

Is it really difficult to decide? Conflict management with conclusion of a case.

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Abstract: Alternative dispute resolution (out of court dispute resolution; extrajudicial dispute resolution) methods are to support natural persons and legal entities with several levels of conflict management. Reorganisation, resolution, restoration, evaluation, and transformation are present to give methods to the parties. Mediation is an opportunity in the subject of alternative dispute resolution system, as one kind of procedures to solve a conflict. Mediation is based on the voluntary participation of the parties. Mediation is a procedure, in which an intermediary without adjudicatory powers –the mediator– systematically facilitates communication between the parties with the aim of enabling the parties themselves to take responsibility for resolving their dispute. Persons sometimes decide very quickly, in short term, sometimes the opposite: after months, after years there is no decision made for several reasons. The deeper the conflict is, the harder it is to get out of it, but what can be the reason to wait years for a solution even if there were other choices? Fear from the loss, fear from the responsibility or from changes? Through a case-study this paper aims to give a possible answer.

1 Trust in our decisions

Various definitions of conflict is known worldwide and the definitions lived with historical changes, developed with people and with society. The conflict is a conflict between the interests of natural or legal persons. Some of the conflicts are community conflicts, on the basis of common interest (state, local municipalities), some of the conflicts are based on individual interest, some conflict arise in the international level, between states, and we know, if states were in conflict in the history, there were often wars in connection with their conflicts. There are several examples in countries how to manage a conflict and it is based on historical-cultural development of each country. Through the interdependence of nations and cultures, disputes and dispute resolution processes need to account for much more than just the dispute itself [20]. There are several very important consequences of a person's, of a legal entity's or a society's behaviour in connection with decision making and solution finding in the case of emerged conflict. The important aspect

of financial background, of the question how the choice of alternative dispute resolution influences economy through the effects on economic life.

Successful modern societies are based on the willingness to cooperate, supported by GLOBE (www.globeproject.com) research with international comparisons [7].

The aim of this paper is to introduce and stress, that every person, legal entity (state), community has its own and special social-historical-financial development level. This paper wants to give an answer to the question if communication has an important role to reach a contract (one way of resolution) and if trust plays an important role in this procedure of communication (non-violent communication). Trust can support conflict management and is able to give a snapshot of the general state of society, and is capable of influencing person's (people, legal entities, communities, states) compliance with the law.

The GLOBE survey –GLOBE Research Program- covering 62 countries (including Hungary, from European clusters to Eastern Europe with Albania, with Armenia, Greece, Kazakhstan, Poland, Russia and Slovenia), ranked Hungary 61th in the rankings, as last but one, examining the society's willingness to cooperate

Eastern European cluster has a population of 232 million and a gross domestic product (GDP) of U.S.\$772 billion. The cluster's distinctive cultural practices are high power distance and high family and group collectivism. The region is facing significant challenges during its period of transition from communist philosophy to market-based economies. The participating managers value a much greater degree of future and performance orientation, but are strongly attached to their cultural heritage of deep family and group cohesion. They are also highly value charismatic and team-oriented leadership [1].

On the basis of these facts, in the field of social cooperation, Hungarian is a self-interest driven, dissolving society that would surely be more successful if its members were to assume responsibility for the consequences of their acts. As responsibility and willingness to cooperate grow, and we learn to make as many common results as possible from a given situation, then wealth will grow healthily, emotionally and economically. The lack of cooperation will cause enormous damage to the economy, but it also has extraordinary potential for development, resulting in a change of social attitude, quantifiable economic results and savings [7]. Fortunately, since the above research, more than ten years have elapsed, and the development of mediation and financial reconciliation in this article has progressed along with the development of the entire alternative dispute resolution area, and the future is also determined by this trend.

Apart from some of the highlighted Hungarian examples, they give an insight into where the alternative dispute resolution is today - alternative dispute resolution can be found in many places in the world. To strive for peaceful conflict management and peaceful resolution of disputes, today we call court mediation,

mediation, conciliation, arbitration, litigation, and arbitration services as an alternative dispute resolution.

However the field of business mediation can not be clearly separated from other mediation types, business mediation often fuse with them, furthermore research shows that mediation have to viewed as complementary elements of an integrated system and that the key to successful dispute resolution in international business is conscious and creative design of conflict management process [3].

Mediation is a procedure which may benefit the business. Parties which worked out a consensus are more willing to maintain further relations. Moreover mutual trust is maintained. Research shows that trust is not only very important in business but it can play the most important role e.g. in the field of logistics when the question is about taking/providing services, however price and flexibility do matter as well [2].

After mediation trust may be even bigger than before the dispute as parties are more likely to perceive their business partners as reasonable and responsible people, with whom they can go through conflicts and resolve the problems in a proper manner, without court [22].

