

Documentation of the Workshop

# Cooperative decision-making and conflict management in public planning and environment



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REGIONAL ENVIRONMENTAL CENTER



CIPRA  
Zukunft in den Alpen  
Avenir dans les Alpes  
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# 1. Introduction

The Workshop was a follow-up to a research project on Promoting environmental mediation as a tool for public participation and conflict resolution, jointly carried out by OeGUT and REC in 2005. The workshop was also part of the knowledge-transfer project “Future in the Alps” of the International Commission for the Protection of the Alps (CIPRA). It gave an excellent opportunity to learn about successful mediations and to exchange experience in cooperative decision-making and conflict management. It offered the possibility to create a network of persons and institutions involved in public participation, environmental conflict management and environmental mediation and to establish links to existing networks, such as CIPRA or the Carpathian Convention. The conference focussed on how to improve public participation and decision-making processes. It offered an overview of the benefits, principles and practice of using environmental mediation procedures for conflict resolution and a practical session during which such skills had been developed.

## Objectives of the event:

- Enhance knowledge about quality standards and good-practice in the field of public participation and environmental mediation;
- Transfer of know-how regarding methods of cooperative conflict management;
- Enhance the transboundary exchange of knowledge and experiences;
- Get to know different framework and different ways of handling conflicts in the public sphere;
- Enhance the cooperation across borders and networking;
- Establish and strengthen contacts of experts working in the field of public planning and environmental issues, especially in mountainous regions as for example members of CIPRA and the Carpathian Convention and the contributors (case authors) of the project “Promoting environmental mediation as a tool for public participation and conflict resolution”.



## The following target groups were specifically addressed:

- Planners, regional developers
- Mediators and facilitators of mediation and participation processes
- NGO's
- Staff members of public administration

from EU and neighbouring countries, particularly from those countries who were involved to the previous tasks of the mediation project and additionally from mountainous regions in Eastern and South Eastern Europe (e.g. members of the Carpathian Convention, from Tatra mountains, etc.) and the Alpine space.

## 2. Agenda

*Cooperative Decision-making and Conflict Management, January 22-23, 2007*

### Agenda

#### 1st day

- 09:00—09:30 Registration of participants
- 09:30—10:05 **Welcome and introduction** - workshop goals, expected outcome, introduction of the participants (Kaidi Tingas, REC, Hungary)  
**Address of welcome** (Austrian Ministry, CIPRA, UNECE Aarhus Convention Secretariat)
- 10:05—10:30 **Environmental Mediation** – history, concept and models, today’s practice and experiences (Astrid Rössler, mediator, Austria)
- 10:30—10:50 **Conflict resolution and mediation** – specific features and conditions in CEE-countries (Marta Struminska, University of Warsaw, Poland)  
*Short Question & Answer session (10 min)*
- 11:00—11:30 *Coffee break*
- 11:30—12:00 **Alternative Dispute Resolution of Environmental Conflicts** – overview of case studies in Austria and Germany and in CEE countries (presentation of results of the joint project) (Martina Handler, ÖGUT, Austria; Magda Toth Nagy, Stephen Stec, REC, Hungary)  
*Short Question & Answer session (5 min)*
- 12:05—12:30 **New forms of decision-making** – what forms of cooperative decision-making are the most promising with regard to sustainable development. Best-practice from the Alpine space (Matthias Buchecker, WSL, Switzerland)  
*Short Question & Answer session (10 min)*
- 12:40—12:55 **Ombudspersons for the Environment** - promoters of public participation in environmental decision-making - the Austrian model (Alfred Brezansky, Advocacy for the Environment Vienna, Austria)  
*Short Question & Answer session (5 min)*
- 13:00—14:00 *Lunch*
- 14:00—18:00 **Practice unit: Mediator skills and practices** – how to prepare and lead successfully a conflict resolution process in order to find a sustainable solution (Wolfgang Pfefferkorn, CIPRA International; Wolfgang Gerlich, Plansinn, AT)

*Evening*      *Networking event*

*Facilitation: Kaidi Tingas, REC*

## **Agenda**

### **2nd day**

- 09:00—09:15 Summary of the last day's results and introduction to the work groups
- 09:15—10:40 **Work groups: Public participation and conflict management**  
in the fields of protected areas, Natura 2000, traffic and transport, waste Management  
  
Presentation and discussion of collected case studies and other projects from the region
- 10:40-10:55 Short presentation of the results of the work groups
- 10:55—11:15 *Coffee break*
- 11:15—12:45 **Continuation of work groups**
- 12:45—13:00 Short presentation of the results of the work groups
- 13:00—14:00 *Lunch*
- 14:00—15:30 **World café on future steps:** How can public participation and cooperative conflict resolution be successfully implemented?
- 15:30—16:00 *Coffee break*
- 16:00—17:00 **Conclusions and discussion about the next steps, possibilities and follow-up plans**  
  
Evaluation of the meeting
- 17:00 Closure of the workshop

*Facilitation: Martina Handler, ÖGUT and Diana Pound, Dialogue matters*

### 3. Presentations

#### 3.1. Astrid Rössler “Environmental Mediation – history, concept and models, today’s practice and experiences”

##### 1 DEFINITION AND BENEFITS

Mediation is a voluntary and informal problem solving process designed to achieve mutually satisfactory solutions. It is based on the concept of personal responsibility, it is assumed that parties to a conflict have the ability to solve their problem themselves. This means that they themselves have the necessary knowledge and need only the right guidance to find a solution together. Compared to formal procedures of jurisdiction mediation is regarded as a more flexible and individual tool of decision making.

A trained neutral mediator assists parties in resolving their conflict in a way that meets each side's needs and interests. The mediators' role is to structure and guide negotiations for a fair and well-balanced process. Mediators do not judge or impose a decision on the parties, decision power is left with the parties. They represent an attitude of encouragement, respect and esteem for their clients.



##### Benefits of mediation

- Allows the parties to reach their own resolution
- Offers an opportunity to communicate directly in a non-threatening forum.
- Recognizes all parties' needs and interests.
- Focusses on the present and future; not on the past.
- Offers an informal and confidential setting.
- Typically costs less and takes less time than formal processes.
- Cooperation encourages healing and better communication.

##### 2 HISTORY OF ENVIRONMENTAL MEDIATION AND ENVIRONMENTAL CONFLICTS

In Germany and Austria mediation has been used successfully since the 1980s to solve family conflicts, and since the beginning of the 1990s also in environmental conflicts. Though Austria's political and environmental standards had been developed after the II World War, legislation standards and procedures could not meet the citizens' needs efficiently any more with the beginning of environmental movements in the 1980. Green groups and citizens initiatives claimed for improved environmental protection and participation, arising protests and civil disobedience. Conflicts regarding

the planning of hydropower plants (1984 Hainburg), environmental problems of waste treatment and conflicts about land use have been the main topics.

Austrian legislation can be described as moderately responsive to environmental interests, however access to the legislative process for affected citizens and environmental groups is strongly regulated and limited through formalities in procedural law. The latest amendment to the Austrian UVP-Gesetz in 2004 for the enactment of the Aarhus convention has done little to change this. With this amendment the rights of NGOs have been enhanced in that for the first time they have been given participatory and procedural rights, exclusively however in UVP procedures. Because of the high thresholds for the carrying out of a UVP law, the participation of citizen initiatives and NGOs is limited to a few procedures.

### **3 REQUIREMENTS AND CONCEPT**

As environmental mediation is defined as a voluntary and informal process of conflict resolution, some kind of conflict on an advanced level is required first. Citizens and/or citizen initiatives would often play that role to start public discussion and raise attention on the topic. Public support by NGOs, media and other groups of interests will help to start a negotiation process as well as a formal position in legal procedure (e.g. licensing procedure, EIA).

At the level of the European Union this process of democratization is promoted through various acts, for example the free access to environmental information<sup>1</sup> and the Aarhus Convention with rights to information, participation and access to the courts for cases involving the environment.

#### **Particularities of environmental mediation**

- usually more than two parties to the conflict
- Complex conflict themes (natural sciences, technology, and aspects of regional and the national economy)
- Incertitude over the qualitative and/or quantitative over the projects effects
- Unequal distribution of power (possibilities for influence) and resources (expert knowledge, time, financial resources) among the participants
- Coming together of individual interests and public interests
- High public and media participation
- Often with extensive political dimensions (local community-, regional- and national policy levels)
- Complex points of difference at the factual and values levels
- Conflict over legal opinion

#### **Main steps of Environmental mediation**

##### **A Preparation and constitution**

- Constitution of participants
- Appointing of mediators

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<sup>1</sup> GUIDELINE 2003/4/EG OF THE EUROPEAN PARLAMENT AND THE COUNCIL from January 28, 2003 on public access to environmental information and the repeal of Guideline 90/313/EEG of the European Council.

- Arrangement of business rules
- Clarification of the distribution of costs

### **B Negotiation phase**

Description and analysis of the conflict

Drafting of interests and goals

Compilation and negotiation of solutions

### **C Closing, realization and monitoring**

Decision of the solution

Mediation contract on the result

Regulation of implementation, liabilities and future conflicts, monitoring

## **4 TODAY'S PRACTICE AND CRUCIAL ASPECTS OF THE MEDIATION PROCESS**

### **Environmental mediation in Austria**

Round table "cement production" – waste co-incineration

Mediation "industrial plant / dry process board" - noise, traffic, air pollution

Mediation "chicken farming" – animal welfare

Mediation "Railway Gasteinertal" – tourism and health spa region

### **Citizen initiatives in mediation procedures**

The representation of citizens affected plays a special role in environmental mediation. In case a citizen initiative has already been formed, the process of joint forming of opinion has thus already occurred and specific objectives have been formulated. Most often a citizen initiative has one or more speakers, who later also act as representatives in the mediation procedure. Representatives from among the citizens affected will have to be chosen in another way, should such a concrete organizational form not yet be available.

For the selection process it is necessary that the people involved deal with the following important issues:

- According to which regulations will the delegates be selected?
- What is the precise assignment for the delegates? (Passing of information to the citizens, compilation of standards with regard to contents for negotiating room and others)
- Is the assignment sufficiently determined as far as time and contents are concerned?
- How can the assignment be revoked?
- Which legally binding statements are the delegates allowed to declare?

### **Media contact during a mediation procedure**

As mediation process is providing a confidential setting for negotiations, rules for restrictive handling of public relation have to be found: unauthorized providing of the public with information may jeopardize the course of a mediation procedure. But the starting position of environmental conflicts also has to be

considered: public protest does not only arise due to varying opinions on environmental effects, but also if the citizens, as the ones concerned, are not given room for participation in decisions concerning the environment. In some cases, public protest and the support of the media will help to put more weight on the demand for co-determination and protection as far as their environmental interest is concerned and - for example – to enforce a round of negotiations (mediation). With the obligation of only jointly addressing the public in a certain matter, the citizens' representatives for the duration of the mediation decide to put aside autonomous public relations. In this regard, it is advisable to reach an agreement on a certain framework for media coverage, as well as a setting defined by time and contents.

### **Costs for external expertise and legal advice of the participants**

Community representatives, citizen initiatives and other representatives of special interests are rarely so specialized that they are able to enter into negotiations with an project advocate on the same expert level. Besides this deficit regarding knowledge and experience, quite often not much confidence is put in the statements of the conflicting party. Consequently, during the starting phase of the mediation it has to be detected how the participants can best be provided with expert advice. Thus becoming familiar with specialized questions becomes easier and



a constructive working climate is promoted. In the further course of the mediation there might also be a need for an external expertise, whose cost will also have to be borne. The availability and cost of competent persons for some of the expert question has to be examined in each individual case.

The role of private and public law in environmental mediation is much more significant than in other mediations (e. g. family mediation), especially for a realization of the results reached. In case the conflicting parties manage to reach an understanding concerning the legal counselor, this not only gives proof of confidence but is also recommended for financial reasons.

### **Other costs**

Expenses of the participants, such as e.g. cost for transportation, telephone and private expertise are normally not considered costs attributable to mediation, except if an agreement on this has been reached. The amount of time invested by the citizen initiatives into preparation and meetings will not be refunded.

