating the Ukraine electoral dispute between Viktor Yushchenko and Viktor Yanukovych in 2004.
2. Promoting mediation and dialogue:	EU staff (EUSR or EU Commissioner) can hold talks with parties to conflict and mobilise them to engage in negotiations mediated by a third party. The EU can also promote the implementation of mediated post-election agreements. After the violent Kenyan Elections in 2008, the EU Head of Mission in Kenya has issued statements in the press which aimed at influencing political actors to implement speed up agreed institutional reform.
3. Leveraging mediation and dialogue:	The EU has used leverage to influence the stand-off between incumbent Laurent Gbagbo and opposition member Alassane Ouattara after the 2010 presidential election in Cote d'Ivoire. The EU issued various statements, put on significant diplomatic pressure along with the international community and levelled financial sanctions against Gbagbo and his wife.
4. Supporting mediation and dialogue:	The EU supported the mediation efforts of AU-sponsored engagement Kofi Annan and his team after the violent elections in Kenya in 2007 through gathering information and providing regular updates on the changing context. EC Development Commissioner Louis Michel supported the work of Kofi Annan and engaged directly with parties at the highest levels.
5. Funding mediation and dialogue:	The EU supported the organisation of elections in the Democratic Republic of Congo in 2006 with a programme costing over €100 million. The efforts included civic and electoral education, mediation, participation of women, strengthening local media and the role of civil society in rural areas. In Tanzania in 2010 the EU supported electoral commissions to coordinate and manage election-related security, including the facilitation of inter-party security dialogue. EU also sensitively supports an all-party conflict management system in Zimbabwe the JOMIC.

02 Key issues and dilemmas

EU officials may face various dilemmas when engaging in mediation and dialogue in the context of electoral processes. These as well as potential responses will be outlined in the following.

A comprehensive and context-sensitive approach to electoral support

Following the EU Methodological Guide on Electoral Assistance, that maps out an electoral cycle approach along pre-voting, and post-voting periods, EU staff engaged in mediation and dialogue should take a comprehensive and long-term approach to elections. A strategy for mediation and dialogue also needs to be embedded in the EU's broader framework of electoral assistance and conflict management. The EU has so far mostly separated electoral support, consisting of technical assistance and election observation, from on-going peacebuilding measures of which mediation and dialogue are important tools. Combining the two fields and linking the electoral cycle approach with conflict analysis can enable the EU to identify points where preventive mediation measures are helpful already at early stages and throughout the whole electoral cycle and where violence may be triggered. Yet, bringing these two fields together exposes inherent tensions. Intervention in conflict through mediation and dialogue (particularly, leveraging mediation) may risk impartiality and can be perceived as taking sides. The case of a senior European election observer who was expelled from Ethiopia during the 2005 presidential elections over controversies of being accused locally of having pre-conceived ideas and not being a neutral observer exemplifies the sensitivities surrounding electoral processes. Election Observation Missions, may only be successful if the impartiality of the EU as an actor is retained.⁷ In addition, mediators actively intervening in conflicts can be at risk, as they are usually neither equipped with sufficient authority, nor accompanied by security personnel.8 If both roles are to be combined this requires skillful and coherent political management by the EU both in-country and at headquarter level. It should thus be ensured that EU mediation efforts, alongside EU election observation missions and technical assistance, do not compromise but rather complement each other. If this risk is particularly high, other avenues than direct involvement, such as funding local electoral mediation panels or strengthening civil society and transforming the electoral climate through supporting media strategies, also exist.

Elections in fragile and post-conflict settings

Political rather than the objective assessments of capacity often determine the decision to hold elections. Yet, post-conflict elections often take place in weak institutional settings and fragile conditions. The 'institutional legacy of war' often means that there is an inequitable distribution of power. The political landscape may be characterised by a lack of trust in institutions, including electoral commissions and courts. The electoral framework itself may be biased and in need of reform. If not adequately addressed, these issues can turn into triggers of violence during elections. The weakness of civil society organisations and political parties is often another characteristic. Political action is often organised around identities, such as ethnicity, region, religion or language. The mobilisation of electorates as a normal part of electoral competition is in many cases carried out along the lines of identity (ethnic) identities, which may become a catalyst for ethnic violence when elections are perceived to be flawed. It is often difficult to find credible non-partisan individuals that have the power to organise and convene in order to ease tensions. Yet, the civil society can also play a beneficial role for peaceful and democratic elections, one of the reasons why the EU aims to foster civil society mobilisation for the 2013 general elections in Kenya.

