

THE ROLE OF VOCATIONAL TRAINING IN CONFLICT MANAGEMENT – CONTINUOUS AND SUSTAINABLE KNOWLEDGE DEVELOPMENT

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Social sustainability provides complex responses to the increasingly pressing challenges of our world, which have an impact on all aspects of life, including conflict resolution through mediation. My aim is to examine the methodology of mediation from the perspective of how education and training in the subject can adequately respond to the demands of social sustainability.

Introduction

The expectations of social sustainability, in keeping with the nature of the subject, also require a multifaceted response in the field of mediation, and the training courses in this field must therefore offer lifelong opportunities for self-development for professionals in the field.

From the point of view of social sustainability, training and education in this field are expected to transform mediation into a tool capable of bringing about a qualitative improvement in the community as a whole, with a higher level of cooperation than previously. Mediation is most effective in the innovative dimension of social sustainability, where creative problem-solving is an essential element. This leads to the thesis that the primary task of mediation is to use its creativity to put the conflict into a new perspective, where its resolution can be achieved by the interests of all parties involved in the conflict.

1. Contradictions in attempts to define sustainability

From the very beginnings of the idea of sustainability (*Our Common Future* see: Brundtland Report)¹; it can be observed that the most serious challenge at the level of definition has been the need to harmonise priority criteria in competing areas. What are these competing areas?²

1. Aspects of the protection of the natural environment
2. Aspects of social sustainability
3. Aspects of economic growth

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¹ PERSÁNYI, Miklós: *Közös jövőnk: A Brundtland-jelentés*, [Our Common Future: The Brundtland Report], Budapest, Mezőgazdasági Kiadó, 1988.

² GÖPEL, Maja: *The Great Mindshift*. Wuppertal Institute, Berlin, Springer Open, 2016. available at: <https://doi.org/10.1007/9783319-43766-8> (cit. 15.07.2023.)



There is considerable potential for research into:

1. whether mediation can play a role in balancing these competing aspects, and
2. and, if so, in what form.

Iván Gyulai points out another important contradiction, which, in turn, arises in the area of conceptual interpretation. In his view the concept of sustainability, which is taking root in the vernacular, interprets sustainability as the chronological state of a given thing, its survival. In contrast, Gyulai argues that sustainability is primarily about continued growth that is not accompanied by a worsening of environmental pressures³.

The dilemma of taking a position on which system's sustainability should take priority over other systems also requiring sustainability is also detectable in the strategies (e.g.: EU 2020 Strategy) available to the public on this issue, many of which are accompanied by political considerations. At the level of policy-making, there is typically a predominance of the economic growth dimension, with a decline in the other two.

However, further away from the political arena, a different view is emerging, particularly among sociologists. These researchers are arguing for the primacy of social sustainability as a result of the recognition that this area has the greatest potential to positively influence efforts to increase the sustainability of the other two systems⁴. According to Csath, social sustainability is a concept consisting of three elements:

1. members of society trust each other,
2. members of society working together,
3. members of society feel responsible for each other⁵.

As we will see later, mediation can play a major role in shaping the perspectives of the parties to a dispute so that it becomes clear to the individuals involved that:

1. what trust means,
2. what cooperation means, and

³ GYULAI, Iván: *Fenntartható fejlődés és fenntartható növekedés*, [Sustainable development and sustainable growth], in *Statistikai Szemle*, Vol. 91. No. 8–9. 1991. pp.797–822.

⁴ CSATH, Magdolna: *A fenntarthatóság mint emberi és társadalmi fejlődés*, [Sustainability as human and social development], in: *Acta Humana*, Vol. 1. 2020. p. 28.

⁵ *Ibidem*.

3. what it means to have a sense of responsibility towards each other¹.