**Components and points of regulation** that need to be discussed and, if necessary, have to be included in the agreement:

- Contracting parties, Subject of the agreement (description of the agreement reached)

- Type of future judicial procedures
- Maintenance of the position of the parties in judicial procedures (right to veto)
- Renunciation of legal appeals
- Procedure in case of changes of the project (e.g. calling of a mediation meeting)
- Settling of legal succession
- Mutual obligation to inform
- Future right to information and inspection by the residents
- Procedure for future problems (resumption of mediation);
- Question of a possible penalty payment in case of non-compliance with the contract;
- Written form

The points mostly under discussion are renunciation of objection and legal appeals. In some judicial procedures, among others in the industrial code and EIA law, neighbours only obtain **formal position in legal procedures** by means of formal objection to the project applied for.

To this position far reaching rights of cooperation in the authorization process are connected:

- right to consultation of documents,
- right to hearing of experts,
- right to filing of an application (e.g. supplementation of expertise) and
- the right to appeal against a decision or to appeal to the supreme court.

This formal standing of being involved as party in the procedure should by no means be relinquished. - The renunciation of legal appeals has to be viewed differently. Should the decision (= the approval) correspond with the mediation agreement, legal means are not necessary and may be renounced. The formal standing in the legal procedure and the rights connected to it are not affected by this renunciation.

## 5 EXPERIENCE AND OUTLOOK

Successful realization of mediation agreements is one of the most important and critical aspects of environmental mediation. With the solving of the conflict the main purpose of the mediation procedure should be achieved. Nevertheless the goal for all contractual parties will be achieved only upon complete realization. In this post-mediative phase obstacles may still occur, reference to which will be made in the following: Civil claims from the agreement, The right to enforce under public law, Public relation as means for realization.

### **Outlook**

- Constructive resolution methods will be implemented in various fields of every day life
- Mediation improves environmental understanding and awareness
- Legal standards of contract regulations have to be implemented
- Mediation as focussed on the future fits perfectly on sustainable development procedures
- Next steps have to be done to improve realization of agreements in terms of political decision making (reliability) and licensing procedures.

### 3.2. Marta Struminska “Conflict resolution and mediation – specific features and conditions in Central Eastern European countries”

As the background of public participation/negotiation/conflict resolution in Eastern and Central European countries it should be acknowledged that in this region the “development” is understood almost exclusively in economic terms, development (infrastructure) authorities are more powerful than environmental authorities, there are strong interconnections between investors and authorities,



planning does not use participatory approach, recently adopted environmental legislation is imported from EU, weakness of the civil society, lack of social trust, and weak enforcement institutions.

Usually the legal framework ensures public participation (PP) but does not specify how public consultation and participation suppose to look like. With exception of EIA, almost in all other procedures PP is clearly neglected. If the

PP has been arranged it is mostly functioning as an opportunity to the public to comment draft decisions, participation in initial face of the decision making is very rare. PP is often regarded as expert consultations: no much efforts made to reach socially and economically marginalized groups, however in most of the cases efforts are made to consult potentially affected parties (but not at the initial level) and often the conflictual parties have to act from unequal positions (due to accessible information, general knowledge, power).<sup>2</sup>

Below the behaviour of the investor, authority and NGO/local community during the consultation/public participation process is described.

#### Investors behaviour

cooperative	non-cooperative
<p>Mediation taking place when project is in advanced phase, mostly as a consequence of:</p> <ul style="list-style-type: none"> <li>▪ possibility of legal suits/judicial inquiry in process</li> <li>▪ high media pressure</li> </ul> <p><i>There were no cases, where professional negotiation were taking place. Usually role of</i></p>	<p>Method of accomplished fact:</p> <ul style="list-style-type: none"> <li>▪ hiding application for permissions,</li> <li>▪ ignoring administrative rules,</li> <li>▪ ignoring legal sentences,</li> <li>▪ ignoring citizens protests, attempts to negotiate,</li> <li>▪ waiting till everything calms down and everybody forgets,</li> <li>▪ undermining NGOs legitimization generally or at</li> </ul>

<sup>2</sup> Analyse is based on TAI research (14 cases), REC research (10 cases) and students research (26 cases) of the Technical Warsaw University.

<i>mediator overtaken by attorneys/lawyers of investor or NGO!</i>	<ul style="list-style-type: none"> <li>▪ least for being a party with the legal standing, excluding some stakeholders from negotiations process.</li> </ul>
<b>cooperative</b>	<b>non-cooperative</b>
<p>Mediation taking place when project is in advanced phase, mostly as an consequences of:</p> <ul style="list-style-type: none"> <li>▪ possibility of legal suits/judicial inquiry in process</li> <li>▪ high media pressure</li> </ul> <p><i>There were no cases, where professional negotiation were taking place. Usually role of mediator overtaken by attorneys/lawyers of investor or NGO!</i></p>	<p>Method of accomplished fact:</p> <ul style="list-style-type: none"> <li>▪ hiding application for permissions,</li> <li>▪ ignoring administrative rules,</li> <li>▪ ignoring legal sentences,</li> <li>▪ ignoring citizens protests, attempts to negotiate,</li> <li>▪ waiting till everything calms down and everybody forgets,</li> <li>▪ undermining NGOs legitimization generally or at least for being a party with the legal standing,</li> <li>▪ excluding some stakeholders from negotiations process.</li> </ul>

### Authorities behaviour

<b>active</b>	<b>passive</b>
<p><b><u>Pro-investor:</u></b></p> <ul style="list-style-type: none"> <li>▪ Issuing permit for investment without public consultation (hiding)</li> <li>▪ Excluding some of stakeholders (semi-consultations)</li> <li>▪ Accepting “exceptional solutions” because of economic reasons</li> <li>▪ Undermining NGOs/citizens legitimisation and right to participate</li> </ul> <p><b><u>Pro NGO/local citizens:</u></b></p> <ul style="list-style-type: none"> <li>➢ Stopping investments (usually central authorities)</li> <li>➢ Attempts to stop investment (environmental departments)</li> </ul>	<ul style="list-style-type: none"> <li>➢ Ignoring public attempts to participate</li> <li>➢ Running routine administration procedures at the minimum expense</li> <li>➢ Waiting till everything calms down and everybody forgets</li> </ul> <p><b><u>active</u></b></p> <ul style="list-style-type: none"> <li>➢ Drawing out before elections</li> <li>➢ Using environmental conflicts for populist reasons</li> </ul> <p><b><u>active (for the sake of both parties)</u></b></p> <ul style="list-style-type: none"> <li>➢ Seeking compromise (facilitator delivery)</li> </ul>

### NGOs/local communities' behaviour

<p>Use of administration procedures. If it does not work:</p> <ul style="list-style-type: none"> <li>- Withdrawal</li> <li>- Using judicial procedures</li> </ul> <p>Grounding of formal societies „for rescuing nature, local habitats etc.”</p> <p>Protest (e.g. road blockades)</p> <p>Making issue public (use of media)</p> <p>Networking, connections to national and international level organizations</p> <p>Alternative goals: to change investment plans or to prevent its realization/accomplishment</p>
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As a conclusion it could be said that the conflicts in CEE region are often caused by lack of public consultation and participation on the earliest stage of project development, when all options are still open. There is an urgent need of further in-depth research in this area and exchange of experiences and best practices for capacity building.

### **3.3. Martina Handler/Magda Toth Nagy "Alternative Dispute Resolution of Environmental Conflicts – overview of case studies in Austria and Germany and in CEE countries"**

It was the intention of the project to investigate with practical examples how conflicts in the environmental sphere are dealt with in the investigated region and how the applied conflict resolution mechanisms and instruments differ in "old" EU-member states from the practice in Central and Eastern Europe and, more generally, how common it is in the CEE region to use collaborative conflict management. The cases from Austria and Germany that are mainly mediations or mediation-like procedures were analysed in order to evaluate the range of experiences with the instrument of mediation in different settings.



The project team of OeGUT and the REC collected 16 cases of collaborative conflict management: five from Austria, one from Germany and 10 cases from selected countries in Central and Eastern Europe.

Four of the six practical examples of cooperative conflict resolution in Austria and Germany that were analysed, were mediation procedures: one was a mediation-like process and in one case the applied method was a cooperative discourse. The 10 cases from CEE

countries were from the Czech Republic, Estonia, Hungary, Poland, Slovenia and Ukraine. Finding alternative dispute resolution cases was a difficult task because there is very little experience with it in the CEE region. Conflict resolution by direct or facilitated negotiations among the parties is most more common whereas environmental mediation in the strict sense is hardly applied and even mediation-like procedures are unusual as the results of the research have shown. One mediation process has been identified in Slovenia, and the one from Poland can be seen as close to mediation, too.

The cases analysed vary concerning the type of procedure, the topic area, the duration of the procedure and the quality of the process. The cases have been selected to present a broad range of approaches and experiences with conflict resolution tools. The case studies and descriptions on which the analysis is based upon are attached to this report and are also presented on the REC's website [www.rec.org/REC/Programs/PublicParticipation/mediation](http://www.rec.org/REC/Programs/PublicParticipation/mediation) and on [www.partizipation.at](http://www.partizipation.at) served by OeGUT on behalf of the Austrian Ministry for Agriculture, Forestry, Environment and Water Management.

### **Summary of the results of the study**

Generally it can be said, that collaborative conflict resolution is already well known among the actors in the environmental sphere in Austria and Germany. With the implementation of the advocacies of the environment in the Austrian Provinces, mediation and cooperative conflict resolution has won a strong advocat with strong links to the Provincial administrations as well as to NGO's, citizens and citizens' action groups. In CEE countries experiences with mediation and other informal conflict resolution processes are rather rare as the investigations showed.

Regarding the collected cases, the main differences between the Austrian/German and the CEE conflict resolution processes concern -

- the starting point of the informal process in the conflict history
- the role of citizens and citizens' action groups
- the initiation of the conflict resolution process;
- the involvement of stakeholders;
- the guidance of the process; and
- the quality of the outcome.

### **Starting point of the informal process in the conflict history**

The collected cases show that in CEE, alternative conflict resolution processes start at a stage when legal conflicts had already erupted. Alternative dispute resolution is mostly applied when the court or administrative proceedings failed to result in a satisfactory solution.

There seem to be several reasons behind this, such as lack of knowledge on alternative conflict resolution tools, lack of skilled professionals to guide the process and a generally higher confidence in court or administrative proceedings than in informal processes in the case of conflicts.

This has been very similar in Austria at the beginning of the environmental movement. There too, informal conflict resolution processes started at a more advanced stage of the conflict. But since then, the situation has changed. As the cases show, now very often alternative conflict resolution processes are initiated before the conflict turns into a legal dispute. This may result from the increasing positive experiences with informal conflict management, with the greater awareness that dealing with conflicts at a very early stage brings much better results at lower costs. As the clients of mediation and similar processes are often municipalities or provincial governments the knowledge of these instruments among political or administrative decision-makers is essential. And there the important role of the Austrian advocacies for the environment has to be stressed again.

## **Role of citizens and citizens' action groups**

Another obvious difference between the Austrian/German cases and the CEE cases is that in the former it is the citizens who start to actively resist or mobilise against unwanted developments and projects in the public sphere. These activities of citizens sometimes supported by NGO's can be the trigger for communities or public authorities to think of initiating a conflict resolution process. Whereas in the investigated CEE region, it is the NGOs who resist, mostly through disputing decisions in court proceedings and trying to mobilise the public for their concern. The NGOs mostly represent the interests of the local population that is not directly involved. In Austrian and German cases citizens and citizens' action groups are important stakeholders in the processes.

## **Initiation**

Another main difference between the Austrian/German cases and CEE cases can be found in the way the alternative conflict resolution process is initiated. In CEE many of the collected cases were initiated by NGOs. In such cases, NGOs represent local communities in the process and try to mobilise the public for their concern, but they mostly lack support of public authorities.



In contrast to that, in 5 from 6 Austrian/German cases it were public authorities (provincial governments, municipalities, the Austrian advocacies for the environment etc.) that acted as initiators and proposed a collaborative conflict resolution procedure to the persons and institutions concerned. In Austria it is often the advocacies for the environment because they are contact points for citizens with environmental concerns and know much about the practice of informal conflict resolution. Moreover, the strong involvement of public authorities contributes to a higher commitment and backing for the process and for the proper implementation of the results.

