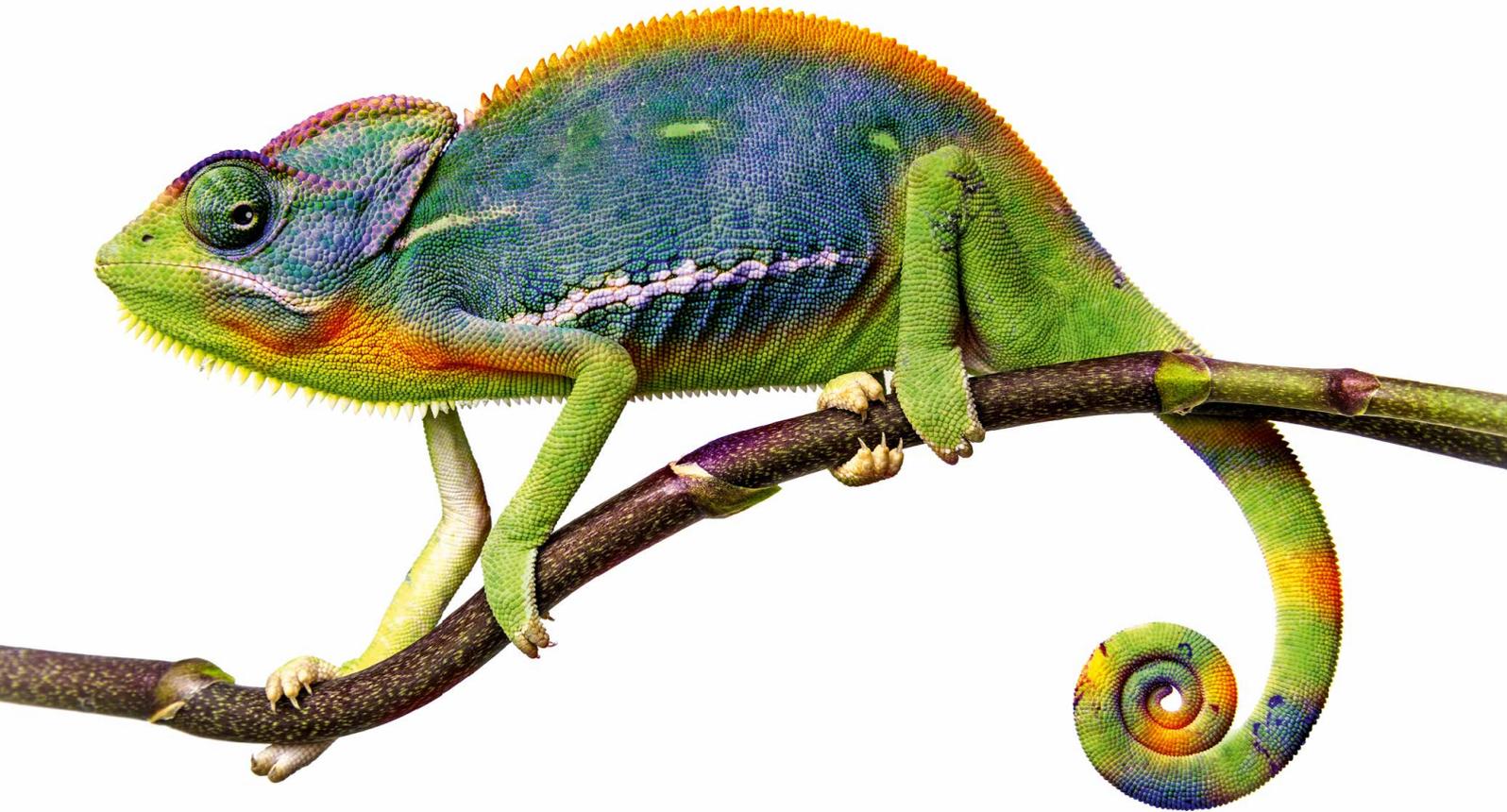


# The [REDACTED] **MEDIATION**

Trade magazine for Conflict Resolution – Leadership – Communication

## Change

The great constant



How the behaviour of cichlids is similar to ours in times of crisis

When life gives you lemons, make lemonade!

Is it possible to train optimism?

# Fit for the future

Dear readers,

Our recent times have been anything but stable. The world around us has changed – in many cases – irrevocably – and we, well most of us, have learnt to live with it.

But change has been ever-present and no force in the universe has been able to stop its march. As Friedrich Nietzsche once said, “the past bites the tail of everything that is to come”. This means that having clarity about the past not only makes it possible to become aware of what has changed, but also to distinguish between good and bad changes. This in turn helps us recognize if we are prepared for them.

No society or organisation is “change-proof”. But the next question can then be – what the individual or the organisation needs to position itself as “future-proof”? For the future is an open, uncertain space. The eminent economist John Maynard Keynes already derided the construction of a space of certainty in the temporal distance as “polite techniques that attempt to deal with the present while neglecting the fact that we know little about the future”.

In times of particular uncertainty, i. e. in transformation processes of society as well as in change processes of organisations, this seems to me to be the right way: To carry out one's own change in a changing world on the secure basis of one's own strengths. It is therefore totally acceptable to admit change into our lives to build ourselves.

And using this idea as a motivation, I am pleased to introduce to you – our international mediation community – the first English edition of “Die Mediation”, our German mediation magazine published since 2012. With this effort, we are in fact inviting change – by becoming more internationally attuned and open to global cooperations.

With a run of 13,000 quarterly editions, our printed publication of “Die Mediation” is already the leading magazine in the German-speaking area in the area of conflict resolution and mediation. As the publishing institute “Steinbeis Mediation”, we have completed many international projects, including “Online Mediation in Cross-border Disputes” (2011–2013), “Mediation in Cross-border Inheritance Disputes (2017–2019)” and our current project “InMediate”, which aims to train international mediators. Alongside, we have held international mediation conferences in Florence (2011), Berlin (2012), Leipzig (2019) and Stuttgart (2018).

We hope that, through this digital format, we can bring together part of the international mediation community. At the same time, we wish to inspire potential clients to reach out for professional management of escalated conflicts.

We are looking forward to your feedback!

Yours,



Subscribe or buy our  
German language magazine  
*Die Mediation* on our App.



“Go through your changes, in a changing world,  
on the secure basis of your own strengths.”



Editor-in-chief Prof. Dr. habil. Gernot Barth

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## The scientific column

# How the behaviour of cichlids is similar to ours in times of crisis

Information is vital, for humans and animals alike. Particularly in extraordinary times of crisis, serious and scientific answers are often in short supply. We then tend to lower the standards for our information, as our inner quality control fails. But where stress and fear are bad advisors, calm and level-headedness will help you proceed.

