

## MEDIATION

Central European University, the Summer University, Budapest

*Borbala Fellegi, Kinga Goncz, Christian Hartwig, Art Hinsban,*

*Csilla Kollonay, Markus Petsche, and Sharon Press*

July 5 – 9, 2021

### COURSE TEXT:

**THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY, 2d ed.**, Stulberg and Love (**Document #1**)

### SUPPLEMENTAL ASSIGNMENTS:

Both the advance reading assignments (to the extent possible) and the additional course reading assignments organized by class day are posted to the CEU Course Moodle (and identified below by Document #, as well as by title).

Helpful Background Reading: Getting to Yes, Fisher, Ury and Patton. This book is widely available and translated into many languages.

### **COMPLETION REQUIREMENTS:**

For all students, class attendance is mandatory. Completion of the program and the awarding of a certificate requires submitting the final paper described below.

Final Paper: Students are asked to write a paper (750-1000 words; approximately 3-4 typed double-spaced pages) to be submitted on the final day of class. Students are to take the civic engagement issue/civic problem (case study) they identified in their application for the course and identify how they will use the skills and knowledge from the course to address the issue. During the course, students will be assigned to a faculty member to help them apply the course material to the issue in order to develop a plan of action for when they return home.

Synchronous class times will be:

15:00 – 16:15 Central European Time

16:30 – 17:45 Central European Time

19:00 – 20:00 Central European Time

In addition to these class meetings, students will be expected to complete outside assignments which will include individual and group activities, readings and viewing of recorded presentations.

### **Day 1 INTRODUCTION, OVERVIEW OF DISPUTE SETTLEMENT, NEGOTIATION & MEDIATION**

#### **Reading (to be completed, if possible, before course begins):**

Chapters 1-5, **THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY, 2D ED.**, Stulberg and Love [**Document #1**]

The Uses of Mediation (from the Negotiator's Fieldbook), Stulberg & Love [**Document #2**]

OPTIONAL BUT RECOMMENDED: **GETTING TO YES**, Fisher, Ury and Patton

#### **Assignments to be completed before class:**

Record and post an introduction of yourself to the class (details to follow)

Pre-recorded presentations: Demonstration of a mediation. Come to class prepared to discuss what you see as the role of the mediator and what traits/characteristics you think will be most important in your work as a mediator.

**15:00 – 16:15**

**Introduction and Course Overview**

**Mediation and the Rule of Law in Central and Eastern Europe**

*Professor Csilla Kollonay*

**16:30 – 17:45**

**Principles of Dispute Settlement**

Discussion examining assumptions about dispute settlement and civic engagement, analyzing various dispute settlement methodologies, and exploring the role of mediation within that context.

**The Voluntary Resolution of Disputes**

Group exercise designed to illuminate the principles and dynamics underlying negotiation and its role in civic engagement. The nature of the outcome, the importance of structuring the process, the role of information, preferences and priorities, the rationale of establishing trade-offs and the facilitators and inhibitors of consensus-building will be stressed in the analysis.

DINNER BREAK

**19:00 – 20:00**

**Overview of Mediation**

Discussion of the mediation demonstration.

**BEFORE START OF DAY #2 Experiential Learning Exercise 1:**

Students will be assigned to groups of 3 – 4 and are to complete this exercise before the start of class on Tuesday.

Students will discuss and determine the most important similarities and differences between the national negotiating styles and other ways of resolving conflicts of the countries and cultures represented in the group. Students might explore whether other cultures are different in terms of tendencies towards avoidance; competition and collaboration; formality and informality; punctuality, eye contact, and spatial distances between people in conversations and meetings; the role of gender, religion and age; preferences for problem-solving versus third party decisions.

**DAY 2 BEGINNING A MEDIATION, ACCUMULATING INFORMATION AND DEVELOPING THE AGENDA; APPLICATION TO INTERNATIONAL COMMERCIAL DISPUTES**

**Assignments to be completed before class:**

**Reading:** Chapters 6-8, THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY, 2D ED., Stulberg and Love [**Document #1**]

**View Recordings:** Beginning the Mediation; Interest and Issue Identification

**15:00 – 16:15**

**Debrief experiential exercise**

**Selected Legal Aspects of International Commercial Dispute Resolution**

Professor Markus Petsche will examine the enforcement of arbitral awards and mediated settlement agreements under domestic arbitration/mediation statutes and the New York and Singapore Conventions

**16:30 – 17:45**

**Accumulating Information and Listening Constructively**

Demonstration and analysis focusing on fact-gathering techniques, note-taking skills, and questioning skills. Interactive exercises will illuminate the task of translating hostile and adversarial communication into building blocks of collaborative dialogue.