## **Involvement of stakeholders**

Experience has shown that the preparation of a conflict resolution procedure and the broad involvement of stakeholders is crucial for its success. The preparation phase in the Austrian/German cases contained preliminary consultations with all relevant stakeholders, gathering information about the conflict and its history, agreeing upon rules of the procedure. Due to this fact, in the Austrian/German cases the different interests are well represented in the processes by a variety of different stakeholders. There are often representatives of political parties participating in the process, especially in large processes whereas in the CEE examples this is not the case. Mediators see that practice as an effective way to guarantee the political backing for the implementation of the final

outcome. The participation of relevant political parties also prevents one party from agitating against the outcome of the process in order to maximise votes.

In contrast, CEE conflicts are often between two parties with clearly defined interests that are diametrically opposed. The situation might be due to the procedural history of the conflict, subject to administrative or judicial review, and to a lesser involvement of diverse stakeholders. The CEE case studies showed that little time is invested in the preparatory phase of the procedure and that often times relevant stakeholders are not invited to the process or deny participating (e.g. concerned public authorities) what turns out calamitous for the outcome. As already mentioned above in contrast to the practice in Austria and Germany, citizens's interests are mostly represented by NGO's, they do rarely participate themselves in a conflict resolution process.

### **Guidance of the process**

Guidance of the procedure by a neutral and impartial person or team has also proved important. The Austrian/German cases were all guided by persons or teams with a professional background as mediators and followed the key mediation quality criteria of guiding a process, in order to find a mutually accepted solution.

In the CEE cases, the situation is different. Only in two cases did the local or state authorities deploy independent mediators to lead the process. More often it is the NGOs who not only initiate the process,



but also facilitate it, giving them a double role: representing or being one of the parties in the conflict AND facilitating the process. This dual role can tarnish their perception as neutral and hinder their ability to find solutions. In some other cases (mostly in negotiations) the process was led by the attorney of one party in conflict. In these cases the standing of this person is not clear and can be detrimental to the success of the process.

### **Quality of the outcome**

There are some key preconditions for a sustainable outcome as for example the participation of all relevant stakeholders who are willing to reach a consensus and the attentive guidance by a skilled and all-party mediator/facilitator. The successful examples in Austria and in Germany showed that the quality of the achieved results is reflected by the quality of the process. A successful process leads to a changed perception of the other parties, leads to a better understanding of the other's interests that strengthens the sustainability of the outcome. A written contract signed by all involved and monitoring the outcome are essential part of guaranteeing the endurance of the results. Due to procedural weaknesses in many of the CEE cases – deficits in the design and/or the guidance of the process - the

outcome of many processes was not sustainable or offered solution to only a part of the conflict. In none of the CEE cases monitoring measures were applied.

Broad public participation in public planning and in environmental matters is the topic of various EU directives and of the Aarhus Convention. In many spheres the legal basis for public participation already exists, but there is still a long way to go because the successful implementation of public participation and broad information of the public is always a matter of changing the political culture. Citizens in countries like Austria and Germany show more and more democratic self-confidence and claim their rights for information and public participation supported by NGOs, but also by initiatives of the EU, communities and public authorities. In CEE citizens seem to have little awareness of their rights, and it is mainly the task of NGOs to act for the enforcement of these rights. Political and administrative decision makers have to be involved in information and training activities in CEE as well as in all other countries because their sensitisation to these topics is central to realising the goal of sustainable development through the broad involvement of the public in environmental and public planning issues.

### 3.4. Matthias Buchecker “New forms of decision-making – what forms of cooperative decision-making are the most promising with regard to sustainable development. Best-practice from the Alpine space”

The project deals with social, ecological and economical aspects of the Alps region, using new forms of decision-making in policy development and implementation as traditional forms are not able to face challenges of fast social, economic and technological changes.

The project highlights the innovative potential for decision making processes and promotes the use of original approaches of opinion building and decision-making.



While designing the process of the decision-making, following questions were asked:

1. **‘Hot spot issues** regarding existing decision making processes in the Alps: problems, conflicts
2. **Existing practice** of decision making processes, deficiencies and potential of their improvement
3. **Frameworks** to improve the decision making processes with regard to sustainable development
4. **Criteria to choose the methods and identify the stakeholders** (fitting of methods and context)
5. **Lessons learnt** from good practice of decision making processes

Read more <http://www.cipra.org/en/future-in-the-alps/questions>

### **3.5. Alfred Brezansky “Ombudspersons for the Environment - promoters of public participation in environmental decision-making - the Austrian model”**

The Vienna Ombuds-Office is an institution of the provincial government and has the legal basis in the Vienna Environmental Protection Act. The head of the office, the Ombudsman, is independent and not the subject to any directions.

The Ombus-Office participates in administrative procedures which are relevant for the environment, assesses draft acts and ordinances, and performs as a party of Environmental Impact Assessments (EIA) and Strategic Environmental Assessments (SEA). Above all it advocates for the nature and environment, which do not have a voice of its own.

In addition to that, the Ombuds-Office is an independent service which provides advice and information to the citizens, city administration and various stakeholders. It also acts as a mediator between the government, administration, general public, and NGOs. It promotes and develops policies and programmes for environmental protection.



The Vienna Ombuds-Office for Environmental Protection is particularly interested in new ways of environmental policies programmes, which could lead to a more sustainable performance of the city of Vienna. To represent our own research about environmental issues, we also work on our independent projects and we initiate cooperations with other projects in the field of environment protection.

#### **Promotor of public participation/mediation**

The organisation also recognizes as its duty to be a mediator between local structures, the civil society and the state authority. Because of its broad recognition, the special competences of its members and the independence of the organisation it can act as promoter for more political participation of people regarding environmental matters. Thus it gives a chance to the citizens to engage in matters concerning their environment and the quality of life.

We try to involve and encourage methods of active participation, ranging from moderation to classical environmental mediations. But the Ombuds-Office does not behave within the mediation processes as a neutral body and cannot represent the interests of all parties like a classical mediator should do, we always lobby for nature and the protection of the environment which at the same time means to protect quality of life for the citizens.

### **The role as a Nuclear commissioner of the city of Vienna**

We also see our role as a nuclear commissioner in this way, that we give people in Vienna as well as in neighbouring states information of the problems of nuclear power supply and show them alternatives, like renewable energies.

In the role of a nuclear commissioner we organize cross-boarder projects like Interreg IIIA-Projects with the Region Bratislava-Vienna, opinion polls, partnerships between schools in Vienna and Bratislava about Renewable Energies and Radiation Protection

### 3.6. Wolfgang Pfefferkorn/Wolfgang Gerlich “Practice unit: Mediator skills and practices – how to prepare and lead successfully a conflict resolution process in order to find a sustainable solution”

This unit was designed to offer theoretical information as well as self-experience in groups to the participants to enable them to well prepare and lead a conflict resolution process.

#### Eight steps of a conflict management procedure

##### 1. Clarifying the starting point (idea, open question, conflicting issue)

- What is the problem? What has to be decided?: Ideas, plans, projects, programmes
- Spatial dimension? Time aspects?
- Who is the initiator? Who else is involved?
- What happened until now?
- What is unknown, open questions?

➔ **Clear description of starting point**



##### 2. Assessing the situation

- Which conflicts? Who is involved?
- Which relations between the parties?
- Which conflict types? cold, hot?
- Which positions, which interests?
- Conflict history
- Small or big? (content, space, time)
- Which level of escalation?
- Additional information?

➔ **Conflict analysis**

##### Conflict types

- Conflicts regarding **content**: interests, purpose/instrument, values, distribution, single facts
- Conflicts regarding **roles**: mayor/mode-rator, citizen’s initiatives, experts, moderators, mediators
- Conflicts regarding **relations**: joint history, experiences, lacking of respect
- Conflicts regarding **procedures**: steps of work, deadlines, communication rules

##### 3. Considering options for the procedure

- Just continue like until now: what will happen?
- New perspectives for action: Actors, content, time, space, money?
- Something totally different?
- What could be the consequences?
- Windows of opportunity!

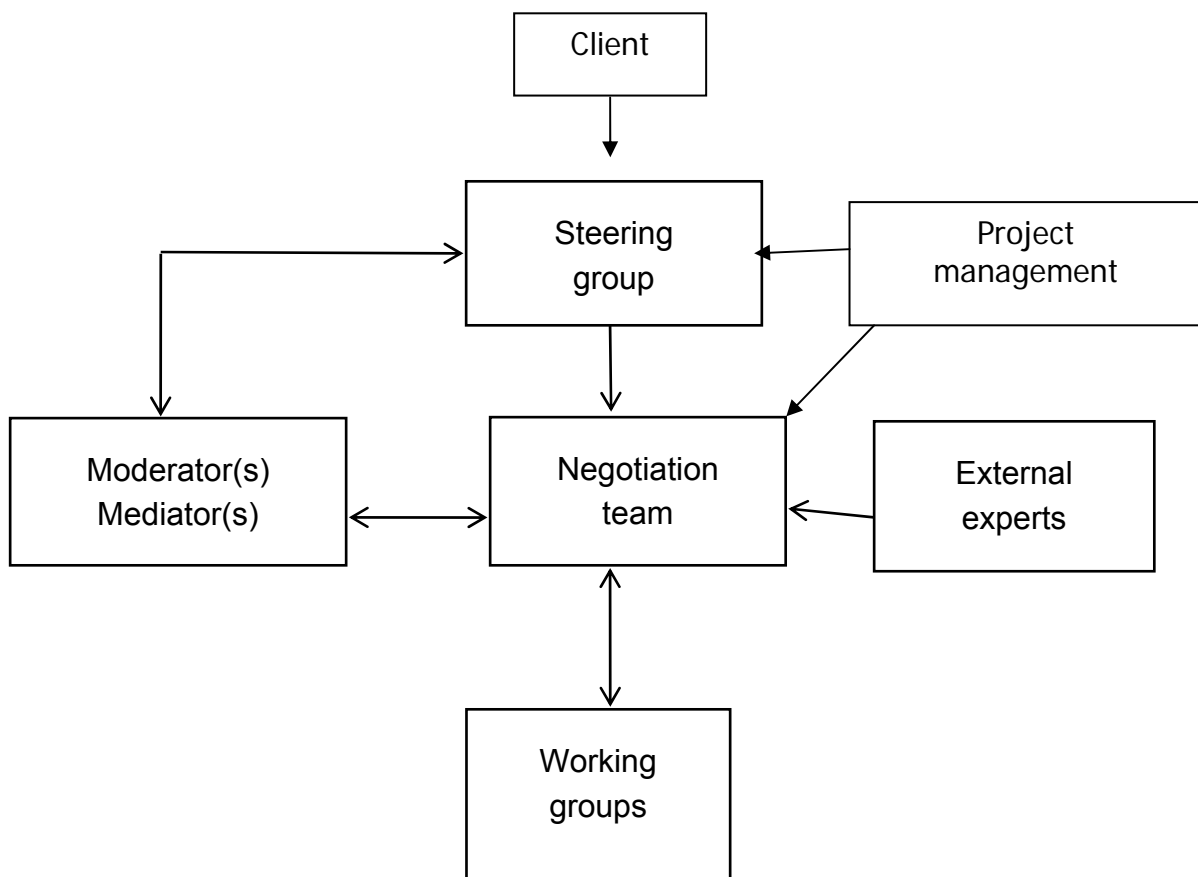
➔ **Options and consequences for the conflict negotiation procedure**

#### 4. Preparing the process

- Defining aims: what do we want to reach? Clustering issues, defining priorities, defining room for negotiation
- Defining topics and non-topics, outcomes and non-outcomes, participants and non-participants
- Detailing the steps: aims, expected results, methods, responsables, deadlines
- Defining structures: who has which role, duties, responsibilities, rules for inter-relations
- Defining framework: scope of action, binding results, enough time and money, process facilitation, commitment of policy makers

#### → Process design

##### *Example for a process structure*



#### 5. Selecting appropriate methods and tools

- Criteria: aims, scope of action, intensity of participation, number of participants, conflict level, time, money
- Different methods regarding intensity of participation: information – consultation – co-decision making (see literature)
- Combination of methods
- **Set of methods**

## 6. Negotiating and making decisions

- Starting phase: structures first!: rules of the game, procedures, roles, history, stage of affairs, information
  - Negotiation phase: positions, interests, key issues, priorities, options, possible solutions, sustainable solutions
  - Final phase: agreements, implementation plan
- ➔ **Decisions, agreements, results**

## 7. Implementation

- Results: plan, concept, measures, legal regulation, contract, new process
  - Implementation: What? Who? How? Until when?
  - Obstacles: aims not clear, results not precise, limits of participation unclear, responsibility not defined, lacking flexibility, lack of money
- ➔ **Results are visible**



## 8. Monitoring and evaluation

- Clarifying monitoring aims
  - Evaluating relevance: results corresponding to initial aims?
  - Coherence: aims, instruments, results fitting together and well balanced?
  - Impacts: positive, negative, criteria?
  - Who evaluates? How? When? What about the evaluation results?
- ➔ **Monitoring report -> action**

## Reflecting the process

- Different approaches: self-reflection, supervision, intervision
  - Asking the right questions, searching answers
  - Lessons learned: success, failures, reasons ...
  - Project milestones
- ➔ **Memos, reflection reports -> action**

## Eight elements of the culture of conflict negotiation

### 1. The team culture

- work in groups, at least twosome.