2. The role of mediator training in promoting social sustainability

Social harmony is an indispensable element of a sustainable society, in which a shared vision of the future and a common set of values are all important². *"A sustainable society therefore requires not only better and more technology, but also its wise use as well as moderation, justice, the rebuilding of love and trust between people, and the appreciation and sustainable use of the values of the environment. The social architecture for sustainability must work in a way that strengthens, not weakens, the values needed for sustainability."* - says Gyulai³

Mediation can also be an important method for knowledge diffusion, in addition to knowledge creation. However, it also requires social cooperation, social harmony and a high level of trust⁴.

Both motivation and competence are needed to resolve conflicts peacefully⁵. Mediation cannot, however, be understood as a single, unified method, given that there are several stances on approaching and managing conflicts. We can talk about evaluative, facilitative, transformative and narrative approaches. On the basis of the transformative approach, we can conclude that mediation in the right way is therefore also a serious tool for shaping attitudes, which influences the disputants who use it to recognize the importance and inescapability of trust, cooperation and responsibility⁶.

Transformative mediation has a very optimistic vision of society. It is a process in the mediation procedure, the essence of which is that a destructive relationship can be transformed into a constructive cooperation, a process that can be taught to the parties. Thus, more and more conflicts are being transformed in a way that cooperation based on understanding of the other party makes respect and appreciation a solid element of the conflict. In the long term, this quantitative change can bring about a qualitative change in human communication and conflict management that will be felt also at the societal level. However, the vision of a cooperative society based on mutual understanding, respect and appreciation is, in the view of critical thinkers, an over-optimistic and idealistic vision⁷.

Yet, from a sustainability perspective, we see the need for qualitative and structural change rather than a quest for constant growth. At the same time, a shift from a resource-intensive to a knowledge-based structure

¹ STRASSER, Freddie-RANDOLPH, Paul: *Mediáció: a konfliktusmegoldás lélektani aspektusai*, [A Psychological Insight into Conflict Resolution Continuum] Budapest, Nyitott Könyvműhely Kiadó, 2005. pp. 41-59.

² CSATII: *A fenntarthatóság mint emberi és társadalmi fejlődés*, [Sustainability as human and social development], cit. p. 28.

³ GYULAI: *Fenntartható fejlődés és fenntartható növekedés*, [Sustainable development and sustainable growth], cit. p. 816.

⁴ CSATII: *A fenntarthatóság mint emberi és társadalmi fejlődés*, [Sustainability as human and social development], cit. p. 31.

⁵ SMITH, Eliot. R.-MACKIE Diane M.-CLAYPOOL Heather M.: *Szociálpszichológia*, [Social psychology], Budapest, Eötvös Kiadó, 2016. pp. 692-696.

⁶ KERTÉSZ, Tibor: *Mediáció a gyakorlatban*, [Mediation in practice], Miskolc, Bíbor, 2010. pp. 97-114.

⁷ KERTÉSZ: *ibid*, pp. 110-114.

would allow for a more efficient use of human resources, individual development and, as a result, an improvement in the quality of life. Economic development is thus based on the qualitative characteristics of society's human capital, i.e. knowledge and creativity. This in turn requires continuous learning at the societal level, thus laying the foundations for knowledge-based competition⁸.

2.1 Legal regulation of mediator training in Hungary

In Hungary, the mediation process as a possible way of alternative dispute resolution came into the focus of attention at the turn of the millennium. Several recommendations of the Council of Europe call for the recognition of mediation procedures and their use before, during and after court proceedings; at the same time, they call on Member States to make wider use of alternative dispute resolution procedures (Recommendation No R (98) 1 of the Committee of Ministers; Recommendation Rec (2002) 10 of the Committee of Ministers).

In Hungary, the general rules, as well as additional and specific rules, have been gradually introduced. At present, alternative dispute resolution is available for specific disputes in several branches of law (civil law, labor law, administrative law, criminal law). These include: mediation in the areas of personal, property, child protection, public authorities, health and education, consumer conciliation, conciliation of individual or collective labor disputes, arbitration conciliation-mediation.