By Klaus Harnack

*“Never before has there been so much knowledge about the unknown.”*

Jürgen Habermas (2020)

## When stimuli discontinue

When the name Konrad Lorenz is mentioned, most people immediately think of gray geese. Rightly so, but what about cichlids – or more precisely, the male representative of the genus *Astatotilapia*? The story in a nutshell:

If you confront a male *Astatotilapia* with a dummy of the same-species male, it will start to attack the dummy. If you repeat this experiment the following day, it will attack the dummy again to the same extent. It seems that the dummy serves as a triggering stimulus for the fighting behaviour of the male *Astatotilapia*. Up to this point, this behaviour is to be expected. It gets interesting, however, when you withhold the cichlid dummy from the male fish for several days. Now, the fish starts to look for the triggering stimulus more and more actively. And since the original stimulus has disappeared, it begins to imagine the triggering stimuli and reacts aggressively to completely inappropriate stimuli. It now also attacks stones, plants, sticks etc. – things which are in its immediate environment and which did not function as trigger before.

Lorenz explained this response to inappropriate and unfitting stimuli with The Instinct Concept, for which he received the Nobel Prize in Medicine in 1973 together with Karl von Frisch and Nikolaas Tinbergen, among others.

Essentially, he holds the fish's appetitive behaviour responsible for its active and seemingly inappropriate search for triggering stimuli. This search for sign stimuli is consequently a combination of temporal and qualitative factors. As the time gap between stimuli increases, the 'internal quality control' for these sign stimuli decreases (Lorenz 1978).

## From the animal kingdom to the world of human beings

Although it is uncommon to speak of appetitive behaviour beyond sexual appetite in humans, we will now exchange the cichlid for a human and additionally exchange the instinct of the fish to drive away its rival for the human behaviour of seeking answers in moments of crisis. What do we find? Like the cichlid, the absolute desire for information and answers intensifies in us humans. In their absence, the temporal delay leads to an increased search for information and neglect of a qualitative demand. In the non-appearance of information, the temporal delay leads to an increased search and a reduction in quality standards.



Image Source: stock.adobe.com/Corona Borealis

## Leipzig impulse talk

# “A good mediator enables you to think in an entirely new way.”

Brigitte Zypries, the former Minister of Justice of the Federal Republic of Germany, has trained as mediator and is well versed in the subject of mediation. In this exchange with editor Gernot Barth, she demonstrates her clear advocacy – and would like to see better education about the advantages of the procedure. A conversation about debt collection companies, the Certified Mediator Training Regulations, and the prospects of mediation.

Editor-in-chief Gernot Barth in conversation with Brigitte Zypries (SPD – Social Democratic Party of Germany)

*Gernot Barth: Ms. Zypries, you are active as an ombudswoman for the Federal Association of German Debt Collection Companies (BDIU).*

Brigitte Zypries: Yes, that is correct. Not just for the association, but also for other organisations – and I work for them honorarily.

*In a conversation I was having with friends some time ago, we had an idea: that it would be of great advantage if the employees of debt collection companies went through training in mediation.*

There are debt collection companies that deal with debtors and creditors in a mediative way. And then there are others – especially larger companies – that process everything more IT-wise. Each year, there are about 20 million new cases – it should be difficult to mediate all of them. And to be honest, I also don't think that this necessary. Rather, in most cases, it is, first of all, just about telling them: “Hey, you forgot to pay your bills.”

*For me, it was more about a mediative language and a mediative interaction. I think our society does not necessarily need more mediations – but a mediative cooperation.*

I feel the same way.

---

**“Our system is focused on meeting people's needs.”**

---

*I often think that the modern society in Germany is lacking in empathy. Ever since the industrialisation, we have been calculating and drawing up balance sheets a lot, and the question keeps on being: “How can we achieve the greatest financial success?” It seems to me that we have forgotten a bit, how to consider the needs of others.*

I think that our society with its social market economy still works better than in numerous other countries in which the social aspect is not so prominent.

For example, we are equipped with a functioning health system here, even in poorer areas nobody has to go without teeth as everyone gets provided with dentures. For this reason, I believe that our system is, indeed, geared towards meeting the needs of all people as much as possible. What has certainly taken a turn towards suffering – and that also has to do with the Internet – is how we interact with each other. There is a lack of empathy and serenity.

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**“I went through a mediation training myself, because I had the feeling that it was good for me.”**

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*You're right: we need more understanding for one another. In Germany, about 100,000 mediators have been trained during the past 30 years. Often, we hear the hypothesis that there are too many. But I think, first and foremost, it is not about how many mediators there are – but how great their skill is to communicate in a mediative way. And this is why many people decide to take part in mediation training.*

At least for me, it was exactly as you just described it (laughs). I trained in mediation – not because I wanted to work as a mediator – but simply because I felt that it would do me good. I then also took on a few cases, but discontinued pursuing the matter further.

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**“It is not always just about offering solutions – sometimes, it is simply about listening.”**

---

*You were Federal Minister of Justice from 2002 to 2009. Is this connected to your mediation training?*

# Crisis prevention – Tips to prepare for abrupt change

More and more companies are facing abrupt changes. The perfect crisis management can prevent problems from getting out of hand in the first place, but this requires appropriate preparation and, above all, training for communicators and employees in customer contact.

By Wolfgang Immerschitt

Communication management in extraordinary situations is a much-discussed, documented, and described topic. Twenty-seven million search engine entries are evidence of this. Nevertheless, the knowledge gained years ago still applies today – that it does not prevent many organisations from inadequately preparing for a crisis (Mast 2008: 98). The best form of crisis management is actually not to let it become acute in the first place. “Obviously, the most prepared are those who are ready for everything. Seen in this light, it is not morbid but wise to occasionally also consider loss and failure.” (Märting 2010: 27).

“No matter how the change comes about, it poses a particular challenge for corporate communication, as it scares many people in the company and the environment. What is established might lose its validity, new challenges become apparent, orientation is difficult, and it is not uncommon, for companies and stakeholders alike, to take impulsive action. It is no longer clear which way leads to the goal, so you run all the faster.” (Mast 2006: 405).

## Basic criteria of prevention

The four keys for successful crisis prevention are:

**Observe:** If you do not know what is going on in a company you cannot react timely. The method for a systematic environment analysis is Issue Management.

**Analyse:** The observed exogenous and endogenous phenomena must be examined for their impacts. The correct conclusions must be drawn from this, and the procedures and processes must be defined. The instrument for this is the crisis manual.

**Train:** Every crisis is unique. But there are always recurring patterns that one can adjust to with practice.

**Inform:** Ongoing internal and external communication is the best preparation for extraordinary events. It helps to establish relationship networks, build trust and standardise procedures.

## Subject areas that can trigger crises

When managers and those in charge of communication start looking into the topic of ‘crisis’, the first things they have in mind tends to be cases of fire, big falling outs, or people getting harmed while at work. As bad as these cases may be, they are usually the easiest to solve.

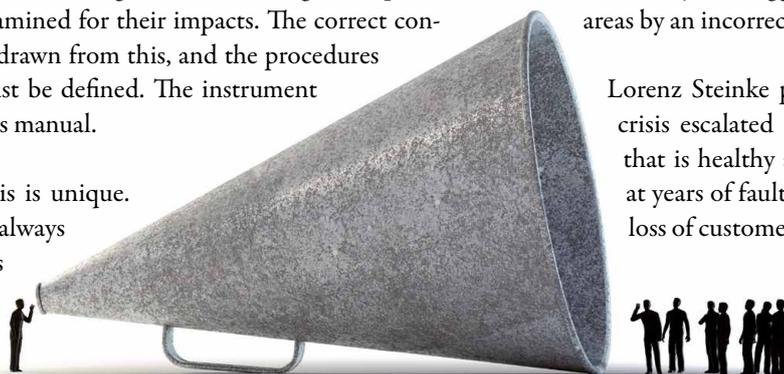
After all, in such cases, the companies benefit from one particular circumstance: they receive help solving the problem from first responders organisations such as the police, the fire department as well as emergency and rescue centers.

