**Managing Conflict and Fostering Democratic Dialogue**

***(In cooperation with Benjamin N. Cardozo School of Law, New York and Hamline University School of Law, Minnesota)***

**July 15-August 2, 2002**

***Course Directors:***

[**Csilla Kollonay Lehoczky**](http://web.ceu.hu/sun/old/SUN%202002/Descriptions/CVs/kollonay_lehocz.htm)**(Central European University)**

Professor of Law, Central European University, Legal Studies Departmen, Eötvös Loránd University, Faculty of Law. J.D., 1968, Eötvös Loránd University, Faculty of Law, Ph.D. in 1987, Hungarian Academy of Sciences. Teaching at Eötvös Loránd University since 1969. Serving as Associate Dean in Charge of International and Academic Affairs of ELTE Law School from 1991 through 1995. Chair of the Labour and Social Law Department 1992-1997 and 2000-2001. Teaching at the Central European University since 1992, Dean of Legal Studies 1997-2000 and 2001-2002. Fulbright Professor at Stanford Law School in 1990-1991. Besides university teaching she worked as practicing lawyer in 1988-1990 and later acted frequently as consultant and advisor for labour and governmental organs. From January 2001 she is a member of the European Committee of Social Rights supervising the implementation of the European Social Charter.

[**Lela P. Love**](http://web.ceu.hu/sun/old/SUN%202002/Descriptions/CVs/Porter_Love.htm)**(Benjamin N. Cardozo School of Law)**

Professor of Law, Benjamin N. Cardozo School of Law/Yeshiva University. J.D., 1979, Georgetown University; M.Ed., 1975, Virginia Commonwealth University; B.A., 1973, Harvard University. Professor Love has served as a mediator, arbitrator, and dispute resolution consultant in a variety of community, family, commercial and public disputes. She co-chairs the Committee on Qualifications and Training for Neutral’s for New York’s Unified Court System and has: assisted the State of Florida in implementing its mediator qualification requirements; developed a program for training mediator trainers and a teaching manual for the State of Michigan; and written a mediator’s manual for a mandatory mediation program for Louisiana’s Office of Workers’ Compensation. As a member of George Washington University’s clinical law faculty, Professor Love developed and directed the Small Business Clinic at the National Law Center. She is member of the Bar in New York, New Hampshire, and the District of Columbia.

**Program Faculty:**

[**Stephen J. Adler**](http://web.ceu.hu/sun/old/SUN%202001/Descriptions/CVs/2001adler.htm)**(National Labour Court of Israel, Hebrew University, Tel-Aviv University)**

Judge and President of the National Labour Court of Israel and Professor of Law at Hebrew University, Faculty of Law and Tel-Aviv University, Faculty of Law. J.D. 1965 - Columbia University Law School B.S. 1962 - I.L.R. - Cornell University School of Industrial and Labour Relations. Justice Adler has several decade long experience in theory and practice of dispute resolution. Before becoming a Justice of the National Labour Court in 1985 he was a judge and from 1981 Chief Judge of the Jerusalem Regional Labour Court. Parallel with the judicial profession he has been active as a teacher in higher lever legal education. He is a Professor of Law of the the Faculty of Law of Hebrew University and the Faculty of Law of the Tel-Aviv University since 1996. His teaching experience includes lecturing at Max Planck Institute, Munich and teaching as Adjunct Professors in Cardozo Law School in 1997 as well as being a faculty and member of the Board of Directors of the Israel Judges' Training Institute. He is the President of the Israeli Chapter of the International Society for Labour Law and Social Security.

[**James R. Coben**](http://web.ceu.hu/sun/old/SUN%202002/Descriptions/CVs/Coben.htm)**(Hamline University School of Law, Saint Paul, Minnesota)**

Associate Clinical Professor and Dispute Resolution Institute Fellow, Hamline University School of Law. J.D., 1986, Northeastern University School of Law. Professor Coben has pioneered a variety of innovative ADR clinical opportunities, including mediation advocacy on behalf of clients in family and employment cases. He is a member of the Minnesota Supreme Court ADR Review Board and is a Board Member and Ethics Columnist for the *Journal of Alternative Dispute Resolution in Employment*, published by CCH Incorporated. He currently is serving as co-chair of the Second Annual Legal Educator’s Colloquium co-sponsored by the Dispute Resolution Section of the American Bar Association and the Association of American Law Schools. He regularly mediates civil and family law disputes. Since 1994, Professor Coben has been a Senior Trainer for Hamline’s Dispute Resolution Institute designing and conducting a wide variety of ADR trainings for lawyers, judges, and other professionals.