In the context of domestic legislation, mediation is defined by the Act LV of 2002 on Mediation, hereinafter referred to as the "Act on Mediation") as

1. a specific conciliation, conflict management, dispute resolution procedure, which facilitates the conclusion of a dispute or of a judicial or administrative procedure,
2. the aim of which is to reach a written agreement between the parties to the dispute, by mutual agreement of the parties involved in the dispute, with the involvement of a third party (mediator), with a view to resolving the dispute.

The mediator's role is to contribute impartially and conscientiously to the best of his or her ability to reach an agreement between the parties to the dispute (Act on Mediation, No. 2-3.).

The general content and form of the mediation procedure is laid down in Act on Mediation.

The aim of the legislator is to facilitate the settlement of civil and administrative disputes concerning the personal and property rights of natural persons and other persons in which the parties' right of disposal is

⁸ CSATII: *A fenntarthatóság mint emberi és társadalmi fejlődés*, [Sustainability as human and social development], cit. p. 31.

not restricted by law (Act on Mediation, No. 1.). Court mediation is also covered by this law. (Act CXVII of 2012 amending the Acts on Justice and Public Administration. Act No. 39 (2))

The general regulation is laid down in the Act on Mediation and in the IRM Decree of the Ministry of Justice and Law Enforcement (hereinafter referred as: Training Decree) No. 63/2009 (XII. 17.) on professional training and further training of mediators.

As a general rule, a natural person may be a mediator if he or she has a higher education degree and at least five years of proven professional experience from the date of obtaining the degree and has completed the specified professional training as a mediator. The Minister responsible for justice shall keep a register of mediators of mediators in civil matters and of legal persons or companies without legal personality (mediation associations, foundations, etc.) employing mediators (Act on Mediation, No. 4-5 (1))

The register of mediators does not include court mediators appointed by the President of the National Office for the Judiciary to act as mediators, nor does it contain a list of mediators acting in other mediation proceedings not covered by the Act on the Regulation on the Law on Mediation; it is contained in the registers established on the basis of other sectoral legislation.

The regulation issued by the Ministry of Justice and Law Enforcement stipulates that professional training must include a minimum of 60 hours of theoretical and practical training, and also provides for a continuing training requirement of 50 credits.

Upon completion of the theoretical part of the training, students must also acquire specific cognitive knowledge and related skills and competences. These include:

1. basic conflict theory knowledge and skills,
2. basic negotiation knowledge and skills,
3. technical mediation knowledge and skills, methodological knowledge and skills
4. process management, dynamic knowledge and skills,
5. questioning knowledge and skills,
6. technical mediation knowledge and skills appropriate to different levels of conflict,
7. technical mediation knowledge and skills for dealing with problematic actors,
8. psychological knowledge and skills, and
9. legal knowledge relevant to mediation (Training Decree No. 3 (1))

During the practical part of the training, practical experience should be acquired, at least in relation to one completed full mediation case, by one of the following methods:

- (1) Simulated case practice, which aims at reconstructing a completed mediation case, involving an evaluation of the role of the mediator and the parties, with the participation of the trainer and the members of the training team.
- (2) Mentored case practice, which involves the actual conduct of a real mediation process. The conduct of the mediation process and the evaluation of the role of the mediator and the parties will be carried out under the continuous guidance of the instructor.
- (3) Participation in a case discussion group.
- (4) Preparation of a case study.
- (5) Method-specific supervision, i.e. an instructor-led practice learning method to analyze a mediation case that has taken place, to identify mistakes and best practices in the course of the mediation, in a group or consultative format.

Method-specific supervision is based solely on the appropriateness of the methods used and not on the content or outcome of the mediation (Training Decree No. 3 (1)-(4))

Pursuant to Section 12/A (1) of Act on Mediation, in order to ensure the appropriate professional standard of mediation activities, the natural person is obliged to participate in further training in order to maintain and develop the acquired knowledge and skills.