Other sources of crises are much more difficult to handle. On the one hand, they are more complex and their causes and effects are more difficult to assess. On the other hand, crises can be triggered by laws and regulations, business problems, customers or suppliers, production processes, red tape, employees as well as management, and last but not least, environmental issues, to name just a few.

## Early detection and crisis prevention

From an empirical point of view, most crises are homemade; that is, they are triggered in a broad array of different areas by an incorrect corporate policy.

Lorenz Steinke puts it this way: “It is rare that a crisis escalated from the outside hits a company that is healthy at its core. Mostly, we are looking at years of faultily established processes, a gradual loss of customers, or outdated management structures that require an adaptation of the business model and strategy to meet current market requirements or changed



# What holds a society together

A conflict theory perspective by Prof. Dr. Gernot Barth

The dominance of cooperative behaviour over competitive behaviour is the basic building block for the cohesion of a modern society. In Germany, this relationship seems to be reversed, thus calling social cohesion into question. Social relations are seeing rising escalations. An essential basis for this process is the reversal of the population pyramid. This also results in the increasing shaping of society from the perspective of generations that have the future almost behind them. This calls for a qualitative new dialogue between generations.

## By Gernot Barth

The need for mediative negotiation in Germany seems to be greater than ever. The societal climate is tense, and the number of protest movements is increasing. Digitisation is driving globalisation and making everyone's life faster and more complex. The number of interfaces is growing, and with it the need for coordination and negotiation.

However, negotiations have become increasingly demanding due to a changed, ego-related self-image of the negotiating partners. The high degree of individualisation in Germany strengthens the desire for autonomy and self-determination and prevents people from treating their counterparts with empathy at times. Yet, empathy and the willingness to really understand the other form the basis for conflict resolution. Where does our society stand in this escalating process and how could it be de-escalated?

### A quick glance at the stages of conflict escalation

Friedrich Glasl's model of conflict escalation groups the escalation stages into three levels, which each contain three interme-

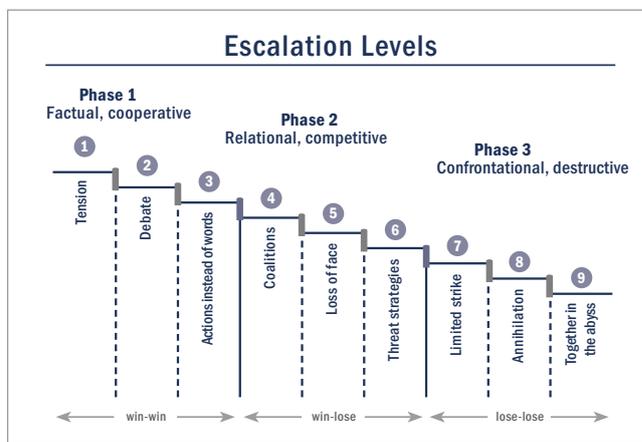


Fig. 1: Stages of conflict escalation (Source: endless creative/ Holm Klix according to Glasl 1994: 362 ff.).

diate stages. In the first main phase, the conflicting parties are still open and strive to achieve the best result for themselves and for the other (win-win). An initial disagreement turns into a contentious, mostly factual dispute in which the pressure slowly increases. In the second main phase, the conflict

is conducted on the personal and relationship level, coalitions are formed, the counterpart is attacked in his identity through allegations, and finally threatened. In this phase of the conflict, there can only be one winner (win-lose). In the third and last stage of escalation, the aim is to 'destroy', to 'annihilate' the other party. One's own collateral damage is accepted if the damage to the other is greater. In this highly escalated state, both parties lose equally (lose-lose).



Image Source: fotolia.com/ fotomek

# Is it possible to train optimism?

A clear ‘yes’ to a simple method that will sustainably change your attitude

A positive attitude is the key to a healthy and fulfilled life. Those who have it usually also have more success at work and at all other levels of interaction. From the outside, these people seem to succeed at everything, while others seem to find everything difficult. But, thanks to some techniques, everyone can learn to develop a positive outlook on life .

By Christian Zink

In a 2019 published study of approximately 70,000 test persons, the ‘Boston University School of Medicine’ proved once again that people with an optimistic outlook on life live on average 15 % longer than pessimists. Although they worry less about their health than pessimists, optimists are less prone to depression or cardiovascular disease. Other studies show that optimists have more success at work and higher job and life satisfaction. Consequently, it pays to go through life with an optimistic attitude. But this does not mean ‘whitewashing’ or ignoring adversity: it is about developing a realistic optimism.

This means focusing on the positive in life or in a situation without ignoring or blocking out the negative. The good news from the studies is that a basic optimistic attitude is not just genetically determined, but that it can also be learned. Through regular training, the positive attitude will grow and become bigger, just like a muscle.

In my practical experience, the following strategy for this purpose has proven successful:

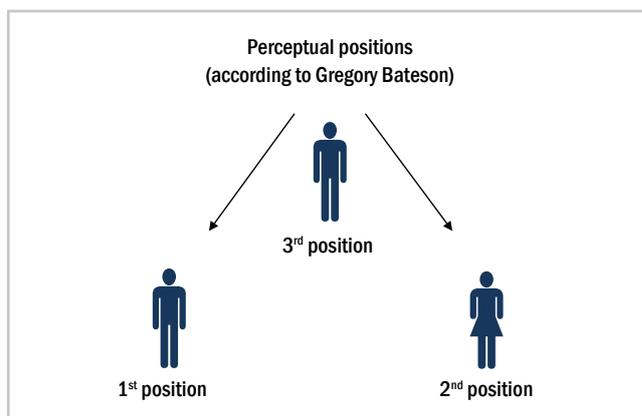


Fig. 1: Perceptual positions (Source: Christian Zink).

## Positive start to the day

The mood with which you start your day in the morning often shapes the entire course of the day: and just as you get up on the ‘wrong foot’ and this can ‘colour’ the further basic mood for the day unfavourably, you can consciously set positive accents right at the start of the day and tune into the day optimistically. Ask yourself first thing in the morning: What can I look forward to today? What positive things can happen today? What opportunities are there today? What do I want to achieve today? Where can I make a positive contribution or create added value (for myself and others) today?

My clients use the perceptual positions according to Gregory Bateson (see Figure 1). They can effortlessly move into the ‘1st position’ in order to associate with positive situations via the five senses: seeing, hearing, smelling, tasting and feeling. Experience shows: this is the only way to subliminally achieve effective mood improvement.

