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**Airport mediation in Vienna-Schwechat**

# The transformative effect of mediation in the public arena

**Horst Zillessen****Introduction**

This article details the long and complex journey of a mediation involving approximately 60 participants. The mediation process began in 2000 in response to conflicts surrounding proposed extensions to Vienna-Schwechat airport. A Mediation Forum was established in 2001 as the central body for the mediation.

At the 12th meeting of the Mediation Forum on 2 July 2004 in Vienna-Schwechat, the participants agreed to conclude the mediation by mid-2005 with a mediation agreement. Such a declaration of intent, aimed at ending a process that had run for almost four years in just under a year, is unusual – as is so much in this mediation. In detailing how the mediation developed readers will gain an appreciation of the changes that took place over the course of such a lengthy process and how they affected the mediation. These changes took place at both an individual and a collective level, with the latter particularly affecting the structure of the mediation.<sup>1</sup>

**Process providing – a new way to launch a mediation****Background to the mediation**

Even the run-up to this mediation was a break from the norm. As is still the usual practice, the board of the company which operates the airport, Flughafen Wien AG, began a public relations campaign focusing on the surrounding communities to gain acceptance for its extension plans, especially the planned construction of a third runway. When it became obvious that this attempt had failed, the board changed tack and appointed a ‘process

provider’ to prepare the ground for mediation. Initially his task was seen as organising and supporting a communication process, but after numerous preliminary talks with the main parties, he proposed instead a mediation.

A ‘preparation group’ representing the central parties to the conflict was established to kick off the procedure in terms of content and organisation. The group’s role was to make it publicly known, to organise the selection of a mediation team and to plan a public launch event as the first step towards conflict analysis. Working from July 2000 under the leadership of the process provider, Thomas Prader, this group prepared the ground to appoint a mediation team. A public invitation was issued and a personal invitation made

Horst Zillessen.

At its first meeting on 12 July 2000 the preparation group agreed a group representing all affected parties should be formed during the public launch. This mediation group would be the central body of the mediation and draw up a mediation contract to cover issues relating to the process (subject and rules of negotiations, time frame, conflict parties, etc).

The mediation team led the group over the course of five meetings, during which time key decisions on the course of the procedure were made. The mediation team’s leadership became official at the 5th meeting on 9 October 2000. The most important decision related to the number of parties to the procedure, which finally ran to 52 due to the ability to opt in provided for at

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to 84 German-speaking mediators in Germany, Austria and Switzerland.

The preparation group held a press conference in Vienna on 17 July 2000 to present its plans and four meetings of the group were held in July and September. The third meeting on 20 September heard presentations by four mediation teams invited to an interview. At the fourth meeting on 27 September the preparation group voted unanimously for the team of Gerhart Fürst, Ursula König and

the launch event. With such a large body the processes of understanding and steps towards mutual trust-building can take place only under extremely difficult conditions – if at all. This made it difficult to structure measures necessary to create bodies of a size conducive to mediation.

**The role of the process provider**

The work-intensive preliminary phase of the process, under the leadership of the process provider, impacted on the



course of the mediation in at least two ways. First, the approximately 60 mediation participants saw themselves and each other as split into a core group of those who had already participated in the preparations and a greater number of people who had joined the mediation later. At the beginning of the process this led to occasional complaints by the latter group, who did not feel they were being taken seriously to the same extent. However, over the long term this was relieved by establishing a negotiating structure that allowed concentrated work on conflicts in smaller groups.

In this way the internal logic of mediation (which can be described as the path from understanding to agreement) was able to triumph over the unfavourable circumstance of the large number of participants. During the course of the mediation, the preparation group developed into the source of core personnel for working groups which – supplemented by other mediation participants depending on the issue in question – propelled the mediation forward.

The other consequence of the preliminary phase related to the status and function of the process provider. As a result of his management of the negotiations in the preparation group and a large number of contact talks in between its meetings, he had made himself indispensable in the eyes of many participants and built up a level of trust that the mediation team still had to earn. That is why it was understood from the beginning that he would remain part of the process.

The mediation contract of 1 March 2001 formally allocated to Thomas Prader, the process provider, the task of representing the central body of the mediation, the Mediation Forum – for example, by appointing experts or sending out invitations to press conferences and other events organised by the Mediation Forum. However, not least due to his good personal contacts with the most important representatives of the parties involved, he in fact increasingly performed process guiding tasks. The process provider therefore became more of a process facilitator, who strongly steered and influenced the content-related development of the

procedure. For consistency, later discussions will continue to refer to Mr Prader as the 'process provider', despite the change in his role to being more of a process facilitator.