Pursuant to Article 7(1) to (2) IMR, the obligation to undergo continuing training may be fulfilled by acquiring continuing training credits. A natural person on the intermediary register (intermediary) must achieve 50 continuing education credits during a continuing education period. A look at the training institutions shows that the range is very wide, both for initial and continuing training. Among the registered training institutions, there are universities, chambers of commerce and industry, associations, public benefit associations, companies, public benefit foundations, where the necessary skills can be acquired either in adult education or in university education. From 60 to 327 hours of training, there is a wide range of courses, and whichever one you choose, you have complied with the legal obligation under the Regulation.

2.2 Critical examination of education and training in mediator training

We can see how fragmented the practical implementation of mediator training is compared to the minimum conditions laid down in the legislation. However, there are also significant differences in the conditions for becoming an intermediary, as regulated in the Act on Mediation and other sectoral laws, in the systems for continuing training and in the supervision of the activity. As training institutions have very different

approaches and working methods, the quality of training cannot be uniform. Training lacks output assessment, supervision and follow-up, and there is little transparency on the functioning and effectiveness of the system. There is also a need for client evaluation of the quality of the work done by mediators. Overall, it can be said that the whole mediator training system needs reform. (Report of the Commissioner for Fundamental Rights in case AJB-75/2018) At the initiative of the Ministry of Justice, the Mediation Working Committee was established on 15 October 2018 to review the current state of the mediation profession, 15 years after the adoption of the Mediation Law, and to identify the directions in which this crucial profession can move. In the course of its activities, the Working Committee will create the opportunity for an intensive professional dialogue.

As a result of its work, the Commission will report to the Government with the aim of raising awareness of mediation and enabling citizens to recognise the possibility of out-of-court settlements in as many of their cases as possible. A further aim is to support the choice of the people concerned with high quality services from the mediation profession. To understand the characteristics of social behaviour, the different dimensions of communication and to acquire the skills related to them, a 60-hour training course is a surprisingly limited framework. The acquisition of skills and competences is typically achieved through implicit learning. Implicit learning is generally understood as learning that takes place involuntarily and unconsciously⁹. We do not know when or how we acquired the knowledge, but we possess it. Typically, we learn skills that we cannot verbalise precisely by implicit learning. These include language use, playing an instrument, driving a car and riding a bicycle¹⁰. In addition to all these cognitive and motor skills, this learning mechanism is also evident in a number of social skills. In decision-making, communication and emotions, we can also discover different sequences that help us adapt to the environment in everyday life by unconsciously anticipating certain behaviours and events¹¹. It is therefore important to allow sufficient time for these new skills to become embedded.

2.3 Summary of the results of the critical review

It can be seen that the most controversial area is the subject of training for the practice of mediation. If we look at the training offered by training institutions from a methodological point of view, we see a very

⁹ SHANKS, David R.: *Implicit learning*, in LAMBERTS, Koen-GOLDSTONE Robert L.: *Handbook of Cognition*, London, Sage, 2005. 202–220., available at: <https://dx.doi.org/10.4135/9781848608177.n8> (cit. 15.07.2023.)

¹⁰ NORMAN, Elizabeth-PRICE Mark C.: *Social intuition as a form of implicit learning: Sequences of body movements are learned less explicitly than letter sequences*, in: *AdvCogn Psychol* Vol. 8. No. 2. 2012. pp. 121–131. available at: https://researchgate.net/publication/225281045_Social_intuition_as_a_form_of_implicit_learning_Sequences_of_body_movements_are_learned_less_explicitly_than_letter_sequences (cit. 24.07.2023.)

¹¹ HEEREY, Erin A.-Velani, Hemima: 2010, *Implicit learning of social predictions*, in *Journal of Experimental Social Psychology*, Vol. 46. No. 3. 2010. pp. 577–581. available at: https://researchgate.net/publication/247331766_Implicit_learning_of_social_predictions (cit. 20.07.2023.)