### 2. The culture of roles

- clear roles: mandates, rights, duties

### 3. The culture of appreciation

- recognition of the other

### 4. The culture of preparation

- a strategic reserve via detailed assessment and preparation.

### 5. The culture of agreements

- good decisions via standards of negotiating

**6. The culture of asking**

- ask the 'right' questions

**7. The culture of documentation**

- avoid misunderstandings, the basis for trustful co-operation.

**8. The culture of reflection**

- a permanent learning process.

## 4. Working Group Session 1

After the theoretical input Wolfgang Pfefferkorn and Wolfgang Gerlich made a short introduction to a conflictous case having taken place in Vienna several years ago, where Wolfgang Gerlich was involved in as mediator. The described case was a big construction project in a very densely populated area causing many disturbances regarding noise, construction work at night, traffic organisation, parking areas etc.



In the following four work groups the participants of the workshop were asked to deal with real challenges that had come up in the case.

1. Create a rough **overall design** for the process: actors, tools, milestones
2. Before the contract is signed, the next **heavy duty night transport** is set to happen one of the following nights. The local major asks you to do something about it. How do you react?
3. The **access with cars** to some of the houses and the private parking lots is blocked for several months. How do you deal with that?
4. You are staging a **forum for the inhabitants** in the coffee house. You are expecting anything between 10 and 200 People. How do you design this event?

The results of the work group session were presented and discussed in the plenary.

## 5. Working Group Session 2

During the Working Groups Session 2 in every of the group **two mediation cases** were presented, presentations were followed by discussion and case analysis.

### 5.1 Group 1

**Mediation Natura 2000, Verwall, Austria (Wolfgang Pfefferkorn)**

**Finding the Site for the Low and Intermediate Level Radioactive Waste Repository, Slovenia (Tina Divjak)**

#### Fact Sheet Mediation Natura 2000, Verwall, Austria

**Used methods** [please tick the appropriate box (multiple answers are possible)]

x	Type of Procedure/used methods	Type of Procedure/used methods	x
X	Mediation procedure	Round Table	
	Mediation-like procedure	Other:.....	
	Procedure including mediation elements	Other:.....	

**Topic area** [please tick the appropriate box (multiple answers are possible)]

x	Topic area	Topic area	x
X	Urban and land use planning	Water management / Water supply and distribution	
	Waste management	Industry, trade, enterprises	
	Power industry	Telecommunications	
X	Tourism	General environmental politics (genetic engineering, nuclear politics)	
	Traffic, transport / transportation	Neighbourhood conflict	
X	Nature conservation	Other: forestry, hunting	X

**Short description of the process**

Please describe the initial cue, the goals and the sequence of events of your participation project in a few sentences.

**Initial cue/Starting point** [approx. 3-5 sentences]

See below, case description.

**Goal/s** [approx. 3-5 sentences]

The main aim was to find an agreement among the interest groups regarding the further land use of the Natura 2000 Site. Based on this agreement a management plan should be worked out and the agreed measures should be implemented.

**Sequence of events - Milestones of the process**

Phases	Contents	Duration
Preparation of the mediation process	Analysis of the conflict, information events, selection of the participants	January 01 – March 01
Start-up	Stipulation of rules of procedure, process design, information exchange, professional basics	March 01 – May 01
First phase of negotiations	Dealing with current and historical conflicts, positions, interests, excursions	May 01 – October 01
Second phase of negotiations	Drafts for agreements concerning alpine farming, forestry, hunting and tourism	October 01 – May 02
Third phase of negotiations	Discussion of drafts for agreements, questions concerning the monitoring, excursions, information of the involved parties about the existing results	May 02 – October 02
Agreements	To reach agreements	October 02 – December 02
Implementation	New Verwall Natura 2000 District Order, referred to the agreement, first meeting of the advisory council	October 03

**Initiator/s**

Katharina Lins from the Environment Advocacy Office of Vorarlberg.

**Persons involved**

The following interest groups were represented in the mediation team:

agriculture, forestry, hunting, tourism, nature conservation, the mayors of four municipalities, administrative officers of the District Authority of Bludenz and the Provincial Government of Vorarlberg, the Environment Advocacy Office of Vorarlberg and a representative of BirdLife as technical expert. Other external experts were consulted when necessary.

The mediation team consisted of 33 persons in total, 31 men and 2 women, from 25 to 75 years of age. The biggest group within this team was the Mountain Pastures Cooperatives with 15 representatives.

**Contractor of the process**

Office of the Vorarlberg Provincial Government.

**Procedural guidance/ Management of the process**

Wolfgang Pfefferkorn, Helmut Hiess (mediators), Rosinak&Partner, Vienna.

**Geographic dimension** *[local, regional, state-wide, country-wide, international, EU-wide]*

Regional: an alpine valley, 4 municipalities

**Time schedule**

January 2001 – December 2002, 18 months

**Publications on the process available** *[printed or digital]*

[www.partizipation.at](http://www.partizipation.at)

[www.cipra.org/future](http://www.cipra.org/future)

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## **CASE DESCRIPTION**

### **1. What is the process all about?**

The “Verwall” is a mountain range in the Western Austrian Province of Vorarlberg. The Natura 2000 site has approximately 12,000 hectares and ranges from 1,500 to 2,900 m above sea level. The predominant uses are alpine farming, forestry and hunting. The area was designated as Natura 2000 area due to its unspoiled nature and the rich variety of its flora and fauna with numerous species and habitats worthy of protection. The local communities, landowners and land users were not involved in the selection and boundary setting process. Local people felt that they had been passed over, and feared massive restrictions on their freedom to farm and use the land in question. This led to widespread apprehensions and a strong opposition against the Natura 2000 site within the affected communities. As the strong conflicts between the affected communities and the District Authorities and the Provincial Government of Vorarlberg arose and the communication were no longer manageable the Environmental Advocate of Vorarlberg suggested a mediation procedure to develop a binding management plan about the future cultivation of the land and use of the area according to the Natura 2000 target, with the participation of the local population.

### **2. How did the process evolve?**

Through the initiative of the Advocacy for Environment in Vorarlberg the Regional Government decided to start a mediation procedure. After a conflict analysis carried out by the mediators, the negotiating team was installed. It consisted of 30 representatives of alpine farming, forestry, hunting, tourist industry and nature conservancy interests. The collaboration was based on a jointly adopted rules of procedure defining participants’ roles and duties. During the procedure four major groups of issues emerged: alpine farming, forestry, hunting and tourism. After about one-and-a-half years, seven meetings of the negotiating team and several working party meetings, the procedure yielded the following three products:

- A written agreement determining future uses and monitoring of compliance;
- A District Order, which explicitly refers to the above agreement. It entered into force on 1 October 2003
- A schedule setting out all positions on which no agreement was reached.

By the end of the mediation procedure, an 18-member advisory council, on which all the stakeholder groups were represented, was established. After electing a chair person and defining common rules the council started to implement the different measures.

### 3. Reflection

What were the 3 highlights of the procedure (recommended for emulation (tried & tested) e.g. methods, specific approach etc.)

- The relevant groups/persons affected were represented at the negotiating table.
- The mediators succeeded in creating an atmosphere of confidence in the procedure by setting clear 'rules of the game', defining the structure of the procedure and the roles of the persons involved, clarifying objectives and limitations of the procedure and disseminating all relevant information material to all parties as well as by acting as impartial facilitators.
- Careful preparation of the negotiation meetings as well as detailed and complete minutes of each meeting.
- Commitment from the provincial government at the beginning of the procedure to implement the results if an agreement is reached.

What were the 3 stumbling blocks /problems of procedure – room for improvement (what was difficult, what – perhaps systemic - problems were to face, what should work better next time)

- The mediation procedure was started only after the conflicts had already escalated and communication between the interest groups and the provincial government had broken down.
- Lack of information and transparency: on the general subject of Natura 2000, the borders of the Natura 2000 area, compensation payments for landowners and other regional details
- High number of participants due to problems during the selection phase lead to additional work and insufficient financial means for the procedure
- Lack of quality of basic studies

## Fact Sheet

### Finding the Site for the Low and Intermediate Level Radioactive Waste Repository, Slovenia

**Used methods** [please tick the appropriate box (multiple answers are possible)]

<b>x</b>	<b>Type of Procedure/used methods</b>	<b>Type of Procedure/used methods</b>	<b>x</b>
	Mediation procedure	Round Table	<b>x</b>
	Mediation-like procedure	Other:..informative meetings.....	<b>x</b>
<b>x</b>	Procedure including mediation elements	Other:.....	

**Topic area** [please tick the appropriate box (multiple answers are possible)]

<b>x</b>	<b>Topic area</b>	<b>Topic area</b>	<b>x</b>
	Urban and land use planning	Water management / Water supply and distribution	
<b>x</b>	Waste management	Industry, trade, enterprises	
	Power industry	Telecommunications	
	Tourism	General environmental politics (genetic engineering, nuclear politics)	
	Traffic, transport / transportation	Neighbourhood conflict	
	Nature conservation	Other.....	

#### **Short description of the process**

##### **Initial cue/Starting point**

Slovenia does not have a disposal facility for any type of radioactive waste. The current storage capacities are limited and will soon run out. The Agency for Radwaste Management (ARAO) was founded by the Slovenian Government in 1991 and assigned the task of providing conditions for final disposal of radioactive waste. It was decided that ARAO will start with the disposal for low and intermediate level radioactive waste (LILW). The disposal site has to be confirmed by 2008 and the repository has to be built by 2013.

##### **Goal/s**

The overall goal is to find a suitable LILW disposal in a mixed-mode procedure that allows flexibility, transparency and public involvement. Main characteristics of the procedure:

- all decisions should be made with public consent,

- local communities volunteer potential sites for the repository,
- local communities can withdraw from the procedure whenever they wish,
- governmental and local interests have to be balanced.

### **Sequence of events**

Process started in 2002 with the identification of potentially suitable areas. A mediator was introduced to communicate with interested local communities. Her main task at this stage was informing (presentational workshops) and laying the grounds for future steps; it was important that the local communities got to know and accepted her work. The mediator's work included the following:

- personal communication with mayors or directors of the municipal,
- presentations of the siting project for the municipal councils,
- interviews with local media,
- organisation of meetings with ARAO representatives upon request of the LCs.

In 2004 an invitation to local communities to participate in the site selection was published and 8 LCs volunteered. Pre-feasibility study to evaluate these LCs was made and at the end of 2005 three most promising LCs were chosen to continue the process. Not soon afterwards one LC decided to withdraw, consequently local partnership was established in remaining two LCs.

The process is not over yet, it will continue to the end of siting procedure, presumably in first quarter of 2009.

### **Initiator/s**

ARAO

### **Persons involved**

ARAO, 193 local communities; as in local authorities – mayors, administration and local councils, interested general public, involved in local partnership, civil initiatives (they claim to have about 200 supporters in each of the LC involved)

The whole process is more about informing and involving the public than conflict resolution.

### **Contractor of the process**

The mediator has a contract with ARAO, but it only defines that the mediation has to be carried out according to the mediator's judgement. The mediator's work has been paid for by the Fund for Decommissioning and Radioactive Waste Disposal from NPP Krško. The fund is prescribed by the separate law.