## Focus on solutions

We often find it difficult to stay optimistic when the undesirable, unexpected or negative happens. It is easy to lapse into complaining, grumbling, and catastrophising, ranting about how bad and unfair everything is and how the situation could get even worse. However, this keeps your focus on the problem



# The advisory attorney in mediation – a source of disruption or catalyst?

Out-of-court dispute resolution in the context of mediation is characterised by the action of an independent and neutral mediator. Otherwise, an intermediation between conflicting parties would not be possible. Sometimes, however, it is advisable to call in a supporting lawyer or mediation attorney. The following article shows which specific fields of work opens up for advisory lawyers and examines the question of why they must also and especially in mediation have solid fundamental knowledge and a certain soft spot for the task they have taken on.

By Susanne Offermann-Burckart

This article is the second part of a more comprehensive publication, published in *Die Mediation*, Quarter IV / 2020.

## Specific scope of work of the advisory attorney

### ... before mediation

The attendant attorney's tasks depend on, among other things, the point in time at which they become involved in the mediation process. An attorney who has been there from the start, i. e. who has led the client to mediation, presumably has the task – after the conflict's legal assessment and its suitability for the mediation process – to select a suitable mediator, or to make proposals or – and this is a more difficult task – to evaluate proposals made by the other side.

The advisory attorney must try to proceed in a purely professional manner and put personal likes and dislikes aside. They should not let themselves be guided by their own competitive thinking or by the fear that a lawyer colleague would cut such

a good figure as a mediator that the client would hire them the next time. The crucial factors are whether the considered person has mediation experience (preferably trained or even better certified) and works on acceptable terms for the client. The attendant attorney may have to make their own inquiries about the shortlisted persons' qualifications and reputation. A mediation attorney who is part of the "mediation scene" will know many of the mediators in question personally anyway.

Furthermore, the attendant attorney participates actively in the conclusion of the mediation agreement.

Suppose all of the clients are represented by a lawyer. In that case, it can also make sense for the advisory attorneys to present the conflict to the mediator in writing, along with a legal assessment. This makes it easier for the mediator to understand and saves time in the actual mediation. Still, it should not turn into an extensively written preliminary procedure that would thwart the purpose of the mediation.

### ... during mediation

It is a matter of taste whether the advisory attorneys issue an opening statement for their clients at the beginning of the mediation. The decision depends also on the character of the participants and of the complexity of the dispute. If all participants are not represented by a lawyer, legal "opening statements" should be avoided if possible, so as not to question the "balance of forces" from the outset. In all of this, it is of key importance which tone the opening statements are presented in. The attendant attorney must exercise the greatest possible restraint to not slam the door on an agreement before it has been properly opened.



# The educational function of restorative mediation in white-collar crimes

In an insightful contrast with traditional justice systems, this article describes how restorative mediation has been found to bring attention, apart from the conflict, also to the victim, who typically remains in the background. Especially in case of white-collar crimes, which cause economic and social damages, restorative mediation can help with reparation and reconciliation of the affected parties.

By Luca Dal Pubel and Andrea Marighetto

Access to justice is internationally recognized as a fundamental element of the rule of law. It enables individuals to seek and obtain remedy when their rights are violated, through formal and informal mechanisms of justice. Thus, in the absence of mechanisms to effectively claim any right, the right to access justice is violated. Therefore, the right to justice must be considered as one of the most fundamental of human rights in any modern, postmodern, post-industrial, and egalitarian legal system which aims to effectively guarantee – and not just proclaim – the protection of the rights of all.

In celebrating access to justice, Mauro Cappelletti and Bryant Garth (1978) point out that the effectiveness of substantive law is guaranteed by the formality of a process that allows its applicability. They emphasize that

*the Courts are not the only way to resolve conflicts to be considered and that any procedural regulation, including the creation or encouragement of alternatives to the formal judicial system, has an important effect on the way the substantive law operates – how often it is enforced, for the benefit of whom and with what social impact.*

Alternative Dispute Resolution (ADR) represents an important element of access to justice by providing citizens with quick, efficient, and accessible alternative instruments to the ordinary justice system.

Among these, mediation offers an efficient and cost-effective method of resolving both commercial and interpersonal disputes and has the power to transform and improve relations between the parties.

Mediation is an alternative form of conflict resolution “where a neutral and impartial third party, the mediator, facilitates dialogue in a structured multi-stage process to help parties reach a conclusive and mutually satisfactory agreement” in a logic of self-composition of interests, and to the detriment of the logic of imposition of the sacrifice of the interest of others (Marighetto, Sgubini and Prieditis, 2004). Through mediation, solutions to conflicts are sought and quarrels are composed. This occurs through a mechanism of direct comparison which consists of placing the disputants one in front of the other. Mediation is primarily a “conciliatory” tool, in addition to performing an important educational and training function. It promotes dialogue between people especially in situations in which differences between one’s own culture and another culture lead to misunderstanding.

Among the different types of mediation, victim-offender mediation in criminal cases may be the most complex and challenging for a mediator to mediate. Furthermore, within the so-called *Restorative Justice* movement, whose principles and practices are increasingly spreading at the European and international level, *restorative mediation* appears as the culmination of an individual and social path, which takes place regardless of the outcome of the criminal trial (Pali and Aertsen, 2017).

The three most important concepts of restorative justice, according to the Center for Justice and Reconciliation (see Sources), are (i) repair (crimes generate harm and justice needs to repair that harm); (ii) encounter (the best way to repair the harm is by having the people most affected by the crime doing it together); (iii) transformation (the process of repairing can generate deep changes in people, communities, and ultimately society). It is a different way of thinking about crime and how



# When life gives you lemons, make lemonade!

## Five key success factors for mastering the crisis

Change is always challenging for companies – especially if imposed on the company by external circumstances and if occurring suddenly and unexpectedly. But change also always presents new opportunities. In particular, it is the capacity for mobilising their forces of innovation in the face of change that distinguishes successful companies.

By Stephan Jansen

The Covid-19 pandemic has almost overnight, initiated major changes worldwide. Many of which are irreversible and will entail further transformation. Companies that manage to adapt with creativity and courage will not only maintain but also strengthen their market position.

Especially small- and medium-sized companies will find it difficult to implement innovation in the current climate. However, it certainly is not impossible as demonstrated by an example at the end of this article. However, come rain or shine, the following five evergreen principles for success still apply:

### 1. Strong customer focus

Almost all companies currently face challenges that are difficult to master. But even if you are busy cutting costs and optimising your cash flow: do not forget about your customers and suppliers! Interaction with those groups that make up your company's economic

success is always important. This holds also true in times of crisis. Even if you are currently unable to provide the services which your clients are accustomed to, it is important to seek out a conversation about it with the affected parties. You never know what new insights and opportunities might emerge from these interactions!

### 2. Empowered employees

Being productive despite contact restrictions is presently not always possible. But home office solutions work very well in many areas and other digital ways of working have proven useful. The current situation presents an opportunity for decision-makers to experiment with new work methods and learn from the experience. Especially now, it is important to be able to delegate responsibility to employees. Decision-makers cannot manage all of the out-of-the-blue occurring changes in a day-to-day business all by themselves, on short notice and with efficiency. Instead, managers should focus on steering the business through the crisis and delegate less important decisions.

### 3. High energy

The greatest danger in motivating employees lies in the uncertainty brought on by the crisis. What is needed now are quick wins. Sub-tasks and short-term projects can help align the team and trigger pride when a positive result is achieved. Celebrate and praise even small successes, especially now.