[**Kinga Göncz**](http://web.ceu.hu/sun/old/SUN%202002/Descriptions/CVs/G%C3%B6ncz.htm)**(Eötvös Loránd University)**

**Executive Director of Partners Hungary Foundation since 1994; Assistant Professor, ELTE**Degree in Psychotherapy, 1986, Institute for Postgraduate Medical Training, Budapest; Degree in Psychiatry, 1978, Institute for Postgraduate Medical Training, Budapest; M.D. 1972, Semmelweis Medical University, Budapest; Visiting Scholar, University of Michigan School of Social Work, 1995; Lecturer, Mandel School of Applied Social Sciences, Case Western University, Cleveland, Ohio; Extensive publications in the field of social work supervision and training; Active private practice in psychotherapy; Member of the Board of the Soros Foundation and Director of the Board of the Foundation for Self Reliance.

[**Joseph B. (Josh) Stulberg**](http://web.ceu.hu/sun/old/SUN%202002/Descriptions/CVs/Stulberg.htm)**(Ohio State University College of Law, Columbus, Ohio)**

Professor of Law, Ohio State University College of Law; J.D., New York University School of Law; M.A., Ph.D,, The University of Rochester. Professor Stulberg has worked in the area of dispute resolution in a variety of contexts. He has headed the Community Dispute Services of the American Arbitration Association, acted as a private consultant, taught as an Adjunct Professor at Brooklyn Law School and as an Associate Professor in the Department of Management, School of Business and Public Administration, Baruch College of the City University of New York, and directed the Master of Arts in Industrial Relations Program (while teaching law courses) at Wayne State University. While at Wayne State, he also chaired the Department of Management and Organizational Science. Immediately before coming to Ohio State in 1998, Professor Stulbergwas Professor of Law and Director of Advanced Studies at the University of Missouri-Columbia School of Law. He has written extensively in the area of dispute resolution.

[**Manfred Weiss**](http://web.ceu.hu/sun/old/SUN%202002/Descriptions/CVs/Weiss.htm) **(Johann Wolfgang Goethe University, Frankfurt am Main)**

Professor of Law, Johann Wolfgang Goethe University, Faculty of Law, Frankfurt am Main. Graduated in Law in 1964, Freiburg University. In 1965-66 Research Fellow at U.C. Berkeley. Prof. Weiss has been a full Professor since 1974, first at the Faculty of Law of the University of Hamburg and then from 1977 at the Johann Wolfgang Goethe University. Professor Weiss served as the Dean of the Faculty of Law from 1989 through 1990. He has held visiting professorships at, among others, Paris-Nanterre, the Sorbonne, the University of Strassburg, and New York University. He is President-of the International Industrial Relations Association.

**Course Objectives**

This 6-credit program (for CEU students) is designed to facilitate the exchange of ideas and cooperative projects among academics, professionals and students in the East and West who are pursuing the study of conflict and conflict resolution processes. The program, set in the context of Central and Eastern Europe’s emerging democracies, will focus both on arbitration and mediation, as well as other consensual methods for addressing and resolving conflict and promoting understanding between peoples.

CEU students will begin the sequence by participating in a one-week intensive course centered on arbitration, particularly as that process is used in the context of labor and employment matters. In the following two weeks of the program, CEU students will be joined by approximately thirty American law students and scholars to explore mediation theory and skills, as well as other processes to foster democratic dialogue. All of the offerings will include multi-national perspectives and examples. This program will enable students to critically examine the challenges of the design and delivery of Alternative Dispute Resolution ("ADR") initiatives in multiple contexts, including countries where the "rule of law" still is being established.

**Intended Level of Instruction:**

The primary target group of this course is junior and middle career faculty as well as doctoral students at law schools or faculties of social science and public administration in the CEE region, as well as American law students pursuing the J.D. degree. Additionally, course targets include academics and professionals in psychology, social work, public policy, political science, government and labor relations.

***Week 1, July 15-19: Arbitration***

**(Stephen J. Adler, Csilla Kollonay Lehoczky, Manfred Weiss)**

**July 15**The first class meeting will introduce students to the **historical and social foundations**of arbitration, together with the main motivators that have contributed to the development and spread of arbitration as the dispute resolution process of choice in many arenas. The introduction will explore the advantages and risks of arbitration for parties in various situations and will give an overview of arbitration’s role in various legal regimes.

**July 16** This class will examine legal grounds necessary to involve an arbitrator in a dispute. An outline and comparison of **statutory and contractual arbitration** will be provided, examining various legal regimes and exploring the theoretical, juridical and political principles and values behind particular approaches. The class discussion will pay special attention to the particularities of labour disputes and the consequent characteristics of labour arbitration under the common law and continental law regimes, including a survey of existing alternative labour dispute resolution methods and institutions in the transitional countries of Central and Eastern Europe.

**July 17**The third day will explore the **relationship between the state judiciary system and arbitration.**The class will familiarize participants with various institutional approaches to arbitration, such as arbitration carried out by courts, by administrative judicial organs (state tribunals) and by private arbitrators. The relationship between the institutional setting and the legal status of the arbitrator's award, in particular the availability of judicial review of the decision, will be illuminated.

**July 18** This class will focus on the **initiation of arbitration.**The class meeting will map the paths that lead to the arbitration procedure. Both the scope of labour arbitration (with particular regard to the qualification of disputes of rights and those of interest) and the traditional and recent methods of preventing or avoiding the emergence of a dispute will be examined. Grievance procedures and decisions on arbitrability as well as the selection of the arbitrator(s) and/or umpire(s) will also be discussed.