### **Procedural guidance/ Management of the process**

The mediator and ARAO guided the process.

### **Geographic dimension**

State-wide

### **Time schedule**

Start in February 2002, first phase finished in April 2005 when ARAO finished collecting applications from LCs. Second phase has not finished yet and will continue until site confirmation in 2009.

**Publications on the process available** *[printed or digital]*

- web page: [www.arao.si](http://www.arao.si)
- description of the case [www.rec.org/REC/Programs/PublicParticipation/Mediation/case\\_studies.html](http://www.rec.org/REC/Programs/PublicParticipation/Mediation/case_studies.html)
- informative leaflets: Odlagališče nizko in srednje radioaktivnih odpadkov, Državni lokacijski načrt za odlagališče NSRAO

**Information on the provider of information and his/her institution**

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## 5.1.1 Outcome of discussion

	Austria	Slovenia
<b>+ (success factors)</b>	<ul style="list-style-type: none"> <li>• Early participation of stakeholders</li> <li>• Enough time</li> <li>• Stakeholders could bring in own ideas</li> <li>• Additional protocol: disagreements are respected</li> <li>• Legal follow up</li> <li>• Monitoring rules as part of agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Information at early stage</li> <li>• Enough time</li> <li>• Government realised importance</li> <li>• Voluntary participation</li> </ul>
<b>- (what could have been made better)</b>	<ul style="list-style-type: none"> <li>• Process started very late</li> <li>• Mediation only because of pressure</li> <li>• Gender balance missing</li> </ul>	<ul style="list-style-type: none"> <li>• Position mediator</li> <li>• Information/lobbying versus mediation</li> <li>• Major should consult stakeholders before making decision: task of mediator! -&gt; communication rules!</li> <li>• Protocol</li> </ul>

### Learning points

- (1) All relevant stakeholders present: task of mediator or pre-mediation manager?
- (2) Documenting disagreement strengthens agreement
- (3) Mediator has to be neutral: defined by his/her actions!
- (4) Clear rules for (external) communication, PR, dealing with media
- (5) Excursions, bring people together in another setting, get to know each other
- (6) Motivation of participants: the process will have results!

### Open questions

1. Is legal follow up necessary?
2. Who finds the relevant stakeholders
3. Where is the place of mediation in public participation?
4. Neutrality of mediator

## 5.2 Group 2

### From Conflict to Consensus to the Ecosystems Approach. The Thanet Coast Natura 2000 site, UK (Diana Pound)

### Mediation to end the Blockade of Lubna Landfill, Poland (Patrycja Romaniuk)

#### Fact Sheet

### From Conflict to Consensus to the Ecosystems Approach. The Thanet Coast Natura 2000 site, UK

Used methods [please tick the appropriate box (multiple answers are possible)]

x	Type of Procedure/used methods	Type of Procedure/used methods	x
x	Mediation procedure	Round Table	
	Mediation-like procedure	Other:.....	
	Procedure including mediation elements	Other:.....	

Topic area [please tick the appropriate box (multiple answers are possible)]

x	Topic area	Topic area	x
	Urban and land use planning	Water management / Water supply and distribution	
	Waste management	Industry, trade, enterprises	
	Power industry	Telecommunications	
	Tourism	General environmental politics (genetic engineering, nuclear politics)	
	Traffic, transport / transportation	Neighbourhood conflict	
x	Nature conservation	Other Management of a European Marine Site (N2000 site).....	X

#### Short description of the process

Initial cue/Starting point [approx. 3-5 sentences]

Ten years ago the situation was in conflict following 20 or so years of hostility between the Local Authority and the Government Conservation Agency. The Local Authority objected to the area becoming a Special Area of Conservation under the Habitats Directive and would not cooperate with management planning. The area had EU

Objective 2 funding for economic regeneration and the Local Authority threatened to go to the European Courts to set the EU economic agenda for the area against the conservation agenda.

**Goal/s** [approx. 3-5 sentences]

It was proposed that a stakeholder consensus building process could be used to not only to agree the contents of a management scheme for the SAC, but also to take on the concerns of the Local Authority and explore ideas for economic regeneration and better management of coastal recreation activities.

The Local Authority agreed to get involved in the participation process on that basis.

**Sequence of events**

***First Stakeholder Process***

- Project Officer (PO) built relationship with key authorities - having one to one meetings with the intention of listening and understanding their issues (not lecturing them about their statutory responsibilities).
- PO convened and facilitated a workshop for 10 statutory authorities to scope the issues and stakeholders and explore whether or not they wanted to bring in a third party to design and facilitate a dialogue
- PO then spent time getting funding and contracting consultants to design and facilitate a coherent stakeholder participation process
- The process was designed to last a year with a sequence of 4 workshops and key tasks planned in-between workshop eg to gather information, check ideas, and validate actions
- The process resulted in cooperative decision-making and consensus about the way forward
- The management scheme was written and launched with wide support
- Because everyone had been involved in agreeing the contents of the plan important actions were implemented prior to the launch of the final version of the management scheme eg setting up a new wildlife project that would take important action (including promoting ecotourism, education, raising public understanding, work with the arts as well as more traditional forms of interpretation, wardening, running a voluntary wardens adopt a bay scheme', compiling science information, facilitating workshops for representatives of each recreation activity to write a code of conduct that would help them do their activity safely and with less impact on other recreation activities and the natural environment).

***Second Stakeholder Process***

- In 2006 the scheme had to be reviewed and this was again done using stakeholder consensus building and dialogue. However this time the process went beyond the habitats of European importance to deliberately take the Ecosystems Approach (ref the 12 principles under the Convention on Biodiversity).
- The recent process found that the goodwill and cooperation established 8 years before had lasted and established an very positive and cooperative attitude towards the review. One participant, who was new this time round, commented that it was obvious everyone was friends and that she couldn't believe that it was many different organisations and individuals working together.

**Initiator/s** [who initiated the process?]

Diana Pound – then the English Nature Project Officer for the European Marine Site

**Persons involved** *[how many persons and institutions – and which- in what functions/roles were involved?]*

*First process and Second Process were similar:*

- 10 Relevant Authorities with statutory responsibility for the area (the management group)
- 70 participants who attended workshop
- Approx another 30 consultees who did not want to attend the workshop but wanted to comment on drafts of the management Scheme
- A team of 2 professional facilitators supported by 15 newly trained support facilitators

**Contractor of the process** *[who contracted the process?]*

Diana Pound – English Nature

**Procedural guidance/ Management of the process**

A core group of people from the relevant authorities, including myself, gave guidance to the professional process designer and facilitator

The second time around I was the process designer and facilitator and the management group again acted in an advisory role.

**Geographic dimension** *[local, regional, state-wide, country-wide, international, EU-wide]*

28 miles of Coast stretching out to sea for about 4 km in places

**Time schedule** *[start, finish, length of the process]*

***The First Process***

One year to persuade everyone that a process was needed, not to go to the EU courts, and that a well designed process could go beyond the management scheme to include economic regeneration and recreation management.

One year to run the process.

One year for writing up the management scheme and consultation but at the same time action to implement the key actions was also happening.

***The 2006 Process***

The stakeholder dialogue lasted a year and the next version of the management scheme will be ready by March (total about 18 months so much quicker than the first time)

**Publications on the process available**

Draft report by request.

**Information on the provider of information and his/her institution**

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**Fact Sheet**  
**Mediation to end the Blockade of Lubna Landfill, Poland**

**Used methods** *[please tick the appropriate box (multiple answers are possible)]*

<b>x</b>	<b>Type of Procedure/used methods</b>	<b>Type of Procedure/used methods</b>	<b>x</b>
<input type="checkbox"/>	Mediation procedure	Round Table	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Mediation-like procedure	Other:.....	<input type="checkbox"/>
<input type="checkbox"/>	Procedure including mediation elements	Other:.....	<input type="checkbox"/>

**Topic Area** *[please tick the appropriate box (multiple answers are possible)]*

<b>x</b>	<b>Topic area</b>	<b>Topic area</b>	<b>x</b>
<input type="checkbox"/>	Urban and land use planning	Water management / Water supply and distribution	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Waste management	Industry, trade, enterprises	<input type="checkbox"/>
<input type="checkbox"/>	Power industry	Telecommunications	<input type="checkbox"/>
<input type="checkbox"/>	Tourism	General environmental politics (genetic engineering, nuclear politics)	<input type="checkbox"/>
<input type="checkbox"/>	Traffic, transport / transportation	Neighbourhood conflict	<input type="checkbox"/>
<input type="checkbox"/>	Nature conservation	Other.....	<input type="checkbox"/>

**Short description of the process**

**Initial cue/Starting point**

The mediation started when the local protesters blocked the entrance to the landfill and Warsaw started to sink in garbage due to lack of any other waste landfill for Warsaw's garbage at that time.

**Goal/s**

The goal of the process was first to unblock the entrance to the landfill in order to ensure its smooth operation, secondly to prevent repeating it in the future and finally, to establish basic and proper communication between the local inhabitants and the decision makers. Such communication was essential to enable building a new, modern waste collection unit on the site of the existing landfill.

**Sequence of events**

Two mediation procedures took place during the conflict.

First was held on February 10, 1998: the protesters met with Mr A. Wojtynski, vice-president of the city of Warsaw at the presence of the mediator.

Both parties reached an agreement, and the protesters decided to end the blockade provided that the agreement will be fulfilled by the Warsaw authorities.

In December 1999, the conflict arose again because the decision makers failed to keep their promises and locals became frustrated that their opinions had not been taken into account. The blockade repeated, but in the meantime the Warsaw municipality had found a temporary place for waste storage, so the mediator was able to proceed not pressed by time. Having found that at that time majority of people in the commune were open to the idea of building the new landfill, the mediator held the talks in such a way that the representatives of the most persistent protesters had lost their (actually fictional) central position, and the negotiation process between the conflict parties could start.

After mediator's activities clarified the conflict, the protesters realized that their importance as a representative of local people was smaller than expected and unblocked the entrance.

No agreement was reached, but Gora Kalwaria denied issuing the decision about the location of the investment, arguing that they could not issue decisions which are in clear opposition to the wishes of their inhabitants.

Since the developer has refused to carry out public participation activities, the conflict continues to this day. In 2004, the Supreme Administrative Court announced that Gora Kalwaria commune did not have the right to be both a party in the conflict and the decision maker in their own case, so the court annulled all the decisions made so far, and the situation is back to square one.

#### **Initiator/s**

The process of mediation was initiated by the authorities of Gora Kalwaria, forced to unblock the landfill's entrance. They asked the mediator to carry it out, and both sides agreed on him, as he is considered as more or less independent expert from Warsaw University of Technology.

#### **Persons involved**

- Mr Andrzej Kraszewski - the mediator
- Mr Pawel Moczydlowski – his professional assistant (social psychologist) from Warsaw University
- Social Committee of Environmental Protection (SKOS) – association of the local (six villages) inhabitants against the landfill
- Lubna II - consortium aiming at building waste collection unit, consisted also of the decision makers:
  - Gora Kalwaria commune (authorities) – who was also responsible for granting plant location consent to the investor, and authorities of Warsaw municipality,
  - Club of Village Administrators – representing the majority of local inhabitants (who did not oppose the new plant), association of administrators of villages bordering the Lubna landfill.

#### **Contractor of the process**

The mediator was working on a voluntary basis, but in fact he was engaged by the decision-maker (local authorities of Gora Kalwaria) in order to persuade the protesters to unblock the entrance to the landfill.

#### **Procedural guidance/ Management of the process**

The process was guided by mediators; in order to provide professional mediation assistance, Mr Moczydlowski, social psychologist was invited by the mediator to participate in the mediation.

### **Geographic dimension**

The conflict was local (village inhabitants versus the decision maker), but it carried the consequences for Warsaw (risk of epidemy if the garbage wouldn't be taken out of the city to the landfill).

### **Time schedule**

There were two mediation processes in that case: first took place on February 10, 1998 (there was a pressure of time) and when it failed due to unfulfilment of the agreement, the second round of mediation took place from November 23, 1999 to January 30, 2000.