The process provider's influence on the mediation was on one hand due to the creation and composition of the mediation team. The invitation to apply for the task demanded not only a team of mixed gender, but also a team of international composition with experience in mediation of large projects. The combination of these requirements made it fairly unlikely that a well-established team with joint mediation experience in comparable projects would be able to apply. So, independently of the concrete membership, any mediation team was faced with the necessity of squaring different experiences with an understanding of mediation, and developing a common understanding of roles as well as coordinated ideas about the shape of the mediation – not to mention making themselves familiar with the personal characteristics of each team member.

The process by which three or four individual mediators evolve into a mediation 'team' that works well together, acts and reacts consistently and therefore exercises managerial competence in the mediation requires time, energy and concentration, which is then not available for managing the mediation itself. In the case in question, the gap created in this way was filled by the process provider – and no doubt also unconsciously exploited by him, because it corresponded to his self-image as well as his understanding as a mediator.

Looking back on the development of his role and the almost four-year course of the mediation, we can also ask, on the other hand, whether an unavoidable process of change took place that generally affects processes of this type and dimension. It can be noted, at least as a theory, that for such large and complex mediations, it can be helpful to distribute tasks between an all-party and content-focused mediation team and a process provider, who may not be biased but is certainly committed and has substantive expertise.

At any rate it is true to say in relation

to the airport mediation in Vienna that the process facilitator decisively influenced the course of the mediation by means of his content-based preliminary work and his formulation of very extensive draft decisions, on the basis of which the consenses and dissents of all the parties involved were mutually agreed.

## Structure and development of the mediation – processes of change and special features

### *Changes in the structure of the mediation*

The Mediation Forum was initially planned as the central body of the mediation, with a few subject-oriented working groups feeding results to it. However, after more than 60 people attended the first meeting of the Mediation Forum on 18 January 2001, it became clear to many participants that a new structure would have to be developed to allow an appropriate working process. At the second meeting of the Mediation Forum on 29 January 2001, the appointment of an 'inner circle', to be called the 'Working Committee', was agreed on. The number of participants was not to exceed 28, and interested members of the Forum would be allowed to sit in on the meetings of this circle as observers. The Working Committee was to meet once a month and was expected to prepare the decisions of the Mediation Forum by evaluating and developing the results presented by the working groups.

With 28 members and eight observers at its first meeting on 2 May 2001, the Working Committee was still rather too large as a mediation body. This raised fears that it would lead to long, drawn-out debates over procedures and agendas, as is not unusual in large bodies. Due to previous experience with a similar-sized mediation, and after consultation with the process provider, the mediation team suggested creating a small steering group that would resolve questions of procedure in advance of the Working Committee and

Mediation Forum meetings to avoid lengthy discussions on these points in the meetings.

A member of the mediation team had previously failed to gain acceptance for a similar suggestion in a comparable mediation. However, in this mediation, the participants had already experienced the advantages of working in smaller groups (in the preparation group, in working groups and in the Working Committee) and had been able to learn from that. They had seen that mediation in large groups requires flexibility in dealing with process structures, and that these structures must repeatedly be adjusted to the needs of the mediation.

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Accordingly, a decision was taken at the 5th meeting of the Mediation Forum on 4 July 2001 to establish a Process Steering Group (PSG) which would consist of 10 representatives of major conflict parties and be chaired jointly by the mediation team and the process provider. (After intensive internal debate, the mediation team decided, after establishment of the PSG, not to take part in its meetings and to leave chairmanship of the group to the process provider. The main reason for this was the consideration that non-participation in the PSG would better preserve the neutrality of the mediation team.)

The resolution establishing the PSG allocated to it the task of permanently observing the mediation to guarantee a targeted and efficient procedure, recognise at an early stage irritations and circumstances that might put the mediation at risk, steer the mediation together with the mediation team, and structure the work processes between the various bodies.

The changes in the mediation structure described thus far were primarily prompted by the problem of the large number of participants. The next issues arose on the content level, making further structural adjustments necessary. In the first year of the mediation, content discussions were dominated by an attempt to ensure that, as far as possible, all the topics and problem areas to be dealt with were brought together and processed. As these tasks were accomplished at a preliminary level, the focus turned to two content-based focal points: scenarios of airport development; and steps to reduce noise pollution resulting

from development of the airport. Dealing with these two problem areas occupied the second year of the mediation and led, in the 9th meeting of the Mediation Forum on 26 November 2002, to a further important change in the process structure.