Trust does not, of course, play a decisive role not only during the conflict management of legal entities but also in the conflict management of natural persons. Based on trust –this is the fundamentum mediation process can work.

Two conditions of trust are risk and independence. Three phases are building, stability and dissolution [19]. Trust can be conceptualized as an orientation toward society and toward others that has social meaning beyond rational calculations [21]. It is stated, the level of trust between the trustee and the truster (client) is defined by the sum of credibility, reliability and intimacy divided by the self-orientation. $T = (C + R + I) / S$ Client can be a friend, family member, student, boss, direct report, or any other person you enter into a trust relationship with [18]. Figure 1. gives a brief formula titled the trust equation based on the work of Maister [13]. It records that trustworthiness is the summing up of credibility and reliability and intimacy divided by self-orientation.

The
TRUST EQUATION

$$T = \frac{C + R + I}{S}$$

T = Trustworthiness **C = Credibility** **I = Intimacy**
R = Reliability **S = Self-Orientation**

Figure 1. The Trust Equation

Source: thegetralproject.com

It is important and relevant that the parties involved in the conflict can communicate with each other so that the existing conflict of interest is further aggravated by further diligence, lingering litigation, but, as far as possible, resolving the dispute and settling the dispute with an agreement. This requires cooperation between the parties.

What does make peace possible, what kind of resources are needed for peacebuliding? It is abundantly clear across our globe, both historically and at present, that the expenditures and resources consumed by war far outpace those allocated for building peace. Without adequate resources, explicit preparation, and commitment over time, peace will remain a distant ideal rather than a practical goal. The primary goal with regard to resources is to find ways to support, implement, and sustain the building of an infrastructure for peace over the long term. To achieve this goal we need an expanded understanding of resources. The approach of the question of resources for peace under two broad headings: socioeconomic and sociocultural. The former suggests that resources do, indeed, involve a monetary aspect, but that equally critical is the sociological dimension int he disbursement of funds. The latter suggests that people and their various cultural traditions for building peace are also primary resources [11].

2 Conflict management in numbers

The term „conflict“ has no single clear meaning. Much of the confusion has been created by scholars in different disciplines who are interested in studying conflict. Reviews of the conflict literature show a conceptual sympathy for, but little consensual endorsement of, any generally accepted definition of conflict. There is tremendous variance in conflict definitions that include a range of definitions for

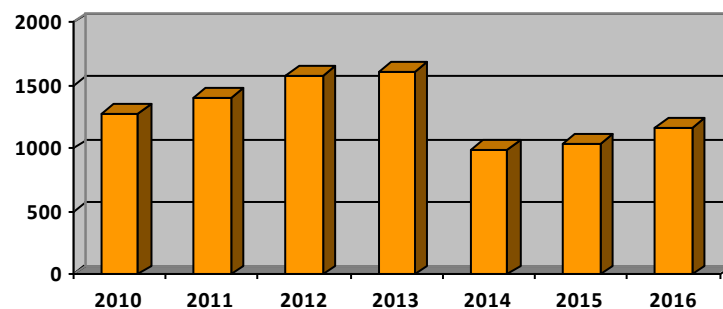
specific interests and a variety of general definitions that attempt to be all-inclusive. Conflict can be considered as a breakdown in the standard mechanisms of decision making, so that an individual or group experiences difficulty in selecting an alternative [16].

While mediation is often thought of in the context of personal conflicts or family disputes, business owners realize that mediation services are available to resolve business-related disputes as well. In the Hungarian legal regulation there are several ways for persons how to resolve a conflict, how to resolve a dispute, how to continue with family members, neighbours, colleagues, business partners. Of course, courts fulfill the task to decide in the complaints of clients, to run the procedures of trials.

Table 1 and Figure 2 displays what is the number of mediators and how many cases are there yearly to solve. From the year of the Act on Mediation has become to effect, from the year 2007, can we observe an increasing will of natural and legal persons to initiate mediation? The number of registered mediators at Ministry of Justice between 2010-2016 were the following:

Table 1. and Figure 2. Registered mediators at Ministry of Justice Hungary 2010-2016

	2010	2011	2012	2013	2014	2015	2016
Registered mediators at Ministry of Justice	1272	1408	1578	1615	993	1041	1168



Source: prepared by the author based on the given data from Ministry of Justice, Hungary 2018

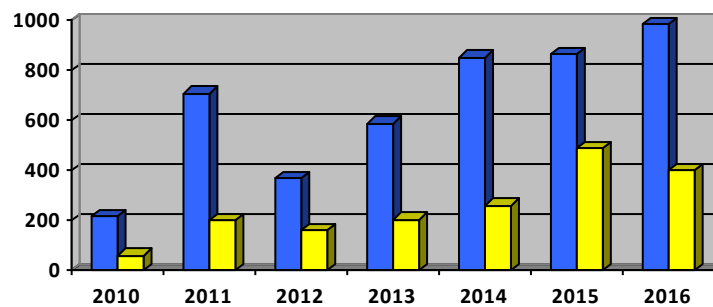
After three years of increasing in number of registered mediators, a relapse can be observed in 2014, which has been followed by again with slow increase in 2015 and 2016. The requirements of further training and continuative education of

mediators included in the legal regulation may influence the issued registered mediators.