The envisaged timeframe of elections needs to take into account that certain pre-conditions, related to the security situation, the political and civil society landscape as well as the technical capacities available, are required for successful elections. The EU guide on electoral assistance states that a decision to deploy electoral assistance should be based on whether a minimum of democratic space and political will exists in a country allowing for genuine elections. If these conditions are not met, the scope for EU mediation and dialogue efforts to prepare the ground for elections should be explored¹⁰.

Context-sensitive conflict analysis along the electoral cycle to inform EU mediation and dialogue

All elections in post-conflict settings entail risks, which need to be proactively identified in order for EU staff to decide whether and how mediation and dialogue can play an effective role. Context-specific information should inform the development of responses and electoral disputes should be addressed on a case-by-case basis¹¹. Conflict analysis in the context of the electoral cycle is a helpful tool when mapping the root causes of conflict (e.g. historical, institutional and societal factors such as inequalities, political mobilisation according to ethnicities, etc.), trigger points of violence (e.g. a flawed registration process, close-run elections, delays in announcing results, inflammatory language) as well as different eventualities¹². EU staff should use existing local information sources if available, building on knowledge held by a wide variety of EU actors on the ground (EU Delegations – both political and operational sections, EU Electoral Monitoring Missions, EU member-state missions, plus those of civil society and the international community).

There are a several aspects throughout the electoral cycle that can provoke conflict and tensions and where preventive mediation may be an adequate response alongside technical support. The registration process of voters and the delineation of constituency boundaries have been sensitive issues in the past and have at times led to outbreaks of violence. Delineating constituency boundaries or defining eligible citizenry, including returning refugees and internally displaced persons, can become contentious if communities do not feel adequately represented or if groups are obstructed from registration¹³.

Box 2: Consequences of partisan electoral framework

National elections in Cote d'Ivoire in 2000 led to the disenfranchisement of a sizeable segment of the population due to a partisan electoral framework. The unwillingness of the ruling military junta to reform led to failed ECOWAS mediation effort. 2 years after the elections, 'those who felt shut out of the political process organised a violent overthrow' of the government (Fumonyoh, 2009).

Box 3: Selected trigger factors for electoral violence

Pre-election

- Voter registration
- · Delineation of constituencies
- Inflammatory language
- Violations of code of conduct

Election-day

- Violation of election laws
- Voter intimidation
- Hindering citizens to access ballots, parties to travel
- Unsealed ballots at poll site

Post-election

- Dashed expectations
- Delays in announcement of results
- Perceived fraud and mismanagement
- Premature self-declaration as winner

(UNDP, 2009; various sources)

Box 4: District Delimitation

In India, violence broke out between the Gujjar and Meenas castes over questions of delimiting districts in 2007, In Nigeria a conflict over electoral districts and subsequent protests in 2003 resulted in many killed and more than 1,000 displaced (UNDP and EC, 2009).

Inflammatory language by parties and those running for office can exacerbate rivalries and further fuel those tensions. Trigger points for violence may also relate to constitutional amendments of incumbent regimes that alter eligibility-criteria for presidential candidates, and to dashed expectations when results are announced. Analyzing the structural, proximate causes and triggers of violent conflict is recommended as part of an EU approach to conflict analysis. It is can be supplemented by a more electoral-focused analysis.

Preventive mediation and dialogue in the pre-election phase

In the long-term lead up to elections, mediation can support the preparation of common agendas for the electoral process, can assist agreements of code of conducts and can help mitigate the risks caused by potential trigger points for violence. To ensure sustainability of outcomes, it is important that local and national ownership and involvement be strengthened. Mediation, dialogue and consultations can help to ensure public input as well as support. Fostering conducive environments characterised by tolerance is often as important as mediating agreements on technical matters.