Publications on the process available:

[www.rec.org/REC/Programs/PublicParticipation/Mediation/case\\_studies.html](http://www.rec.org/REC/Programs/PublicParticipation/Mediation/case_studies.html)

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## **CASE DESCRIPTION**

### **◆ What is the process all about?**

The Municipal Waste Collection Unit has been operating the Lubna landfill on the territory of Gora Kalwaria since 1978. Due to the lack of proper preparation of the site of the landfill as well as faults in exploitation it had a negative impact on the surrounding environment. Moreover, although Gora Kalwaria municipality was receiving large amounts of money from Warsaw authorities to store Warsaw's garbage on its territory, local inhabitants lacked basic facilities like sewage system in many cases. In 1995 the Gora Kalwaria commune and the Warsaw municipality jointly decided to build a modern municipal waste collection plant on the site of the existing one. Although the investment procedure had begun, no public participation activities were undertaken. This situation

resulted in the blockade of the entrance to the landfill made by local people. It was the only landfill for the Warsaw municipality at the time of the process, so if it weren't unblocked as soon as possible, it run the risk of epidemy in Warsaw due to the garbage that couldn't be taken to the landfill. Use of force (e.g. police) in order to remove the protesters was highly risky regarding law and public opinion, so there was a need for quick and quiet procedure – mediation.

♦ **How did the process evolve?**

There was an urgent need to unblock the landfill's entrance, so authorities decided to engage the mediator, as using the force (e.g. police) was highly risky due to law and public opinion. The protesters agreed on the mediator, regarding him as more or less neutral expert representing scientific field. The goal of the process was first to unblock the entrance to the landfill in order to ensure its smooth operation, secondly to prevent repeating it in the future and finally, to establish basic and proper communication between the local inhabitants and the decision makers. Such communication was essential to enable building a new, modern waste collection unit on the site of the existing landfill. There were two mediation procedures: During first one, in 1998, both parties reached an agreement, and the protesters decided to end the blockade. In December 1999, the conflict arose again because the decision makers failed to keep their promises. Due to the dual role of the authorities in the conflict (decision maker in its own case) Supreme Administrative Court finally annulled all the decisions issued and the situation came to square one.

♦ **Reflexion:**

**What were the 3 highlights of the procedure** (*recommended for emulation (tried & tested) e.g. methods, specific approach etc.*)

- engaging a social psychologist as a mediator's assistant, as he could serve his professional knowledge about the mediation *per se*. (Mediator was not professional, as he is the professor of environmental engineering at Warsaw University of Technology)
- Preliminary talks with both sides of the conflict led by the mediator in order to define precisely their reasons, aims and demands, thus to lead the process more efficiently
- Mediator from the background not directly connected with the parties of the conflict
- 

**3 stumbling blocks /problems of procedure** (*room for improvement (what was difficult, what – perhaps systemic - problems were to face, what should work better next time)*)

- total lack of public participation activities preceding communication between locals and investor which made the conflict only bigger
- Difficulty with identification of the real representative of majority of local inhabitants
- Confusion about engaging the mediator in such a way that he will not in fact represent one of the parties and could be paid

## 5.2.1 Outcome of discussion

	UK	Poland
<b>+ (success factors)</b>	<ul style="list-style-type: none"> <li>To start and have all stakeholders together</li> <li>Looking for mutual benefit (win-win as much as possible)</li> <li>Methodology (series of workshops, culminating to common ideas)</li> <li>Ecosystem approach</li> <li>Mediator — key role of the process</li> <li>Success to make accepted decision for the interest of nature</li> <li>Success to persuade those in power to accept mediation</li> </ul>	<ul style="list-style-type: none"> <li>Recognition the need to bring in 3<sup>rd</sup> party (under the pressure of conditions)</li> <li>Protesters understood that they don't present majority</li> <li>Ability of majority to understand the benefits</li> <li>Answering the questions asked</li> <li>Civil responsibility of mediator + professional assistance</li> <li>Mediator to be well prepared</li> </ul>
<b>- (what could have been made better)</b>	<ul style="list-style-type: none"> <li>Fishing community wasn't involved in second round</li> </ul>	<ul style="list-style-type: none"> <li>No settlement reached</li> <li>Intervention instead of the mediation process</li> <li>Mediation failed – the stakeholders turned to court</li> <li>Mediator should have been involved from the beginning of the process</li> </ul>

### Learning points

- Public participation carried out from an early stage to avoid conflicts
- Importance of trained and skilled and impartial 3<sup>rd</sup> party (mediator) able to manage the situation
- Never underestimate the locals!
- Looking for mutual benefits
- Important to keep in mind the whole picture

**5.3 Group work 3**

**Mediation Vienna International Airport, Austria (Alfred Brezansky)**

**Znessinnia Regional Landscape Park versus Electric Power Supplier, Ukraine (Jelizaveta Aleksyeyeva)**

**Fact Sheet  
Mediation Vienna International Airport, Austria**

**Used methods** *[please tick the appropriate box (multiple answers are possible)]*

	Type of Procedure/used methods	Type of Procedure/used methods	x
x	Mediation procedure	Round Table	
	Mediation-like procedure	Other:.....	
	Procedure including mediation elements	Other:.....	

**Topic area** *[please tick the appropriate box (multiple answers are possible)]*

x	Topic area	Topic area	x
	Urban and land use planning	Water management / Water supply and distribution	
	Waste management	Industry, trade, enterprises	
	Power industry	Telecommunications	
	Tourism	General environmental politics (genetic engineering, nuclear politics)	
x	Traffic, transport / transportation	Neighbourhood conflict	
	Nature conservation	Other.....	

**Short description of the process**

**Initial cue/Starting point** *[approx. 3-5 sentences]*

**Goal/s** *[approx. 3-5 sentences]*

**Sequence of events** [approx. 5-10 sentences]

**Initiator/s** [who initiated the process?]

Dr. Prader; Ombudsoffices for Environmental Protection of Vienna and Lower Austria, County of Vienna and Lower Austria

**Persons involved** [how many persons and institutions – and which- in what functions/roles were involved?]

**Core Group:**

Vienna International Airport, neighbouring communities, Provinces of Vienna and of Lower Austria, Environmental Protection Advocacies of Vienna and Lower Austria, all citizens' initiatives that focus on aircraft noise (on regional and supra-national levels)

**Extended Core Group:**

Chamber of Labour, Chamber of Commerce, Chamber of Agriculture, employees' representatives, representatives of the Vienna Airport AG, Austrian Airlines, Austro Control (Austrian Air Traffic Control), all political parties represented in the provincial parliaments of Vienna and Lower Austria, tourism unions, Viennese district representatives.

Since 2004, district conferences have been additionally established with the local Citizens' Initiatives and all participating communities.

**Contractor of the process** [who contracted the process?]

The process was contracted by all parties of this airport mediation

**Procedural guidance/ Management of the process** [who guided the process, (e.g. mediators, environmental advocacies, process governance etc.)]

Process coordinator: Dr. Thomas Prader

After an international selection procedure, the mediation team of Mag. Gerhard C. Fürst, Dr. Ursula König and Prof. Dr. Horst Zillessen was assigned. Mag. Fürst left the mediation team at his own request in the spring of 2003. The mediation team managed the mediation procedure, together with the process coordinator Dr. Thomas Prader.

**Geographic dimension** [local, regional, state-wide, country-wide, international, EU-wide]

Regional between Provinces of Vienna and of Lower Austria

**Time schedule** [start, finish, length of the process]

May 2000 – June 2005

**Publications on the process available** *[printed or digital]*

<http://www.vie-umwelt.at>; <http://www.dialogforum.at>

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**CASE DESCRIPTION**

◆ **What is the process all about?**

The mediation process at Vienna International Airport focused on two central subjects:

**Firstly**, the current level of and ways to reduce noise pollution: work in this area led to the conclusion of a partial contract on current measures in May 2003, which has already been implemented and is now undergoing evaluation.

**Secondly**, environmentally relevant expansion plans by Flughafen Wien AG and their impact: after the conclusion of the partial contract, discussions turned to what will happen when the airport needs a third runway to manage the growth in traffic. There was an unanimous agreement among all the parties involved that both sides the people living in the environs of the airport and the companies with there economic interests. The result was an agreement that lives up to the expectations and represented by a package of contracts, which creates a secure framework for all parties.

◆ **How did the process evolve?** Tell us the story of the process: Background, goals, procedural sequence, results

**Background of the conflict**

Air traffic has been rising dramatically in the past few decades and forecasts for future flights and passenger development show further huge increases.

In the 1990s, air traffic prognosis for 2010 predicted 20.9 million passengers at the Vienna airport, up from 8.5 million in 1995, and 267,500 flight movements (143,800 in 1995). For 2015, the projection rose to 26.5 million passengers and 304,600 flight movements. The Vienna airport management expected that the rising needs would exceed the capacities of its two runways in 2010 at the latest, and started the planning for extensive infrastructure expansions. A third runway should be built, ideally at a distance of 2,220 meters to the existing runways to enable a curved approach, thus increasing the frequency of landings and creating new capacities.

On 31 March 1998, the managing board of Vienna Airport AG presented the “Masterplan 2015” to its supervisory board. When the plan was subsequently presented in the municipalities surrounding the airport, it was met with strong reactions from the public and the media, which developed into fierce resistance. The presentation of the Masterplan was considered a provocation instead of an offer of information. Not just the Vienna Airport AG felt the heat but local politicians too.

The population in the surrounding communities had been suffering from noise pollution due to the rising air traffic for years and decades. Although technical innovations had led to a noise reduction of the engines and somewhat reduced the burden, the affected people feared that a new runway would reverse the development. Several local and regional citizens’ initiatives mobilized against existing and future noise and environmental pollution, demanded a ban on night flights and acted especially against a third runway. Citizens’ groups and the mayors of the affected municipalities signed numerous resolutions against the construction of a third runway.

### **The Beginning**

As the old management of the The Vienna Airport AG changed, the new management took the opposition against its extension plans very seriously. The newly appointed managing board wanted a dialogue with all stakeholders before the procedure of an environmental impact assessment would start. The Ombudspersons for environment of Vienna und Lower Austria and the Viennese lawyer Helmut Prader who is well-know among citizens’ initiatives suggest an conflict management in kind of an mediation process. The airport management and the Provinces of Vienna and of Lower Austria accept this plan.

Headed by Thomas Prader, representatives of Vienna airport, the Platform of Citizens Initiatives against the Third Runway, the mayors of the most heavily affected municipalities, the Environmental Ombudsperson of Vienna and Lower Austria and the Provinces of Vienna and Lower Austria took up preparatory work in early 2000. The work of this preparatory group was finished at 2000, the mediation team with the mediators Gerhard Fürst, Ursula König and Horst Zilissen was nominated. The mediation process started in November 2000.

## **The goal**

The first goal was to achieve an improvement on the actual situation- notably in terms of noise and capacity optimisation. The second goal was to find an agreement for a third runway and for the conditions a new runway can be built.

## **The Mediation Process – Work Structure**

The largest entity was the mediation forum where all parties were represented. It was the highest board that made all binding decisions. It held 15 sessions in total. The process steering group had about 20 members and held 49 sessions. It discussed all procedural questions, collected all information, established and disbanded work groups, determined the process design and the next steps to be taken – always with the consensus of all parties involved.

Work groups existed for various issues. In more than 100 work sessions, the actual work was carried out. Some work groups created sub-committees. All minutes of meetings and work documents were published on the website [www.viemediation.at](http://www.viemediation.at), after having been approved by the appropriate group.

## **Results**

A Partial Contract for an improvement the actual situation:

On 27 May 2003, the first partial contract was concluded. The partial contract provides a reorganisation of all arrival and departure routes and a new distribution of traffic flows and as well as restrictions on flight movements. Especially noise resulting from night flights should be reduced. Representatives of the airport accepted certain limitations to advance solutions for the whole region. The agreements included no landings at night for approaches from the South, and a distribution of flight movements to the lesser affected areas .Also there was an agreement to institute an evaluation process parallel with and independently of the mediation process.