The numbers of incoming cases speak about changes in the old statement according to the saying 'It is good to argue'. Perhaps people and decision makers change their minds and make the choice to choose alternative dispute resolution. Between 2010 and 2016, on the basis of data giving of registered mediators Table 2 and Figure 3 show the conformation of mediated cases, separately the cases with a successful agreement at the end and separately the cases without a successful end.

Table 2. and Figure 3. Incoming cases to registered mediators at Ministry of Justice Hungary 2010-2016

	2010	2011	2012	2013	2014	2015	2016
successful (blue)	216	708	370	589	851	864	983
unsuccessful (yellow)	63	203	160	204	260	487	400



Source: prepared by the author based on the given datas from Ministry of Justice, Hungary 2018

Stated in Table 2, that from the year 2014 there is a stable increasing in both – successful and unsuccessful ended incoming cases. Starting from the figures in the table, it is hoped that the number of people, firms or even communities that are choosing mediation will grow and overwhelm the old saying that it is good to argue. Hopefully this is despite the fact that Figure 3 shows the development of litigation cases in numbers, and these figures show almost stagnation, growth or only a minor decrease in litigation in all areas, except for one group of cases. This group is civil and business non-litigious cases, which data for 2010 decreased by 39% compared to 2009 figures and then decreased by 83% from 2010 in 2011.

The development of civil lawsuits between 1990 and 2016 can be said that as a result of the fall in the number of non-litigious procedures, the burden of the courts has been reduced from the year 2010 as depicted in Figure 4. Based on data about

the cases, trials at hungarian courts provided by the hungarian Central Statistical Office it is clear that, in 2010, the total number of cases, decreased by 24% from 2009 to 2010. It is most affected by the legislative change that a major group of non-affiliated cases, payment orders are mostly made by notaries.

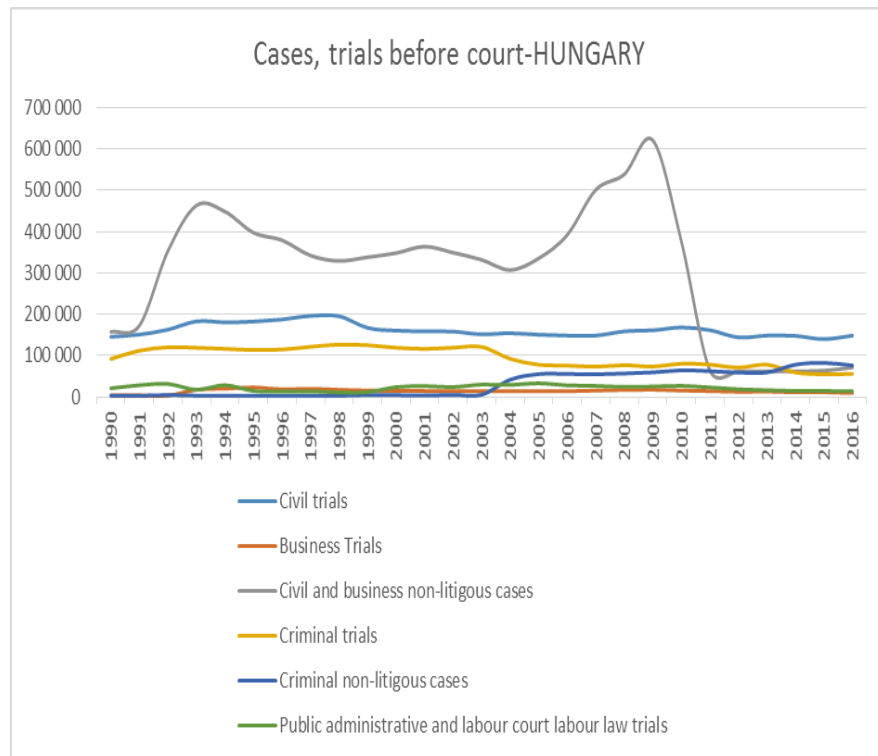


Figure 4. Changing of cases, trials at hungarian courts 1990-2016

Source: Hungarian Central Statistical Office Hungary, www.ksh.hu decreasing number of civil and business non-litigious cases only, civil trials (1), criminal non-litigious cases (2), business trials (3), criminal trials (4), public administrative and labour law trials (5) Stagnate from (2)-(5).