Trust-building measures can include setting up or strengthening regular and institutionalised forums for assisted dialogue at national or sub-national level, which brings together electoral management bodies, political parties and other stakeholders. EU Mediators, or third party mediators supported by the EU can assist these electoral parties to agree on a code of conduct that is to be respected by all parties and independently monitored. Mediators should ensure that these codes of conduct include sanction mechanisms and monitoring measures and are widely disseminated. Besides finding common ground on electoral systems and legislation, electoral parties need to agree on an accessible and credible procedure for complaints and appeals, as this provides parties with a mechanism for addressing disputes rather than using violence. A credible and effective complaint adjudication system also provides certainty, which can ease ongoing tensions over alleged irregularities. The EU can support and facilitate dialogue on the development of such systems. Furthermore, mediation may be anticipated as a measure of last resort for recourse in case reservations regarding the capacity or impartiality of court systems and other bodies remain. Yet, there is a boundary to what incidents mediation can and should address and where legal justice is required 17.

An effective **strategy with regards to media** needs to be in place to support the work of mediators and public dialogue. Media programs can constitute an innovative form of dialogue to inform, reach and educate citizens. Yet, information as well as inflammatory statements spread through the media can also quickly lead to an increase in tensions and violence. The role of the media should be included in risk assessments and scenario-planning processes. National and local media could join code of conducts to ensure that inflammatory language is not spread (via radio channels for example). In case no independent media exists, more grassroots civil society media campaigns through stickers or posters can help create a calmer environment¹⁸.

The EU can also support the setup of **local electoral mediation panels** as part of local infrastructures for peace, consisting of trained individuals that reach out through dialogue, work towards a friendly electoral atmosphere, resolve conflicts through mediation and can act as providers of early warning signs. Such panels should be formed in advance and work closely with electoral management bodies. The electorate needs to be fully informed of their existence¹⁹. A good example of such panels is the EISA mediation panel model.

At times there is a lack of reliable information on developments, leading to tensions or incidents of violence. In this case it is advisable to set up an **information system**, which can identify the causes and trends of disturbances and violence. There exists experience and methodologies such information systems, such as the EVER Methodology for accurate information by IFES.²¹

The EU can support the outlined preventive mediation and dialogue measures through coordinated interventions and diplomatic dialogue ahead of elections. EU support to elections should integrate the EU's different mediation and dialogue roles as conflict-preventing and mitigating measures in the pre-election phase by complementing and working together with existing local structures or supporting regional mediation. The EU's Mediation and Dialogue efforts could be linked to the identified trigger points for tensions and violence. EU leverage can increase the pressure on parties to abide by negotiated codes of conduct and adhere to free and fair standards at crucial junctures throughout the electoral cycle.

Box 5: Engaging with stakeholders

The work of UNDP in Lesotho exemplifies that 'ensuring peaceful and credible elections requires engaging with stakeholders across a broad spectrum', including not only political parties but security forces, civil society and regional and international partners. It was important to continuously encourage constructive dialogue, which was mutually beneficial (UNDP, 2009, p.82.).

Box 6: Media in the Kenya elections 2007

The negative effects of inflammatory media statements during the high-level mediation efforts after the 2007 Kenya elections exemplify that a media strategy is needed for successful mediation. In Kenya the EU Head of Delegation in 2007 had good relations with the media and used them to try and give clear and consistent messages backing the AU-led mediation by Kofi Annan.

Mitigating electoral conflicts and violence

In the case of contested results, a high-level mediation between parties may be the first best option. It should be assessed whether regional initiatives, such as eminent persons from the region, are regarded as more credible and impartial than other international actors. In cases where one side of the party does not approve of international intervention, it may still be possible to convince the party to join mediation and dialogue efforts limited to the regional realm. The EU can then promote and support such mediation efforts through, for example, providing expertise, technical assistance or financing (as for example it did to the AU Kofi Annan mission in Kenya and to the ECOWAS mediation efforts in Guinea through the EU funded AU Early Response Mechanism). In the case of directly mediating electoral disputes, it is important to have an adequate understanding of the issues at the table that need to be addressed, so that grievances do not become entrenched and turn into long-term problems. Independent reports of election observation missions can play a key role in setting a clear neutral position and helping the mediator devise its strategy. There may be opportunities for taking pragmatic measures and turning political questions into more technical ones, or for inviting technical experts to clarify issues. In the mediation efforts led by Kofi Annan after the 2007 elections in Kenya, experts from the Electoral Division were invited to the talks to provide briefings on various options and the technicalities related to each. This created common understanding on these issues and proved fundamental to the later agreement.²¹