heterogeneous picture. Some are explicitly practice-oriented training, while others take a more literature-based approach¹². There are several types of training available in accredited training institutions. These are not exhaustive: Mediation Training, Divorce Mediation, Business Mediation, School Mediation, Facilitation, Circle Facilitator Training, Restorative Training, Family Mediation, Relationship Mediation, Workplace Mediation, Family Law and Family Mediation, Labor Mediation and Restorative Mediation, Legal Skills for Mediation in Practice, Child Protection/Family Mediation Training, Psychopathology Basics for Mediators, Organizational and inter-organizational (economic) mediation, Technical mediation knowledge and skills for dealing with problematic actors, Family and minority mediation, Mediation of community conflicts, Group and reparative mediation, Intercultural mediation, Mediation in social institutions, Master mediator training, Facilitative and transformative mediation, Adolescent mediation. If we look at the training courses in higher education institutions, we can see that the professional courses are classified in different disciplines (humanities, social sciences, economics, political sciences, law) with different titles (general and family mediation), general and judicial mediation, mediation in the helping professions, alternative dispute resolution adviser in the economy, alternative dispute resolution - mediation specialist lawyer, mediator in the public service, mediator in museums, intercultural mediator, visual mediator - school designer, community and family mediation. The many and inconsistent titles can make it difficult to identify training courses.

As stated by the Commissioner for Fundamental Rights in his Report in case AJB-75/2018, "*the absence or the possible lack of knowledge of child protection law in the training system of mediators in relation to child protection and supported mediation procedures is a violation of the right to protection and care of children ... there is a need for increased quality control and professional supervision of training institutions. It is a concern that there is currently no outcome evaluation, client assessment or follow-up. This would improve the quality and professional reliability of mediation procedures and increase client acceptance of these methods.*"

The heterogeneity in training described above could be reduced by the preparation of a uniform professional methodological guide, the development of a uniform training regime based on it, quality control of training and further training in training institutions, a uniform database and the definition of the professional competences expected of mediators. It seems to be clear that mediation is a multidisciplinary activity that can be applied to many areas of life. The fact that any field can be practised by anyone, in accordance with the general input requirement under the legislation, should be subject to review in the

¹² MALIK, Éva: *Gondolatok a polgári jogi közvetítői szakmai képzésről és továbbképzésről*, [Reflections on professional training and continuing training for civil law mediators], in: *AKV Európai Szemle*, Vol.1. 2018. pp.31-32.

future, with reference to the above-mentioned Ombudsman's report. Through impact assessments, also following feedback from professional groups, the current legislation should be amended as necessary¹³.

3. Characteristics of peer behavior, mediator's preparedness

One of the basic motivations of people is that they want to save face. They want to believe that as objective beings they are able to resist influence, but at the same time they desire to be able to influence others. To understand people's social behavior, social psychology provides a starting point to see that, despite our best efforts, we are still influenced by certain phenomena.¹⁴ When we look at the effects of social and cognitive processes on individuals, we can see that we are significantly influenced by physical presence, as well as by a perceived and mediated opinion, feelings about ourselves or our group, perceptions, memories, and motivations¹⁵.

A mediator's work requires a range of knowledge in the field of conflict. He or she must be familiar with the concept of empowerment, the relationship of cooperation and competition to mediation, and the importance of transforming negotiation styles. Untrained or inexperienced mediators do not have this knowledge or do not use it consciously. In the course of their work, mediators typically work with the parties to resolve situations of tension. Trust and understanding are needed to lay the foundations for working together¹⁶.

During the discussions, the client opens up, becomes vulnerable and defenseless. This responsibility must be a permanent feature of mediation work. Research on mediation has found that the degree of effectiveness depends solely on the mediation skills and the amount of practice. The more skilled a mediator is and the more experience he or she has, the more likely he or she is to be able to provide professional assistance to the parties in managing the conflict consensually¹⁷.

Dr. Masau Emoto's experiments with water and ice crystals, and his findings along the way, are deeply thought-provoking. Does an ice crystal made from a drop of water really react differently to different words, thoughts, music, and the power of prayer? Could this be possible? The water crystal images show that it can. And if a single drop of water can undergo such a dramatic change through the power of words, in what way can it strike a human being, a sentient being whose body is 60% water?¹⁸ If we look at different cultures,

¹³ MALIK, Éva: *Gondolatok a polgári jogi közvetítői szakmai képzésről és továbbképzésről*, [Reflections on professional training and continuing training for civil law mediators], cit. pp.45-47

¹⁴ SMITH-MACKIE-CLAYPOOL: *Szociálpszichológia*, [Social psychology], cit. pp. 55-62.