## Marketing for consultants

# Digital assessment expertise is indispensable

In a crisis, the omissions of the past become apparent – according to a consultancy saying. This can also be applied to the consultants themselves. In the current extraordinary times, the consultants' deficiencies in expertise in the digital and marketing sector are driven to the surface. Their shortfalls often lead to aimless, ineffective actions – not taking into account the needs aligned with their own profile – and to misplaced trust in online marketers.

By Bernhard Kuntz

Most training and consultancy providers do not have a marketing and sales strategy. Therefore, they waste a lot of time and money on uncoordinated marketing activities – if they pursue active marketing at all. This has become particularly evident in the current crisis. At present, one often gets the impression that all consultants are running in one direction like a panic-stricken herd of sheep.

As an example, ever since the beginning of the coronavirus-related lockdown, I have been flooded with free of charge webinar and coaching offers by consultants via email and social media channels on a daily basis. Consultants who, almost without exception, I do not know and whose websites give the impression that the consultant was catapulted into the digital era overnight.

And what about the content of the webinars and online coaching sessions? Almost all the offers revolve around the three topics of “remote office”, “leading virtual teams” and “crisis as an opportunity”. This testifies neither to competence in market knowledge nor to a well-thought-out strategy.

## Consultants are not fit for the digital age

Most training and consultancy providers do not pursue a marketing or sales strategy – I already stated that about thirty years ago. Has anything changed since then? Yes! But not for the better. On the contrary, it has gotten worse. After all, what were the options for training and consultancy companies to initiate contacts with new clients and win (initial) orders from them thirty years ago? They could write advertising letters, place PR articles and advertisements in magazines, call potential clients and occasionally invite them to an event. That was the extent of available marketing tools. Consequently, the marketing and sales strategies that most trainers and consultants pursued twenty-five or thirty years ago were simple – if they used any at all.

However, now, the situation that has changed. As a result of the triumphant boom of the internet, trade journals, for example, have lost their function as the most important source of information. Consequently, the impact of adverts and articles placed in those journals suffered a steep decline. This function has now been taken over by the internet, Google etc. And what

happened to sending sales letters to potential customers and contacting them unsolicited by telephone? Legislation has largely put a stop to this. As a result, the marketing and sales strategies of today's consultants have to be structured differently. Compared to thirty years ago, the development of those strategies requires not only greater market knowledge but also greater marketing, sales and digital know-how.



## Case Study

# Long-term mediation effectiveness of hierarchical workplace conflicts

This study examined the long-term mediation effectiveness of hierarchical workplace conflicts by analyzing supervisors' and subordinates' perceptions of short-term as well as long-term mediation effectiveness. Data was collected from real workplace mediation cases in the Netherlands. Our results show that short-term mediation outcomes relate positively to the ones in the long-term. Further data show that after one year, supervisors perceive greater compliance with the agreement than subordinates. We found no significant difference in perceptions of long-term effectiveness between exit and non-exit mediations.

By Meriem Kalter and Katalien Bollen

## Long-term mediation effectiveness of hierarchical workplace conflicts

Both mediation research and practice have indicated that workplace mediation is an effective tool to resolve conflicts constructively. Next to reasonable settlement rates fluctuating between 60% and 80%, research suggests that parties involved in mediation feel (highly) satisfied with the mediation process, its outcomes, as well as the mediator, often resulting in a high level of confidence in the agreement (Bollen et al. 2012; 2014). These studies have typically measured effectiveness shortly after the mediation ended. However, long-term effectiveness may be at least as important since parties only fully appreciate and evaluate the (practical) consequences of what they have agreed upon in mediation after a considerable amount of time. Parties may feel relieved when finishing the mediation but may feel differently when the agreement turns out to be less advanta-

geous than they imagined or if implementation issues arise as such short-term mediation effectiveness may not necessarily predict long-term mediation effectiveness.

Until now, research on the long-term effects of workplace mediation has been very limited. Only one qualitative study assessing the effects of mediation after 18 months observed increased empowerment and transformations in the relationship, in the case of supervisors and subordinates (Anderson & Bingham, 1997). As an outlier, this reflects the deficit of longitudinal research on workplace mediation. Mediation perceptions may alter over time. Studies in the context of community, family, and court-connected mediation show a positive relation between short-term and long-term outcomes (Kaiser & Gabler, 2014). In our study, we examine the sustainability of mediation outcomes. Or, in other words, we study the extent to which short-term perceptions of mediation effectiveness predict perceptions in the longer term.

## Long-term effectiveness of mediation in hierarchical conflicts

Many workplace conflicts are hierarchical, arising between supervisor and subordinate. Research shows that supervisors and subordinates differ in the way they experience and perceive conflict – compared to supervisors, subordinates perceive conflicts as more personal, feel less supported or understood, and it takes more to satisfy subordinates involved in conflict than supervisors. This results in decreased well-being, especially for subordinates. It is clear that hierarchy and power profoundly impact disputants' feelings, cognitions, and behaviors. Consequently, supervisors and subordinates will enter the mediation with different needs and wishes, which in turn will impact the mediation.



# Love in times of Covid-19

Since the beginning of March 2020, the coronavirus pandemic has become the predominant news item. Readers, listeners and viewers have been enduring and processing an inundating amount of content. But what about love or even sexuality during the Covid-19 pandemic? Surely, one might prefer to drop that subject! However, here is the catch – the pandemic affects all areas of our social and personal life – right down to the most intimate. Love is a part of life. Always. Even in – all the more so, actually – these extraordinary times.

By Kurt Starke

The newly-in-love are hit hardest by the pandemic. In particular, those who are not yet certain whether their affections are returned. “Do they love me, do they love me not?” You cannot just send a quick message on WhatsApp to find out. Or maybe you could? Receiving a reply already is a good sign. And even better so, should the answer not be blatantly negative. Many a game of love has been played via mail or messenger. A bit peculiar, nevertheless a cultural phenomenon full of creative moments and beautiful innuendos.

## Young love

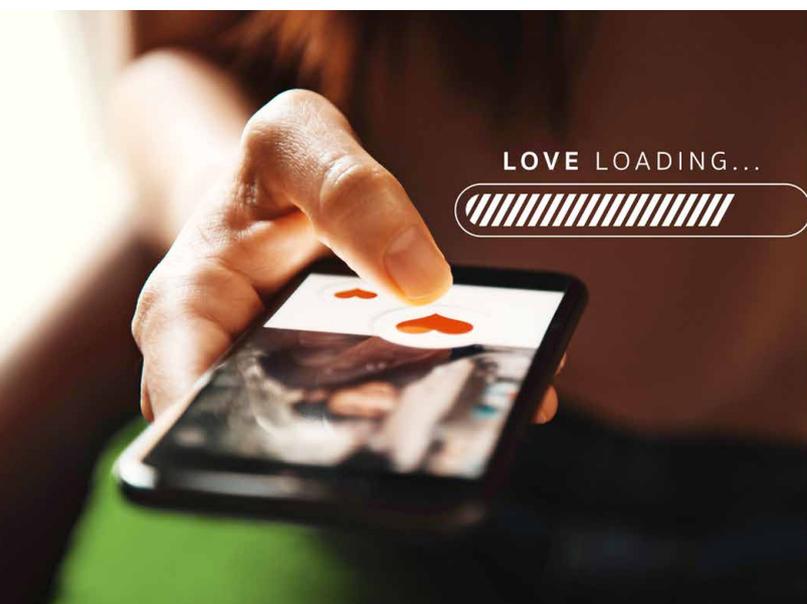
Should the “newly-in-love” phase have turned into love by mutual induction, and should a new relationship have formed from this love, then a separation enforced by Covid-19 would be difficult, very difficult to bear. What has just been won threatens to disappear. The beloved other has already become a part of one’s own self; the ‘you and I’ is turning into a ‘we’ – and suddenly the big stop sign – dating is no longer possible! Phone calls, texts, Skype might help. The new media offer the