In case high-level mediation does not lead to agreement, or a party to the elections seizes power by unconstitutional means, **diplomatic leverage and pressure could support mediation efforts.** The clear EU position on democratic principles helps to convey the message that legitimate democratic and constitutional solutions need to be found for the EU to continue support. In Africa this is backed up by the AU's position on unconstitutional changes of government. Targeted leverage or sanctions (or the "threat") could accompany the formal mediation process at crucial junctures if the on-the-ground analysis notes that they are likely to lead to results and not be counter-productive. If the EU is seen to be acting unilaterally this can be perceived and characterised as "taking sides"; hence the need for working diplomatically to promote regional and international agreement on actors and to coordinate accordingly.

Besides high-level negotiations, **mediation and dialogue may be required as a reactive measure to mitigate electoral violence** where it erupts in society²². Electoral violence can erupt already in the early phases of the electoral cycle and if not adequately addressed, can increase the likelihood of later violence.²³ In comparison to preventive mediation measures, the role of mediation in conflict management has so far been underdeveloped. This may also be due to the security risk involved for interveners in violent conflict. Electoral mediation panels as well as infrastructure for peace more broadly may be a solution to mitigate erupting violence within society. If the EU strategy foresees directly or indirectly mitigating electoral disputes through mediation and dialogue, these should be strategically integrated in the electoral planning process and the EU's own planning, including of the deployment of financial resources that is linked to the analysis of the structural, proximate causes and triggers of violence. The eruptions of violence and tensions are not always predictable, thus an ability to respond quickly and flexibly is key for addressing them.

Post-election period and long-term efforts

Post-election violence requires long-term efforts to ensure that underlying conflicts are resolved and do not resurface in the next elections. Even if elections have lead to relatively successful and undisputed outcomes, post-conflict elections are usually far from perfect. Mediation and Dialogue can play a specific role in restoring trust and confidence in democratic structures after violent elections, in strengthening local dialogue capacities and can address existing shortcomings in the electoral process design by providing a forum in which all stakeholders are able to discuss and agree on recommendations for future election planning. Mediation and Dialogue can also contribute to dealing with past violence and with justice issues. The role the EU can play here mostly relates to funding, supporting governance and local mediation efforts or acting as facilitators of dialogue through the EU Delegations or EUSRs. Mediation and Dialogue efforts should thus not end with the Election Day or with the signing of a political settlement of the parties to the dispute. The EU efforts in relation to mediation and dialogue however need to be embedded in a broader political and development assistance strategy that addresses structural risks of violent conflicts and underlying causes and supports legal and institutional reform through available development and other financial instruments (EDF/DCI/ EIDHR) as well as political dialogue.

Box 7: Addressing electoral violence

While the 2002 elections and the 2005 referendum in Kenya remained relatively peaceful, underlying conflicts were not resolved and violence surfaced in the 2007 elections. After the post-election violence, the EU supported activities that aimed at strengthening non-state actors' capacities for mediation and conflict resolution, increasing know-how and grassroots-level dialogue in order to effectively deal with experienced violence (EC, 2012).

Box 8: EU Mediation and Leverage in Ethiopia

The EU's role as development partner gave the EU leverage during the 2005 post-election dispute in Ethiopia, an aspect of which was successfully mediated by the Head of the European Commission Delegation (Wondwosen, T., 2008; 2009).