## **Final Outcome**

After five year of intensive work, a large majority of the 50 mediation parties signed the final documents on 22 June 2005 and a general final declaration. The legally binding civil law contract was concluded between the airport, the provinces, the municipalities and the Working Committee of Citizens Initiatives and residents Associations around Vienna International Airport. The contract contains arrangements concerning a third runway for

- **night flights regulation,**
- **technical noise protection,**
- **noise limits,**

- **the Environmental Impact Assessment** (If the Vienna Airport AG wants to build the third runway, it must be guaranteed that the project submitted to the authorities will contain all regulations agreed upon during the mediation process)
- **environmental fund** (The fund shall provide financial support to those municipalities that suffer the most under the air **traffic noise**)
- **conflict management in the future** (The mediation process did not achieve one hundred percent satisfactory solutions for all issues. Also some problems could not be resolved now while other problems are still unknown. So it is agreed that all problems and conflicts regarding flights shall be resolved in a constructive way in the future as well. **The Vienna Airport Dialogue Forum** (Verein Dialogforum Flughafen Wien) is taking up its work, which is to be continued in the same spirit as the mediation process. The Dialog Forum ensures that the results of the mediation process will actually be implemented and the contract observed – the contract partners will continue to cooperate in this forum.

**Reflexion:**

- What were the **3 highlights of the procedure** (*recommended for emulation (tried & tested) e.g. methods, specific approach etc.*)
- **3 stumbling blocks /problems of procedure** – room for improvement (what was difficult, what – perhaps systemic - problems were to face, what should work better next time)

This mediation procedure for the Vienna International Airport was – as far as we know – the largest ever performed mediation. After five years of work, the participants achieved a consensus about the future development of the airport and the distribution of exposure to aircraft noise. The advantage for the Vienna International Airport is that presumably the construction permit for the third runway will be approved faster in the subsequent environmental impact assessment, and the political resistance against it will be significantly weaker. The advantage for the involved communities, the citizens' initiatives and the affected population is that by way of mediation they got concessions, impact reductions and substitute benefits they would never have achieved in the course of an environmental impact assessment.

The specific challenge in the procedure was the enormous number of parties and contradicting interests. Each community was in conflict with all its neighbouring communities while discussing the distribution of the aircraft noise. The procedure was eminently political also for the fact that all political parties from Vienna and Lower Austria were involved.

***The participants developed three principles:***

1. Cooperation – give and take are inseparable
2. The greatest burden deserves the highest attention.
3. The solution must take into account the whole picture instead of individual aspects.

4. For the decision-making, consensus is required to protect minority opinions and weak parties. However, tyranny by the power of veto will not be accepted.

**Problems of the mediation:**

- This procedure proved that even extremely controversial issues that generally do not lead to a win-win situation can finally be satisfactorily solved by means of a mediation procedure. Some things could not be achieved. Consensus on everything with everybody was not possible – and realistically it could not be expected either.
- The limits of mediation became clear. General issues – whether permanent economic growth is compatible with sustainable development – could not be answered while searching for a solution for a very specific project. Mediation participants have no influence on the taxation of kerosene or ownership of the airport in Bratislava, Slovakia – therefore, it was impossible to look for solutions in a mediation process.
- Finally, some parties, for varying reasons, did not or at least did not entirely support the outcome of the mediation. Only one party single-handedly rejected and criticised the procedure and all results in their entirety (the citizens' initiative "Citizens' Noise against Aircraft Noise", Zwölfaxing). Some political parties did not approve the results – either because of fundamental reflections (Green Party) or because of politics (upcoming municipal council elections in Vienna). All other parties, except for the mentioned citizens' initiative, stressed that this procedure was reasonable and fair and has led to positive results.

## Fact Sheet

### Znessinnia Regional Landscape Park versus Electric Power Supplier, Ukraine

**Used methods** *[please tick the appropriate box (multiple answers are possible)]*

x	Type of Procedure/used methods	Type of Procedure/used methods	x
	Mediation procedure	Round Table	x
	Mediation-like procedure	Other:... negotiations.....	x
	Procedure including mediation elements	Other:.....	

**Topic Area** *[please tick the appropriate box (multiple answers are possible)]*

x	Topic area	Topic area	x
x	Urban and land use planning	Water management / Water supply and distribution	
	Waste management	Industry, trade, enterprises	
x	Power industry	Telecommunications	
	Tourism	General environmental politics (genetic engineering, nuclear politics)	
	Traffic, transport / transportation	Neighbourhood conflict	
x	Nature conservation	Other.....	

#### Short description of the process

*Please describe the initial cue, the goals and the sequence of events of your participation project in a few sentences.*

#### Initial cue/Starting point *[approx. 3-5 sentences]*

On November 4, 2002 Lvivoblenergo, in accordance with the Rules of Electricity Supply Networks Maintenance, applied to the director of the Znesinnia Regional Landscape Park with a letter requesting a permit to cut 374 trees in a corridor under a 110-kilovolt high voltage electric line (HVEL-110 kV) situated in the park. The director of the park was against the cutting of such a large number of trees, particularly in a core protection zone of the park because such actions disagreed with the main purposes of the park which are nature conservation and public recreation and also may encourage erosion, as many of the trees were situated on steep slopes. He applied to Ecopravo-Lviv for legal aid.

#### Goal/s *[approx. 3-5 sentences]*

The main Ecopravo-Lviv's goal was to preserve natural resources of the Park particularly trees which were planned to be cut. According to the Ukrainian legislation any activity which confront with the main purposes of the park are not allowed. There is no doubt that cutting of such a large number of trees disagrees with nature conservation purpose of the Park. Yet from the other hand leaving trees where they were could cause a serious accident involving visitors to the Park. According to State Sanitary Rules of Urban Planning, HVPLs with a tension of 35-110 kV and higher shall only be placed outside residential territories or be replaced with underground cable lines. The park is an element of residential territory in accordance with the paragraph 3.4 of these Sanitary Rules. Referring to this requirement, the Ecopravo-Lviv and park also argued that the HVPL shall be removed from the park territory or replaced with underground cable lines, which was the second goal.

**Sequence of events** *[approx. 5-10 sentences]*

Letter of the Park to Lvioblenergo and relevant state authorities with a proposal to summon a meeting of the Public Council to discuss a solution of the case.

The session of the Lviv City Council Commission on Nature Management, Environment Protection and Urban Development decided not to allow the trees cutting, but only crown trimming.

The Meeting on the Clearing of the Corridor under the HVPL-110 from the trees in the park decided that Lvioblenergo shall first acquire the land plots under the HVPL for a paid restricted use. Recommended Lvioblenergo to acquire the land plots under the HVPL for a paid restricted use (easement) from Lviv mayor, before requiring the permit for tree cutting

The Meeting of the Public Council decided on the need to replace the HVPL with cable lines. Lviv City Council Engineering Administration issued permit for cutting 115 trees. The Public Council requested Lviv mayor to replace the HVPL with cable lines. The developer of the General Plan of Lviv City informed Public Council that its decision is taken into consideration.

The proposal of replacement of the HVPL with cable lines is now integrated in General Plan of Lviv. General Plan of Lviv is discussed now and will be affirmed soon.

**Initiator/s** *[who initiated the process?]*

Znesinnia Regional Landscape Park and Lvioblenergo Open Joint Stock Company, a local state electric power supplier

**Persons involved** *[how many persons and institutions – and which- in what functions/roles were involved?]*

The main parties of the conflict were the Znesinnia Regional Landscape Park and the local electric power supplier, Lvioblenergo JSC.

Other participants in the conflict included:

- the local state and self-governmental bodies authorised to make decision on the approval of the clearing of the corridor under the HVPL (the Lviv Oblast State Administration on Environment and Natural Resources and the Lviv City Council),
- the Public Council of Lviv Oblast State Administration on Environment and Natural Resources (organizing a meeting of concerned parties, which helped to find a solution),
- non-governmental organisations (notably the NGO Znesinnia Renaissance from Lviv),

- the Ecopravo-Lviv charitable foundation (which provided free legal advice and guidance to the director of the park and NGOs), and
- local citizens (36 people).

**Contractor of the process** *[who contracted the process?]*

Contractor of the process was a local power supplier – Lvivoblenergo.

**Procedural guidance/ Management of the process** *[who guided the process, (e.g. mediators, environmental advocacies, process governance etc.)]*

The procedural guidance for protecting nature conservation interests (to the park, NGOs and citizens) was provided by Ecopravo-Lviv. It consisted of free legal consultations and guidance, as well as preparation of letters and documents.

The negotiations at the Public Council were facilitated by the head of the Public Council.

**Geographic dimension** *[local, regional, state-wide, country-wide, international, EU-wide]*

local

**Time schedule** *[start, finish, length of the process]*

The conflict started on November 4, 2002 and was partially solved on January 10, 2003, when during the Meeting of the Public Council a decision was reached on the need to decrease the number of trees to be cut and to replace the power lines with cable lines. In February 2003 the reallocation of trees to be cut was made and the agreed number of trees (115 out of 374) were cut.

The conflict came to a close in May 2003 when the proposal of the park and decisions of the Public Council were taken into consideration by the Urban Plantation Institute, which was working on the development of the General Plan of Lviv City. It is expected that the Lviv City Council will adopt the plan in the near future.

**Publications on the process available** *[printed or digital]*

Description of the case [www.rec.org/REC/Programs/PublicParticipation/Mediation/case\\_studies.html](http://www.rec.org/REC/Programs/PublicParticipation/Mediation/case_studies.html)

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### 5.3.1 Outcome of the discussion

	Austria	Ukraine
<b>+ (success factors)</b>	<ul style="list-style-type: none"> <li>• Open approach of the airport</li> <li>• Good financial basis (also future support through the environmental fund)</li> <li>• Establishment of a body for present and future conflict management: the Vienna Airport Dialogue Forum</li> <li>• Willingness of the authorities to engage into the process</li> </ul>	
<b>- (what could have been made better)</b>	<ul style="list-style-type: none"> <li>• Better communication regarding the duration of the process and the feedback process</li> <li>• Communicating well in advance what the process will cover regarding: noise, pollution, compensation etc. and not cover “strategic” issues like economic development, sustainable development etc.</li> </ul>	

#### Key learning points

- Identify all relevant stakeholders
- Defining + communicating the scope of mediation
- Never underestimate the locals
- Documenting the agreements and the dissent
- Establish a structure for future processes + evaluation of results
- Constant looking for mutual benefits
- Excursions etc to get to know each other
- Well-structured process
- Public participation at early stage to avoid conflicts
- Keep up motivation by achieving results
- Well structured communication strategy
- Mediator trained in social/psychological skills + being impartial + knowledge of subject
- Keep the whole picture of the procedure
- Create motivation of stakeholders by a commitment of the decision makers

## 6. Working Group Session 3

Throughout the first day and the morning of the second day all the open questions and suggestions for discussion topics were collected, then clustered and four topics were chosen by the participants for the second round of work groups.

### Topics:

WG 1: Knowledge/neutrality of mediator/facilitator

WG 2: Cultural differences and gender

WG 3: Legally binding mediation agreement – is it necessary?

### WG 1: Knowledge/neutrality of mediator/facilitator – Wolfgang Pfefferkorn

### WG 2: Cultural differences and gender

How to handle the cultural differences and gender issue in the team responsible of the mediation process?

- Cultural and gender sensibility needs to be represented as a part of assessment & preparation

How to handle the cultural differences and gender issue while working with stakeholders/participants?

- content/issues should be considered
- complex balance – how far can you go in different cultures
- additional tools/measures to access and represent needs of those who are hard to reach (immigrants, youngsters)
- integrate different perspectives in the procedure
- multi-level of activities, creative new approaches



How to handle the cultural differences and gender issue while dealing with the content of the process?

- issues should be considered and asked by facilitators
- guidelines are helpful and important

What does it need in future to handle gender and diversity in participation better?

- general culture by small continuous steps
- be sensible + loosen up
- developing procedures, incorporating them into guidelines
- focus on it on mediation assessment
- research

### **WG 3: Legally binding mediation agreement – is it necessary?**

What are advantages?

- pressure to implement the agreement
- motivation for participants — something will change
- more trust — more willingness to reach agreement
- decision will be sustainable
- some predictability
- some legal guarantees that it will be implemented
- remedies available — legal imperatives provides security if there is a breach that action can take
- it supplements civil agreement of mediation
- the drafting of a legally binding agreement will make the agreement clear + more realistic
- Mediation process might need a legal packing: EIA, etc
- If agreement has legal force it has more weight in the bigger picture/situation – esp. when mediation is just one part of the bigger process
- Gives some certainty to mediator (does ADR, mediation need more legal backing)

What are the challenges?