It became clear that these issues could only be successfully resolved by smaller working groups and that the larger meetings of the Mediation Forum and the Working Committee were only useful when results from the smaller working groups could be presented to them. This realisation is also reflected in the number of Mediation Forum meetings: after six meetings in 2001, only three took place in 2002 and in 2003 there was only a single meeting.

The 9th meeting of the Mediation Forum agreed to the structural changes that followed from this content-based development: the Working Committee was dissolved, its tasks were assumed by the PSG and the latter's members were increased to 20 people. All mediation parties were invited to



take part in the PSG meetings as observers if they wished.

This serious slimming-down of the mediation structure was made possible by changes in the attitudes and approaches of the mediation participants, which can be described as a learning process in the sense of transformative mediation. In the many work intensive meetings they learnt to understand and respect each other in their various, sometimes diametrically opposed, interests. They had developed a sense of trust that nobody was out to trick anybody else. For this reason they were able to accept that they no longer needed to take part in all meetings because they no longer feared that this would impair their ability to defend their interests. Equally important was the trust in the fairness of the mediation developed in the course of the process. Almost all the participants felt assured that a decision to the detriment of a third party who was not represented at the negotiation table would not be accepted.

In light of these altered circumstances, the new structural changes were acceptable. Alongside the Mediation Forum, the PSG became a central body of the mediation and adopted the following tasks:

- reviewing and structuring the working results achieved so far
- organising further work in working groups on the two focal points mentioned above (scenarios of airport development and reducing noise pollution) and dealing with conflicts that could not be resolved in the working groups
- passing on the results to all parties to

the mediation (especially by sending the PSG minutes to all mediation participants), and

- setting the dates for the Mediation Forum.

The joint chairs of the PSG were the process provider and, after its scope of duties was extended by content-based tasks, a member of the mediation team. The first meeting of the new PSG took place on 14 January 2003.

This completed the structural development of the mediation. The procedure continued in the form established at the end of 2002, and it will continue in this form until the conclusion envisaged for the middle of 2005.

There was another change in the management of the mediation worth mentioning, although it did not directly concern the last-mentioned structural change, but was linked to it in terms of content. At the end of April 2003 Gerhart Fürst left the mediation team because he could not reconcile his understanding of mediation with the merging of the tasks of the mediation team and the process provider that resulted from the new structure. The new structure led to the mediation team and the process provider developing a joint understanding as leaders of the mediation. The meetings of the working groups and closed groups, as well as the Mediation Forum, were chaired by the mediation team, so that a distinction from the process provider remained evident.

This distinction between the process provider and the mediation team has meant that the process provider is able to act in the interests of the parties

## contributions

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involved, including the content level. Against the background of the experience gained in this mediation, I believe that in a mediation process with many parties and complex decision requirements, lengthy documents for agreement should be drafted by a process provider who is accepted by all parties as trustworthy and not bound by certain interests. Because of its all-party nature in chairing the discussion of these texts, the mediation team could not prepare such documents. Usually, due to lack of time, no representative of the parties to the mediation is in a position to take on this difficult task, which requires a great deal of effort and tact. Using a small editorial group for this task as a rule also fails because of the amount of work required. In this mediation, longer draft decisions, such as the 25 page partial agreement of 27 May 2003, were prepared by the process provider in the form of draft texts.

#### ***Effects of the mediation process on the parties involved***

I have already hinted that involvement in a long-term mediation cannot fail to have an impact on the people involved. In the mediation contract, the various parties expressly recognised the interests of the other parties and, in the Rules for Cooperation, they undertook to accept and respect the positions and interests of the other parties. However, these were more statements of intent than expressions of the parties' real convictions. We could expect nothing more from parties whose interests lie so far apart – residents living close to the airport concerned about the impact on their quality of life from aircraft noise, and the board of the airport up against the foreseeable shortfall in capacity of its runway system in the near future.

Now that the process, including the work of the preparation group, has lasted for four years, the effects of the mediation are evident on several levels. It is interesting to note that the effects seem to be linked to different periods of the mediation. The first change in the attitude of the parties related to trust in

the effectiveness and workability of the mediation. Only a few participants had any previous experience of mediation, while the great majority was entering new territory. The responses to the procedure in the preliminary talks with the parties to the mediation were correspondingly sceptical.