most diverse possibilities. Nevertheless, they remain virtual, artificial. The dear face on the small or large screen often becomes distorted and threatens to become a flat plastic film, just like words can become tense and superficial. What goes missing is the ease of an alive togetherness, the free and relaxed conversations and also silence. The imagined and pseudo intimacy cannot suffice; it is lacking the physical touch. There is no substitute for seeing each other offline, having real contact, sharing touch, hugs, kisses and caresses.

## Proximity and distance

Love needs proximity, and not only young love, but also long-term love, indeed all kind of love. “And love at a distance, in short, displeases me entirely.” Wilhelm Busch rhymed. Or as Ernesto Cardenal poetically put it: “Love means being together.” On the other hand, without any distance, light breezes can quickly turn into thunderstorms. The Colombian Nobel Prize winner for literature, Gabriel García Márquez, was of the opinion “that it is easier to go through the great marital catastrophes than through the tiny daily miseries.” “Unlike other social relationships, love revolves around experiencing the shades of presence and absence [of the beloved].” Love is “first and foremost a need for proximity of interaction, and it wants to be realised in the immediate presence of the lovers for each other” (Tyrell, 1987, p. 586).

Once established as a fundamental feeling, love solidifies or dissipates through a day-to-day living together. Love in long-term partnerships differs from love in short, wild adventures. Having lived together for a long time, lovers know each other well. They trust each other and are familiar with each other’s strength and weaknesses. The feeling can be deep and indestructible, the team spirit immune to danger, especially as a result of their shared experiences and shocks in times of war and crisis. The lovers share a fundamental trust in each other that cannot be shaken by anything. They have shared joys and sorrows, they belong together, and one can no longer live without the other.



## Literary conflict analysis

**Emile Zola: *Germinal***

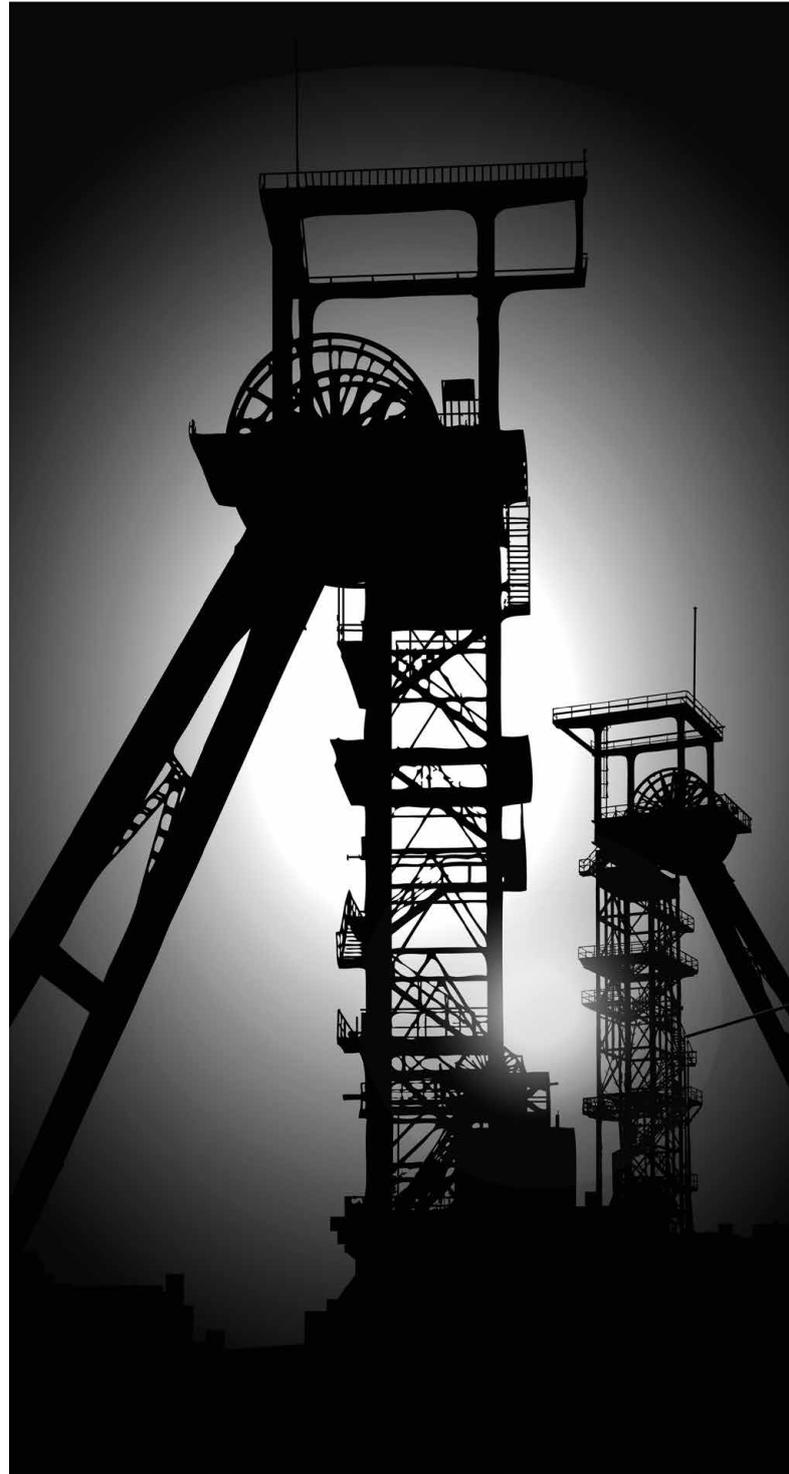
By Klaus Harnack

‘Man against nature’, ‘man against society’, ‘man versus man’, ‘man versus himself’ are the themes that characterise conflicts in literature. In this new column, Literary conflict analysis, we introduce you to conflicts from a broad literary spectrum and then analyse them briefly through the ‘mediative magnifying glass’. We can then use it as a source of inspiration for our practice, as an extension of one’s sample pool, and even to relativise everyday mediative work, making it practical. We pay special attention to the recurring conflict patterns described in literature and found in everyday life.