- makes it much more difficult to find the middle ground
  - people are less willing to negotiate
  - people are much more more careful about willing to compromise
- the follow up is less flexible so if you want to adapt to change you may not be able to (an advantage + disadvantage)
- less work for lawyers
- language will be quite heavy making the discussion less accessible to others
- maybe harder to stakeholders to engage
- the process would be longer, more costly
- the flipside of trust in outcome but if want it legally binding it assumes potential future conflicts

How does the legal + mediation process fit together? Can you plan for legal follow up? How?

- it might make people worry of engaging in a discussion as they risk courts anyway so may as well face now
- try to avoid conflicts by mediation but go to courts if legally binding
- parties may go to court + withdraw from mediation — more likely?
- start mediation and only then realise it needs to be legally binding if now in advance can plan for it
- it is important to have the dialogue before drafting any legal words, i.e keep it open as long as possible
- it is possible to bring a decision to the courts to make it legally binding
- could have a legal process + can have an “out of court” agreement with or without mediation + then have agreement legalised

## 7. World café on future steps

The world café method ensures an intensive exchange of ideas and opinions in a small-group-setting.

The following questions were discussed in three rounds of the discussion in an always changing composition of groups:

1. What are challenges/hindering factors for the broad implementation of cooperative conflict management?
2. What would enable/support cooperative conflict management?
3. What could we personally do to foster the implementation of cooperative decision-making and conflict-management?



The **results** collected in the group discussions are the following (minutes of group discussions):

### **Question 1: What are challenges/hindering factors for the broad implementation of cooperative conflict management?**

- lack of acceptance
- lack of awareness of ADR
- not enough promotion of ADR (success stories)
- lack of moderators in some places
- not enough cases in other places
- sometimes external initiative to start the process is needed
- people do not like to bring conflicts out into the open
- because of confidentiality not enough success stories are known (some info available on the web [www.participation.at](http://www.participation.at) ect.)
- power imbalance
- lack of knowledge (professionals, stakeholders)
- difficulties in implementation of results
- finances
- difficult process

- lack of trust, tradition
- different cultures need different approach?
- lack of interest
- no existing culture of conflict resolution; also a matter of mentality; solve problems in groups
- difficult to get the relevant stakeholders at the table; also refusal of people; more interest in personal matters
- sectoral interests often push through; no integrated approach; selfish background
- strong law is missing to find a compromise (is also the case for the “environment community”); enforcement is missing
- people do not see the advantage of mediation or coop. conflict mechanism
- ministries/countries have more contact to the press (PR) than to the locals
- no good examples at the level of politicians
- cooperative conflict mechanism/mediation shall be considered as a serious method
- cooperative conflict mechanism is used too late, often when the conflict has entered a radical phase

**Question 2: What would enable/support cooperative conflict management?**

- best practices → Networking
- raising public awareness on environmental issues and education
- influence to policy & economy
- international institutions should have bigger budget, better coordination
- make it part of education curricular; starting in school as early as possible
- ADR to make a career; Policy makers: how to address them?
- institutional support for ADR
- knowledge management in authorities
- education on conflict management on every level
- finding out a way to work with elected local officials
- Education: introducing in university curricula & secondary schools
- provide examples of success stories
- to provide financing for the whole med. Process (environmental funds, formula for mediation process, general fund or some of parties contribute, etc.)
- governmental support/policy/Aarhus implementation in practice
- education (starting from kinder garden)
- clear/public budget for conflict management
- production of adrenalyn
- education on sustainable development
- use technologies & knowledge which already exist
- good arguments: value added, effectiveness
- well documented best practise
- scientific evaluation
- Promote win win potentials (trust for future)
- cultural change step by step
- funds/subsidies
- understanding of what is a good practise among those who sponsor the process

- build support for participative approach
- Awareness raising needed
- point out benefits/advantages of using (including economic), when to use, how to combine
- training of skilled mediators (taking into account needs)
- legal requirement on using mediation and other cooperation conflict resolution methods (procedures, substance), who can become mediator, etc.
- mediator not to depend from any parties
- agree an min/max fee/day/unit
- incentives and state policy to promote use of Cooperation CR

**Question 3: What could we personally do to foster the implementation of cooperative decision-making and conflict-management?**

- educate on conflict management (the mediator, the potential stakeholders)
- active debates, workshops, case studies



- including the conflict resolution in the contracts
- to serve as multipliers to disseminate information, use/show in practice, advise
- improve the methods, procedures, effectiveness
- publish/publicize best practices
- bridge the gap between

research & practice: e.g. recommendations, incl. stakeholders in research

- stay in touch on international level and help each other share information, materials
- international platform (IUCN, CEC, [www.iucn.org](http://www.iucn.org))
- Information management
- use ADR in your programs and projects → write it down on program level! (strategic)
- having contacts
- share success stories from countries & topics (web perhaps)
- to show benefits from conflict resolutions to the conflict partners
- to create a network of mediators dealing with environmental issues
- to create association
- to use NGO networks to encourage the use of ADR in environmental dispute resolution
- make a common glossary of terms SEP (ADR, Mediation,...)
- (REC) include mediation/ADR as a component of stakeholder training at Public Participation
- workshop participants: to develop point projects
- promote the idea and the positive cases with the parties that actually participated
- express the impact of the conflict

- lobby at ministries → they promote Public Participation and conflict resolutions
- when conflict arises we can recommend
- establish knowledge base for mediation
- give the right information
- engage in capacity building/trainings, guidance materials
- fundraising for projects
- get everyone involved – practice what you preach
- become more tolerant, listen to others
- practice civil courage
- networking, exchanges
- be involved in practise

After the discussions in small groups the results were presented in the plenary. To make the last questions even more concrete participants were asked to write down next steps they personally would do within the next months to promote alternative dispute resolution in their respective fields of activities.

<b>What</b>	<b>Who</b>	<b>When</b>
<b>Materials, guides</b>		
Report on mediation skill in a kindergarten	Astrid Rössler	Within 2 weeks
Websites <a href="http://www.participation.at">www.participation.at</a> , <a href="http://www.cipra.org/future">www.cipra.org/future</a>	CIPRA OeGUT	Online now
Carpathian Convention plain language guide (part of it about examples), put to Internet	Tamara Malkova (Green Dossier)	Since Febr 10
International conference/training on mediation in Slovenia	Tina Divjak	End of February
Case studies (if there will be any best practice)	Marta Struminska	Since January 2008

### **Training**

Identify partners for a project on designing and delivering training in CEE (+develop a proposal)	Magda Toth Nagy	March
Presentation on collaborative env decision-making at environmental	Luciana Silvestri	2007

department in CEU	Marta Struminska	2007
Including topic of ADC in curriculum at the university	Diana Pound	Soon!
We do open training courses		

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### **Networking**

Share experiences of conference with my associates, students at 3 universities (Vienna, Luzern, Budapest)	Wolfgang Gerlich Andras Kremer	2007
Share new experiences with colleagues, student	Lisa Aleksyeyeva	Next Monday (29 of January)
Contact ex colleagues in the Ministry of Environmental Protection in order to have a list of mediators on environmental field, and start arranging the specific training for the civil servants	Mariann Hajdu	Feb 2007
Collect the materials and put them to the library	Patrycja Romaniuk	In next few weeks
Discuss with workmates and partners about the space for future projects and actions		
Sharing gained data and knowledge		

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### **Research**

Research about institutional conditions (formal and informal rules) of conflict resolution	Marta Struminska	Jan 2007-Jan 2009
Research proposal on evaluating effectiveness of public participation	Matthias Buchecker	01.03.2007

A draft proposal for a research & development project concerning gender, diversity & participation, can share with interest networks	Wolfgang Gerlich	1 <sup>st</sup> half of 2007
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I did research on conflicts in nature conservation and have results published in Polish, I can translate into English and disseminate

Karolina Krolikowska	01.06.2007
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***Networking***

Circulate my network of links, publications	Diana Pound	End of February
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Set up personal official platform

Kaidi Tingas, Srdjan Susic	Springtime
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Expand the network of mediation specialists/interest in CEE

Kaidi Tingas	End of March
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Set up the broader (REC) website of the env mediation

## **8. Summary of Results/Conclusions**

The Workshop brought together many professionals, researchers, and students from the field of public participation, cooperative decision-making and conflict management, and gave a good overview of the challenges/practices/problems of using public participation and conflict resolution in environmental field in different parts of Europe.

The overall picture was illustrated by many different case studies from various countries; the presentations were always followed by lively discussions and exchange of diverse viewpoints and experiences from everyday practice.

The Workshop also focused, through several practical tasks, on how to improve public participation and decision-making processes, requiring participants to design the overall mediation process, make the preparation and set up the place for the first inhabitants forum of the bigger process, or solve the conflict of one of the problemholder. The practical exercises offered an excellent opportunity to learn from experienced practitioners about the crucial phases of a mediation process, to exchange different experiences in different countries and regions, and at the same time to create a network of persons and institutions involved in public participation, environmental conflict management and environmental mediation.

The Workshop gave also room to talk about issues wich came up during the practical units or during the debates on the case studies. Therefore topics like the knowledge/neutrality of mediator/facilitator, the impact of cultural differences and gender, or the quality of mediation agreements/legally binding mediation agreements were discussed in the second part of the workshop.

Through the Word Café the ideas of the present status/problems/challenges of the environmental mediation were summed up. The participants reflected on what they personally could do to foster the implementation of cooperative decision-making and conflict-management.

The feedback from the attendees was very positive, and thought is now being given to follow-up events.

## 9. Speakers

### **Alfred Brezansky**

Vice director of the Advocacy for the Environment Vienna. Working fields: technical environmental protection, administrative procedures in the environmental sphere, public participation, environmental mediation and conflict management.

### **Matthias Buchecker**

Geographer and social scientist, works as a senior scientist at the Swiss Federal Institute WSL and manages projects on social requirements and public participation regarding landscape development, recreation and risk management.

### **Wolfgang Gerlich**

Landscape planner, shareholder of Plansinn, Vienna; focus on urban planning, mediating, event management, the didactics of exhibitions, industrial design, project management, public relations; lecturer at the Vienna University and at the Universities of Agricultural Sciences and Technology.

### **Martina Handler**

Political scientist and mediator, scientific project manager at the Austrian Society for Technology and the Environment and lecturer on public participation and conflict management at the Technical University of Vienna/MSc Program Renewable Energy.

### **Wolfgang Pfefferkorn**

Landscape planner and mediator, works half time for Rosinak&Partner in Vienna and half time for CIPRA International in Liechtenstein. Working fields: regional development, knowledge transfer, evaluation, conflict management.

### **Astrid Rössler**

Lawyer specializing in environmental law and formal approval procedures; consultant for projects of environmental relevance. Her activities as a mediator are centred on conflict counselling and managing participation projects.

### **Stephen Stec**

Lawyer, head of the environmental law program at the REC, adjunct professor in the Department of Environmental Sciences and Policy at Central European University, experienced in negotiation, mediation and conflict resolution.

### **Marta Struminska**

Sociologist at the Leon Kozminski Academy of Entrepreneurship and Management, Warsaw. Her field of work is environmental sociology, and research interests are Corporate Social Responsibility and environmental conflicts between business and civil society.

### **Kaidi Tingas**

Public participation expert of the Public Participation programme of REC. Managing projects and building capacities in the area of access to environmental information and public participation in environmental decision-making, environmental communication, and mediation.

**Magda Toth Nagy**

Public participation expert, head of the Public Participation Programme of REC; focus on assistance in implementation of the Aarhus Convention, related EU directives and national legislation in practice, capacity building for public authorities and NGOs as well as other stakeholders.

**Diana Pound**

Designer and facilitator of stakeholder dialogue, background in ecology and nature conservation. Head of the consultancy 'dialogue matters' running co-operative decision making processes and training. Global Conservation Union (IUCN) Commissioner (Commission on Education and Communication).

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## 11. Organisation, support & thanks

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### **Supporters:**

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Finnish Ministry of the Environment: Eija Lumme

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### **Fotos:**

Alfred Brezansky, Martina Handler, Sabine Kitz, Orsolya Szalasi

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