The mediation process was originally expected to take one and a half to two years. It became clear in early 2002 that the end of the mediation was still a long way off. The mediation team therefore asked the 8th meeting of the Mediation

appreciation of and respect for the other parties' interests. The language became less aggressive and apodictic and there were clearer efforts to achieve a mutually acceptable solution. Also the social interaction between the participants – encouraged by joint breaks for meals during the meetings and an annual mediation summer party – became more friendly. This went as far as a familiarity in relations with each other, now often demonstrated by a friendly 'Du' (the informal word for 'you' in German, as opposed to the

Whereas in the earlier phase people had in the main articulated only their own problems and interests, they now more frequently combined this with an express appreciation of and respect for the other parties' interests.

Forum on 24 April 2002 how members assessed the percentage chances of a consensual solution. The answers displayed an amazing confidence in a positive conclusion to the mediation. Only two expectations were rated below 50 per cent, and the average was around 80 per cent. Obviously, by this time the course of the mediation had changed the parties' assessment of the chances of success and with it their evaluation of the mediation had evolved into a generally positive verdict.

It is of course possible that to a certain extent a self-fulfilling prophecy was at work here insofar as nobody wanted to admit to wasting their time. But the positive evaluation of the mediation is also confirmed by other assessments and perceptions.

In the continued mediation phase decided on in April 2002, distinct changes in communication behaviour quickly became apparent. Whereas in the earlier phase people had in the main articulated only their own problems and interests, they now more frequently combined this with an express

formal 'Sie'), which softened the divisive effect of differences in interests and opinions. (From the viewpoint and language perception of a German, 'Austrian German' has advantages over 'German German' in that its soft inflection makes even harsh words tolerable, while the harder-sounding German tends to increase their hurtful effect.)

What also became more noticeable in the communication behaviour of the mediation parties was the way some participants endeavoured to promote understanding during the still-controversial discussions – that is, to act as mediators themselves. Here there was a tangible sense of an effort to help make the discussions, and ultimately the entire mediation, fair for all sides. In moments like this, the idea of mediation has practically taken over and developed its own dynamic, so that its deliberate application by the mediator is no longer necessary.

Certainly, the participants in a mediation do not always experience processes of change like this. At any rate this can only happen when the





negotiations are correspondingly lengthy and intensive. But the same does not apply to the assessment of one's own and the other conflict parties' willingness to negotiate. On this point, all sides go through

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significant learning processes. In the beginning each side enters the procedure with the expectation that the other side must give ground before an agreement can be reached. These expectations characterised the starting situation in Vienna. Then, in the course of the mediation, the various conflict parties evidently gained the impression that they themselves had made many concessions to the other side, while the other side had barely moved, or not moved at all. Feedback to this effect in the summer of 2004 prompted the mediation team, in a closed meeting with around 40 participants, to give them the opportunity to anonymously assess their own and the other parties' willingness to compromise. This revealed that the participants considered their own readiness to give ground as very high – although they admitted that they still had a residual room for manoeuvre, which was revealed to the others as smaller than in actual fact, yet still much larger than it had been in earlier statements. Here again, a learning process had taken place – the perception of the participants' willingness to negotiate had changed significantly.

The transformative effect of mediation was revealed most impressively in the discussions on reducing air traffic noise. Due to the intense discussion of this issue and the efforts to achieve an agreement which

was central to the success of the mediation, a change took place in the self-image of the representatives of the airport, Austrian Airlines and ACG, the Austrian Air Traffic Controllers. Obviously they had been aware before the start of the mediation that aircraft causes noise pollution. But some of them only became fully conscious during the mediation of the fact that dealing with the issue of aircraft noise is a key part of their professional responsibilities.

This conclusion is based not only on the interpretation of the author, but is backed up by corresponding statements by participants.

In a reflection by the PSG on the current state and development of the mediation (on 8 June 2004), participants expressly highlighted its significance in altering their professional self-image – referring directly to the problem of noise. There is no more powerful way to prove the transformative effect of mediation. The group reacted to this statement with appreciation and respect and obviously felt encouraged in its efforts to lead this complex mediation to a positive conclusion. ●

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## Endnotes

1. See also Bush, Robert A B, Folger, Joseph P *The Promise of Mediation. Responding to Conflict Through Empowerment and Recognition*, San Francisco, 1994. On the transformation approach to mediation in the public arena, see among others Schwerin, Edward *Mediation, Citizen Empowerment, and Transformational Politics*, Westport, London, 1995; Dukes, E Franklin *Resolving Public Conflict. Transforming Community and Governance*, Manchester, New York, 1996.