**Framing Interests and Issues to Construct the Agenda**

Discussion of Interests and Issues.

**Handout role play information to read over dinner break.**

**19:00 – 20:00**

**Mediation Simulation (the first 3 elements in BADGER) – start in small groups and then come back to fishbowl.**

**Day 3 GENERATING MOVEMENT AND ELECTING TO CAUCUS; DIFFERENT APPROACHES TO MEDIATION; TRANSFORMATIVE MEDIATION**

**Assignments to be completed before class:**

**Reading:** Chapter 9-10, THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY, 2D ED., Stulberg and Love [Document # 1]

Descriptions of Mediations [Document #4]

**View Recordings:** Strategies for Generating Movement; Meeting Separately (Caucus)

**Experiential Learning Exercise 2:**

Would a mediation process “work” in a particular context (e.g., domestic cases) in your home environment? What adjustments to the process might make it more likely to succeed in the designated environment? Come to class ready to discuss what you learned.

**15:00 – 16:15**

**Debrief experiential exercise**

**Other Approaches to Mediation/Transformative Mediation**

*Professor Christian Hartwig*

**16:30 – 17:45**

**Mediator Strategies for Generating Settlement**

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.

**19:00 – 20:00**

**Presentations on Civic Engagement Issues from around the World**

*Course participants*

**Day 4 WORKING WITH DIVERSITY, CO-MEDIATION AND RESTORATIVE JUSTICE****Assignments to be completed before class:**

**Writing:** Please prepare your short (750-1000 words; approximately 3-4 typed double-spaced pages) paper for submission.

**Reading:** Chapter 12, *THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY*, 2D ED., Stulberg and Love [Document # 1]

*Practice Guidelines for Co-Mediation: Making Certain That “Two Heads Are Better Than One”*, Love and Stulberg [Document #5]

*A Future Where Punishment Is Marginalized: Realistic or Utopian?*, Braithwaite, 46 *UCLA L. REV.* 1727 (1999) [Document #3]

*The Restorative Approach in Practice: Models in Europe and in Hungary*, Dr. Borbála Fellegi [Document #6]

Chapters 1 and 2 in *Handbook for Facilitating Peacemaking Circles*, go to: <http://www.foresee.hu/en/segedoldalak/news/677/a742c69583/17/>

**View Recordings:** Co-mediation and Building a Career in Dispute Resolution

**Experiential Learning Exercise 3:** At some point today use a technique we have studied to get something you want. Come to Thursday’s class ready to discuss what you learned.

**15:00 – 17:00 (with 15 minute break)**

**Mediation’s Place as a Restorative Justice Process in Disputes involving Ethnic Differences**

*Professor Borbala Fellegi*

Presentation and film about a community mediation project in a Hungarian village. Students will be introduced to the main principles and practices of restorative justice and its applicability on the different levels of social policy and the justice system. Participants will engage in group work related to a real school case, and the lecture will be closed by a film linked to the case.

**17:00 – 17:45**

**Working with Diversity**

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

**19:00 – 20:00**

Debrief experiential learning activity; Micro-skill exercises

**Day 5 CLOSING THE MEDIATION, ETHICS, MEDIATION IN INTERNATIONAL POLITICS AND FINAL SIMULATIONS**

**Reading:** Chapters 11 and 13, *THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY*, 2D. ED., Stulberg and Love [**Document # 1**]  
Uniform Mediation Act [**Document #7**]  
European Code of Conduct for Mediators [**Document #8**]  
*Directive of the European Parliament and of the Council on Certain Aspects of Mediation in Civil and Commercial Matters* (April 23, 2008) 15003/07 FINAL [**Document #9**]

**View Recordings:** Bringing Closure to a Mediation; Mediation Ethics

**Complete Recorded Mediation:** come to class prepared to show a clip from and discuss one of the mediations you did as a group. What did you learn as the mediator? What did you learn as a participant?

**15:00 – 16:15**

**Mediation and Mediation Principles in International Politics**

*Professor Kinga Goncz*

**16:30 – 17:45**

**Mediation Simulation Reports**

**19:00 – 20:00**

**Reflections and Closure**