**July 19 Legal issues connected with the arbitration process** will be the topic of the last class. Participants will review the sources of procedural rules, the burden of proof, evidence, the standards for the interpretation of contracts and agreements, and the decisions made by the arbitrator (awards, opinions, recommendations). The discussion of all these issues will be addressed within the framework of guaranteeing individual rights and due process throughout the arbitration process with special regard to situations involving a power imbalance.

***Weeks 2 and 3, July 22-August 2: Mediation and Other Methods to Foster Democratic Dialogue***

**(Lela P. Love, James Coben, Kinga Göncz, Joseph Stulberg)**

**Course Description:**

Through lecture, discussion, demonstration and role-plays, students will be introduced to mediation theory and skills and examine the impact of culture and context on the mediation approach adopted. Examples will focus on mediation models and scenarios from both the United States and Central and Eastern Europe. The course will also examine a variety of strategies to foster and support democratic and constructive dialogue, particularly focusing on "high-conflict" situations involving inter-ethnic tensions. Students will study efforts in Central and Eastern Europe to promote meaningful democratic dialogue in times of national and international crisis. Participants should come prepared for a highly interactive learning experience.

**July 22**Principles of Dispute Settlement and Introduction to Negotiation Theory

Lecture and general discussion examining assumptions about dispute settlement, analyzing various dispute settlement methodologies, and exploring the role of mediation within that context. A small group negotiation exercise will illuminate the principles and dynamics underlying voluntary dispute settlement procedures.

A presentation on the shift from communism towards the rule of law in Central and Eastern Europe and the role of mediation in that transition will be presented.

**July 23** An Overview of the Mediation Process and Related Mediator Skills. Beginning the Mediation Conference.

A demonstration of a mediator at work will be followed by an examination of the various functions the mediator fulfills and the types of traits/interpersonal skills required of persons discharging these functions. A presentation on how mediators create a constructive environment and open a session will be followed by practice.

A summary description of conflict resolution initiatives in Central and Eastern Europe will be presented.

**July 24**Listening Constructively to Disputing Parties and Crafting a Discussion Agenda

Lecture and interactive exercises will focus on fact-gathering, note-taking and questioning techniques. The task of translating hostile and adversarial communication into building blocks of collaborative dialogue will be explored, as well as the mediator’s role in identifying, framing and ordering the issues in dispute.

The class will view and analyze a movie portraying a variety of conflict resolution processes.

**July 25**Dealing Effectively with Diversity and Generating Movement Towards Understanding and Agreement

Discussion, analysis and exercises focusing on interpersonal and communication skills critical to facilitating dialogue in contexts in which issues of cultural, gender and ethnic diversity are pervasive.

Lecture, discussion and exercises examining the rationale of various settlement strategies that a mediator can use to move the parties towards agreement. Analysis will highlight persuasive techniques for moving parties from impasse to settlement.

An afternoon presentation on case studies from Hungary will explore the dynamics of multi-party and multi-ethnic disputes.

**July 26** Considerations and Strategies in Dealing with Complex, Multi-Ethnic Cases

Professors will "accompany" participants through a conflict analysis to determine the propriety and nature of a mediation intervention in a multi-party, multi-ethnic community conflict. Elements of the analysis will include: party identification; ripeness for intervention; mediator qualifications relevant for effective service; and pre-dispute entry issues and responsibilities. In small groups, participants will analyze a case study to develop performance skills for conducting a multiparty mediation. Elements of the analysis will include: structuring the sessions, capitalizing on role of advocates and spokespersons, planning considerations when cultural diversity is present, and using translators effectively. Practice in using techniques presented will follow.

**July 29**Meeting Separately with the Parties and Working with a Mediation Team

An examination of the purposes and strategies of meeting in caucus sessions with the parties. Discussion and analysis of strengths and weaknesses of a co-mediation approach and the principles guiding the effective execution of team mediation. Practice will follow. A panel of facilitators and mediators will respond to practice questions posed by participants.

**July 30**Using Facilitation to Foster Democratic and Constructive Dialogue

An examination of the relationship between facilitation and mediation and of the tasks and tools used by facilitators. Practice will follow .

**July 31**Bringing Closure to Sessions and Capturing Agreements between Parties

Participants will review procedures for closing a mediation session and drafting mediation agreements.

A working lunch will follow class in which a guest lecturer from the Czech Republic will explore study and business-building opportunities in the field of conflict resolution.

**August 1**Ethical Considerations in Mediation

Discussion and exercises focusing on ethical dilemmas faced by mediators, particularly challenges to a mediator’s impartiality, and the potential for abuse of discretion and power. A critical review of a mediation session will follow.

**August 2**Pulling the Pieces Together: Final Mediation Simulations

Participants will conduct a mediation session and analysis will follow the completion of each simulation.

Course closure and evaluation.