Role	Key questions to inform the EU's engagement
EU as a mediator / Cross-cutting	 What are the implications of actively intervening in conflict via mediation and dialogue for other types of EU electoral support and the EU political / development strategy in the country? What are the risks and trade-offs and where can support types complement each other? (How to do it: Ensure clear political strategy is managed at headquarters/Brussels (EEAS desks) and "on the ground" between those with geographic focus and those concerned primarily with elections and electoral support and where appropriate conflict prevention and mediation. What are the underlying causes of electoral conflict and violence? What are potential trigger points for violence? Which situations require constant attention? Where and how could mediation and dialogue be used as preventive and mitigating tools? (How to do it: Conduct or draw on comprehensive conflict analysis along the electoral cycle. Draw on local knowledge, such as local electoral mediation panels, EU institutional memory of past elections, for example the final report of previous Election Observation Missions and international actors, if existent. Include an analysis of risks of conflict in recommendations of EOM exploratory missions) How is the climate and civil society environment in which elections take place characterised? Are measures being taken to foster dialogue between different stakeholders? Is there scope to support dialogue and mediation through civil society and media to establish a conducive and non-violent electoral environment? (How to do it: Assess existing and past civil society initiatives; coordinate with other actors – particularly UN system; fill gaps if needed.) What type of direct relationship and entry points does the EU have institutionally and at the personal level with key parties to the elections, including sitting Heads of State / Heads of Political Parties but also key officials in local electoral authorities? Who has these relations or can develop them rapidly (EU Head of Delegation, EU political fi
Leveraging Mediation and Dialogue	Does the EU have leverage to pressure or incentivise negotiating parties to accept agreed codes of conduct, democratic principles and abide by electoral law, or to accept mediated outcomes if there is a "crisis point" in the elections? How will this leverage be received and perceived by the election parties and wider society; is there a risk that it will backfire? (How to do it: Map out possible EU leverage and incentivising instruments prior to elections; coordinate with other international actors (particularly EU-HOMs, UN, regional organisations, US and regional powers); ensure that there are not "mixed messages" sent by the EU (e.g. distributing budget support during a contested outcome, that EU member-states have a consistent political line.)
Supporting Mediation and Dialogue	 What are the UN and regional organisations likely to be doing around the electoral cycle politically and through particular programmes or diplomatic interventions? Where can the EU add value through indirect or direct support? (How to do it: Analysis conducted by the Political and Operational sections of EU Delegations, or those EU Delegations with links to regional organisations; be aware of EU-funded "tools" such the as Early Response Mechanism of the African Union and the Mediation Support Unit of the UN) What specific information or technical expertise with regards to electoral processes needs to be made available to mediators or the parties to conflict? (How to do it: Analyze the expertise available to the EU and provide information collected by Electoral Observation Missions or other experts in a timely and transparent manner; set up a system of information exchange; assess whether existing information systems applied in other contexts can be useful.) What local expertise for mediation and dialogue does exist, and how effective, representative and legitimate are they? Have local mediation panel models been set up? Do district- or community-level peace committees exist? What information systems exist? How could the EU support and strengthen the work of local electoral mediation panels? (How to do it: Through EU Delegation (political and operations sections) and/or EU-EOM, cooperate and consult with either existing national panels or assess models established in other contexts and through other organisations, such as the EISA panel model.)
Funding Mediation and Dialogue	Think about the entire election cycle and where possible, plan well in advance, to ensure that funding for mediation and dialogue activities is available in a timely fashion. Seek to identify the right implementing partners, internationally or locally, based on clear analysis. (How to do it: Utilise the IfS, EIHDR and other development instruments (DCI/EDF) to fund mediation and dialogue processes throughout the whole electoral cycle; prepare options for quick and short-term funding for mediation and dialogue in case of the eruption of violence.)

Endnotes

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- See here also the EEAS Mediation Support Project Factsheet on Transitional Justice in the Context of Peace Mediation and Dialogue.
- ¹¹ UNDP and European Commission (2009)
- ¹² DFID (2010)
- ¹³ ibid.; PeaceBuildingInitiative (2009) 'Electoral Processes and Political Parties: Key Debates and Implementation Challenges', http://www.peacebuildinginitiative.org/index.cfm?pageId=1945#sequencing-and-timing-of-elections
- ¹⁴ Fumonyoh, C. (2009)
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- ¹⁶ Fumonyoh, C. (2009)
- ¹⁷ See here also the Factsheet on Accountability and Transitional Justice in the context of Peace Mediation and Dialogue
- ¹⁸ DFID (2010)
- ¹⁹ For more information see the EU factsheet on Strengthening national capacities for mediation and dialogue: National dialogue platforms and peace infrastructure
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