Emile Zola’s 1885 novel ‘*Germinal*’ marks the beginning of this series. This masterpiece of realism depicts the revolutionary events of the miners’ strike in Anzin, France around 1884. The subterranean germination of the revolutionary idea and its execution form the center of the novel. They are also reflected in the title in two senses: firstly, by the name ‘*Germinal*’ (French ‘le germe’ = the germ), which refers to the first Spring month of the French revolutionary calendar, and secondly, by the revolutionary movement that was burgeoning in the mine shaft.

The focus of the plot is on the hard-working northern French coal workers and their living conditions in the second third of the 19th century. The protagonist of the story, the machinist Étienne Lantier, enters the mining pit ‘Le Voreux’ as a newcomer to the world of coal workers. After a wage cut announced by the mining company, he convinces his pitmen to go on strike and fight for better working conditions and higher pay. He becomes the leader of the strike and organises an aid fund. But due to lack of aid from the International and an escalating incident with the military, the strike finally gets crushed. Shortly after work in the mine resumes, an act of sabotage leads to water ingress in the shaft, due to which many people die. Étienne, as one of the survivors, leaves the coal mines of Montsou at the end of the novel and moves to Paris to support the revolution from there.

The focus of the conflict analysis is the section that describes negotiations between the representatives of the mining company and the spokesmen of the strikers. The prototypical course of this negotiation is symbolic of many conflicts between groups and so-called proxy talks.



# What is mediation?

Over the past few decades – and the trend is increasing – there has been talk of win-win situations. Hereby referred to are solutions to conflict that make all parties to the dispute feel like winners, or to put it a little less euphemistically: feel that they have won something. What are such outcomes of conflicts in which the parties believe they did not lose? First of all, the underlying understanding of conflict present in this scenario ought to be defined.

By Gernot Barth

## Experience of incoherence

A conflict is based on an experience of incoherence. Different perceptions of the same state of affairs cannot be integrated into a mutual picture of reality. Expectations and demands of acting, thinking, wanting, or feeling are rejected by another person. Thus, at least one of the involved parties feels restricted in their thoughts, feelings, desires, or actions by the other side. A conflict resolution aims to eliminate this ‘feeling under constraint’.

Over the past 30 years, mediation has become an established and recognised procedure in Germany as well as internationally alongside existing court, arbitration, or conciliation procedures. We can speak of an establishment of a mediation procedure even though not every potential economic conflict party is aware of this option yet.

The reason is that a lot has changed in the landscape of disputes: a law to promote mediation has come into force in 2012. It provides a legal framework for mediative conflict resolution and was the first of its kind in Germany. There are already thousands of practicing mediators and judge mediators at courts, a mediation guideline published by the European Union (on cross-border mediation in commercial matters), and many projects – especially those funded by the European Union – to establish out-of-court dispute resolutions.

In my opinion, we are dealing with the establishment of a conflict resolution culture that takes into account the fact that, in modern society, we are increasingly dealing with quasi-autonomous subjects/systems. These can be people, groups, companies, and organisations that have to constantly renegotiate how they deal with each other.

The growing number of negotiation processes hold the potential for an increase in conflicts. These can be resolved – should they escalate – through the decision of others, or they could be incorporated into a process in which the conflicted parties engage actively and responsibly in work towards finding a solution: mediation as conciliation procedure.

Mediation, as we know it today, is based on the one hand on the results of conflict research in current times and, on the other hand, on the negotiation concept as developed at Harvard University in the course of the negotiations between Israel and Egypt during the Sinai conflict. The Harvard concept focuses the conflict parties on their needs and interests, on their concerns in the conflict resolution process. There are four basic principles, which I will also apply here to the process of mediation:

1. Separation of person and matter: the art of leading proceedings lies in not allowing the troubled relationship between the parties in conflict to dominate the content-based dispute. Optionally, in difficult cases, the two areas can be dealt with separately.
2. The focus is not placed on the other side’s demands but on working out one’s own interests in the discussion.
3. The aim is to develop options for solutions that do justice to one’s own concerns and promise mutual benefit or minimise loss.
4. Criteria are developed that enable an evaluation of the negotiation outcome with regards to what extent it meets one’s own requirements.

## Fields of mediation

As of the late 1980s, mediation practice has developed into various distinctive fields of mediation and has become associated with a particular strength in conflict resolution. It all started with family mediation, which remains the most established mediation practice to date. Compared to other mediation fields, the depth of the conflicts and their emotionality is probably most considerable in family mediation. Included subject matters are: generational disputes, separation and divorce mediation, child contact or adjustment conflicts or disputes between couples. The regulation of disputes in family businesses provides an intersection to business mediation. Regulations of both systems interlink. Business mediation is differentiated in:

1. on the one hand, conflicts within the company or the organisation: between employees, between employees and executives, between executives, on the supervisory board, in teams, between management and work councils;

# Sustainability – How do we decide on a sustainable basis?

By Adrian Schweizer

A few years back, I was travelling with my daughter Sofia in Australia. We went hiking in the Blue Mountains, a world heritage site west of Sydney, and met a Spanish / German couple. He was a forestry engineer and she was an environmental scientist. What were they doing there? Along with a group of international specialists she had been invited by the government to consult in a fairly large-scale project what one could do to prevent the fishing industry from taking extravagant amounts of fish from the seas around Australia. He worked for the wood-working industry and was involved in a similar project.

Sustainable thought and action appear to be rather in demand here in the southern hemisphere! But not only here! Sofia was studying environmental sciences at the ETH in Zurich and, once a week, she received an offer to report to one of the major consulting firms, such as McKinsey, Boston Consulting Group or Roland Berger. The overall drift: “We need consultants who have not only learned to develop effective and efficient strategies, but also to examine their sustainability.” Why? Because environmental issues have now become so important that investors are no longer able to ignore them! If a company willfully cares not one jot for the environment and contaminates the air, soil and water at will or – what nowadays almost appears to be even worse – does not care about sustainable products, it loses favour among the general public: its goods are no longer sold, its share price falls and its investors see their dollars disappearing down the Volga. It is not only American automobile manufacturers which can tell you a thing or two about that! But what do we understand by sustainability and, more particularly, how can we check whether or not our daily decisions as managers and leaders are sustainable? But first, whence does the concept of sustainability originate in the first place?

The term sustainability was “invented” at the famous Rio Conference in 1992: The major Swiss industrialist Stephan Schmidheiny had invited the international business leaders to Rio to attend a world economic forum in order to discuss the future of the global economy. The conference was, as is evident today, a huge success. They launched ideas whose implications are only now becoming evident.

What precisely is to be understood by sustainability and particularly how it can be implemented in day-to-day decisions

long defied my comprehension. It all seemed too philosophical to me until Ken Wilber’s “All Quadrants, All Levels” (AQAL) model came into my possession which, once I had fathomed its complexity, appeared extremely applicable to me, not least for the day-to-day decisions which we need to make. I would therefore like to outline this model here.

But who is Ken Wilber? He is an American philosopher who has been working on a cosmology for years, in other words, on a sort of “universal field theory” for philosophy. His most famous books are “Up from Eden” and “Grace and Grit” and his opus magnum is entitled “Sex, Ecology and Spirituality”.