¹⁵ PLÉH, Csaba: *A lélek és a nyelv*, [The soul and language], Budapest, Akadémia Kiadó, 2013. pp. 79-98.

¹⁶ KERTÉSZ: *Mediáció a gyakorlatban* [Mediation in practice]: cit. pp. 35-47.

¹⁷ KERTÉSZ: *Mediáció a gyakorlatban*, [Mediation in practice]: cit. pp. 35-47.

¹⁸ EMOTO, Masau: *A víz rejtett bölcsessége*, [The Hidden Messages in Water], Budapest, Édesvíz Kiadó, 2005.

religions, trends, and methods, we see that the belief in the healing power of words, the magical power that they lend, appears in different forms. It appears in prayer, a mantra, hypnosis, autogenic training, mind control and positive thinking¹⁹.

They say the word is the most natural medicine in the world. We live in a world today – in health care too - where people will go as far as they can until they get a good word from someone. In many cases from charlatans. It is a proven fact that the placebo effect and suggestion work in conventional medicine. The patient is cured, and they get better. It is also the key to things of the soul. Therapeutic work operates with words. It heals wounds and reframes situations and thus lives²⁰. *"Both death and life are in the power of language, and as one likes to live by it, so one eats its fruit."* (Proverbs 18, 24.)

4. Conclusions

Our social well-being is not measured by macroeconomic performance as measured by GDP. It typically depends on things such as the ability to carry out activities at home, the quality of relationships with neighbours, belonging to a healthy community and having strong social capital²¹.

Gyulai stresses that social well-being does not necessarily go hand in hand with well-being; the two are not the same. *"By welfare we mean the existence of material goods, and by well-being we mean a good life, a decent quality of human life. Our well-being includes a healthy and secure life, friendship, love, faith and trust, the exercise of mutual generosity, equal access to the opportunities provided by nature and society, knowledge and wisdom, a good environment, living according to moral standards, the joy of fulfillment at work, self-esteem, a sense of identity, self-determination, care for others and our environment, justice, respect for life."*²²

When we take stock of the principles of mediation, we find that many of them correspond to, or at least support, the qualities that make the above qualities possible. The principles of voluntarism, equality, personal presence, confidentiality, forward-looking, independence, impartiality and neutrality can also be, by analogy, instruments of well-being, as can the principle of non-solicitation, which does not allow intimidation or any attack on the other. It demands respect from the parties in all circumstances²³.

¹⁹ ROSENBERG, Marshall B.: *A szavak ablakok vagy falak*, [Nonviolent Communication... A Language of Compassion], Budapest, Agykontroll Kft., 2001.

²⁰ Ibidem

²¹ CSATII: *A fenntarthatóság mint emberi és társadalmi fejlődés*, [Sustainability as human and social development], cit. p. 29.

²² GYULAI: *Fenntartható fejlődés és fenntartható növekedés*, [Sustainable development and sustainable growth], cit. p. 813.

²³ NAGYPÁL, Szabolcs: *A közvetítés jogelmélete: a mediáció folyamata és alapelvei*, [The legal theory of mediation: the process and principles of mediation], in *Jog, Állam, Politika*, Vol. 3. No. 2. 2011, available at: <https://dfk-online.sze.hu/images/1/C3%81P/2011/2/Nagyp%C3%A1l.pdf> (cit. 20.07.2023.)

In the future, therefore, we must strive not to sacrifice such important and significant things as our human and social resources for the sake of economic capital²⁴.

²⁴ CSÁTH: *A fenntarthatóság mint emberi és társadalmi fejlődés*, [Sustainability as human and social development], cit. p. 32.