In his most recent work he introduces his “AQAL Model” which is as follows:

		Internal		External		
Individual	Truthfulness	Truth				
	Psychology, spirituality	Natural science				
	Freud, Buddha, Jung	Newton, Einstein, Locke				
	Subjective	Objective				
Collective	Intentional	1st position	3rd position	Behavioural		
	Cultural	2nd position	4th position	Social		
	Inter-subjective		Inter-objective			
	Weber, Kuhn, Kant		Wiener, Marx, Foucault			
	Philosophy, religion, law		System theory			
	Justice		Functional fit			

Fig. 1: AQAL Model (Source: Author, adapted from Ken Wilber’s “All Quadrants, All Levels”)

What do the individual quadrants stand for? Vertically, Wilber distinguishes between the individual (individual) and the group (collective); horizontally, he distinguishes between observation from the outside and observation from the inside. The positions mean: 1st position: feeling, 2nd position: sympathizing, 3rd position: thinking, 4th position: reconsidering.

The first quadrant thus depicts the inner life of an individual (“loves his mother!”), whereas the third quadrant depicts the inner life of a group (“everyone raves about Bayern Munich!”).

# InMEDIATE – International mediators trained in Europe

A new EU Erasmus+ programme envisioning a Pan-European vocational profile in mediation offers new opportunities to international mediators. During the 30-month InMEDIATE project, seven organisations from Germany, Italy and Poland are coming together to develop to establish EU-wide standards for mediation expertise. Complementary trainings, open-source information and free of charge accessible learning content will be published online to improve local, regional, national and cross-border mediation services.

By Jonathan Barth & Juhi Priya Yati

Civil mediation in international disputes is yet to see the kind of upswing it deserves, despite a number of previous EU initiatives. One of the main challenges is the lack of uniformity in mediation training standards and selection procedures. Various studies conducted in the field highlight that even expert mediators need specialised training to face the challenge of mediating international civil disputes, where conflict dynamics and intercultural issues are at stake. The heterogeneous national regulatory frameworks across the EU pose significant hurdles for mediators to conduct cross-border mediation.

The development of EU standards for mediation skills and training would contribute to improve the quality and foster the uptake of regional, national and cross-border mediation services.

## Developing EU standards for mediation training

Based on the key aspects mentioned above, InMEDIATE intends to create a European vocational profile of the International Mediator by establishing EU-wide standards for mediation expertise.

Led by Steinbeis Consulting Centre Business Mediation, the 30-month-project has been developed by a consortium of multinational organisations and is fully funded by the Erasmus+ programme of the European Commission.

The project partners aim to achieve their goal by designing, implementing and delivering an outcomes-oriented training curriculum for mediation practitioners.

The kick-off meetings of the project were held online, in compliance with the current Covid-19 measures. Representatives of the project consortium partners mapped out the subsequent stages of the task. Having already finished the benchmarking of mediation standards in different European countries, the

InMEDIATE research findings will help to draw comparisons across the continent, filtering out the best practices and most practicable specifications that could be applied in all EU countries to promote cross-border mediation practice and more comprehensive mediation standards.

The trainings will be provided free of charge to 36 mediation practitioners in several cohorts. The participation of interested mediators is petitioned through a variety of media.

The assessment and validation of the learning outcomes gained by the trainees on completion of the course will jointly be developed by all three universities cooperating in the project. Quality control management processes will be carried out to ensure and guarantee quality standards of the validation process.

The Steinbeis Consulting Centre Business Mediation and project partners intend to establish a comprehensive set of certified qualifications that will enable trainees to act as international mediators in cross-border civil disputes.



## Singapore convention on mediation

# A fresh breeze on the international mediation stage

On 7 August 2019, 46 countries signed the Singapore Convention on Mediation. Since then, more states have joined the Convention, bringing the total number of signatories to over 50. Although Germany is not yet one of them, the development is also very noteworthy from a German perspective.

By Christian von Baumbach Christoph C. Paul

Mediation as a professional dispute resolution process has developed at an astounding rate over the past few decades. It has become more and more popular in many countries and is also increasingly employed in cross-border disputes. Despite its undeniable success, however, mediation still has much more potential as many mediators and other professionals hope for an increase in cases.

A major argument against mediation is that many agreements reached during mediation are not legally binding, which distinguishes it from arbitration or court proceedings. If you invest time, money, and energy to come to an agreement, it should be recognized by all pertinent bodies – not only by the parties themselves but also by courts and third parties. The recognition and enforceability are of utmost importance to the further development of mediation, both nationally and internationally.



tion is a significant milestone for the establishment of mediation in international commercial disputes. It regulates the mutual recognition of mediation agreements in cross-border commercial disputes, as well as the enforceability of agreements in all contracting states, without the need for further court proceedings.

The large number of signatories to the Convention clearly shows that mediation plays an increasingly important role in international trade relations. The Singapore Minister for Justice made this clear in his keynote address at the Entry into Force Celebration (<https://www.singaporeconvention.org/events/scm2020>): “Mediation is effective, efficient, and affordable. It allows parties to retain control, provides opportunities for innovative solutions, offers confidential non-adversarial ways for parties to settle disputes amicably.”

### The Singapore Convention on Mediation

This is where the Singapore Convention on Mediation (hereinafter referred to as the Singapore Convention or the Convention) enters the mediation stage. This convention was signed by 46 states on August 7, 2019. Since then, the number of signatory states has grown to 53. Though Germany is not yet one of them, the development is also quite remarkable from a German perspective.

On September 12, 2020, the Convention came into force and was duly celebrated in a virtual event. The Singapore Conven-

Mediation is particularly relevant and meaningful because of the Coronavirus disease. Businesses are facing an increasing level of instability and uncertainty. The expected increase in the number of parties who have difficulties complying with existing contractual obligations in the short term will result in a higher number of commercial disputes. Companies not wanting to face expensive and time-consuming litigation and legal proceedings increasingly turn to mediation, which provides a cost- and time-effective alternative in a confidential setting.

In the past, the potential of mediation was limited because most agreements were not enforceable. However, with the Sin-

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## Imprint

**Publisher:**

Prof. Dr. Gernot Barth  
Steinbeis Beratungszentren GmbH  
Steinbeis-Beratungszentrum Wirtschaftsmediation  
Hohe Straße 11 | 04107 Leipzig  
Phone: +49 341 26 37 62 93  
www.die-mediation.de

**Editorial Office:**

Cornelia Heinrich, Jonathan Barth, Juhi Priya Yati  
info@steinbeis-mediation.com  
Phone: +49 341 26 37 62 93

**ViSdP:**

Prof. Dr. Gernot Barth

**Translators:**

Juhi Priya Yati, Karoline Tonnessen, Michaela Sturm

**Ad management:**

Jonathan Barth  
jonathan.barth@die-mediation.de  
Phone: +49 341 225 13 18

**Publishing house / Typesetting:**

Steinbeis-Stiftung  
Steinbeis-Edition  
Adomostraße 8  
70599 Stuttgart  
www.steinbeis-edition.de



**Publication Frequency:**

Annually

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ISSN: 2750-2570 (Online)

The views expressed in the articles do not necessarily reflect those of the editors.

**Titel image source:**

stock.adobe.com / Vera Kuttelvaserova

**Full page advertisement:**

Pages 3, 4