Our world has become more interconnected recently: we travel more, work or study abroad, family members live in different countries, we purchase goods online from all over the World. This new lifestyle requires that we use foreign financial services or we use the products and services of our domestic financial service provider abroad when for example: we make a payment, use ATMs, transfer money, purchase products and services. If things go well, it all seems perfect, however, when something goes wrong, and cross border financial disputes arise, we all want a quick, low cost, effective fix, not to mention we all want to do so in a language we are familiar with. If we face a domestic financial dispute – in which we have a complaint against a domestic financial service provider – we have a choice to turn to the alternative dispute resolution scheme that has

jurisdiction to decide our case, as an example, if both parties to the dispute are residing in Hungary, this forum would be the Hungarian Financial Arbitration Board.[6] As a member of the FIN-Net international organisation, since 2013, the Board is also available for the management of cross-border consumer disputes; accordingly, it helps the respective consumers resolve their disputes with a financial service provider (bank, insurer, investment firm, etc.) operating in a different member state, relying on the alternative dispute resolution forum of the given country or, if this is not possible, find an alternative dispute resolution forum that is able to resolve the case through conciliation or mediation. These cases are the cross-border consumer disputes, the Hungarian rules of which are described in Articles 124-129 of Act CXXXIX of 2013 on the Hungarian National Bank. These rules are applicable when the respective consumer's home address or habitual residence is in Hungary and the registered office, business site or permanent establishment of the service provider is in a different state that is party to the Treaty on the European Economic Area; or the respective consumer's home address or habitual residence is in another EEA state, while the registered office of the organisation subject to oversight by the MNB is in Hungary.

The rules pertaining to the initiation and conducting of the proceedings in the case of cross-border financial consumer disputes are slightly different from the general rules. If the consumer has a home address or habitual residence in Hungary, while the financial service provider is an organisation with registered office in another EEA state, the extra condition for the initiation of the proceedings is the existence of a submission declaration of the service provider, which jointly represents the submission to the proceedings and the preliminary acceptance of the decision. However, in the absence of a submission declaration the success of the resolution of the cross-border dispute is questionable; in such cases the Board's function is limited to providing information and – if the petitioner so requests – forwarding the necessary materials. The Board has to inform the consumer about the alternative dispute resolution forum, participating in FIN-Net and residing in another EEA country, having power and competence in respect of the dispute, as well as on the special rules applicable to the procedure thereof, particularly on the need of preliminary consultation with the service provider and the deadlines prescribed for the initiation of the proceedings. If the consumer so requests, the consumer's petition, recorded on the standard form used in FIN-Net, must be sent to the FIN-Net member dispute resolution forum having power and competence in respect of the proceedings. Upon the existence of a submission declaration, the procedure is identical, with some exceptions, with the domestic procedure, the result of which – if the petition is substantiated – could be a settlement agreement, a binding resolution or, if the petition lacks grounding, the procedure is terminated.[17]

Financial reconciliation is just one example of several alternative dispute resolution areas, the number of which has expanded over the past ten years.

3 Do we want it or not?

A number of important questions arise regarding the nature of the debates, the intentions, the motives of the parties in dispute, the development of the interests that this study considers useful to launch and to collect empirical research in the long run. Basically we can ask that we would like to solve, resolve a conflict or perhaps we want to transform it and regard it as a opportunity for progression. It depends on interests, motivation and of course on the decision of the parties.

The key question in the process of conflict resolution is that how can the dispute be closed? The key question in the process of conflict transformation is that how can the destructive process be closed and instead wanted to build on it? (examples: new level of connection, connection, restoration of original state)

The sample cases from the year 2013 were examined along the question of whether or not a decision was taken to retain or gain power or trust. Started mediation cases with decision were the same number as without closing 50-50%. According to regulation of mediation we can say that half or half were effective or unsuccessful. Unsuccessful because of closing without a decision, without an agreement.[23]

To the question: do you agree you lose power when you make your decision and it is an agreement/settlement? – the half of the respondents answered that the consensus and the trust did not lose their position, so-called power, the process and its outcome was a good decision and reinforcement.



Figure 5. Case study in ten mediated cases 2013-2018

Conclusions

Conflict management is a creative activity that can be used to develop profitable professional levels in society for individuals, businesses and focus on the dynamism and balance of conflict and harmony. Conflict management is one of the ways of achieving peace. The conclusion regarding the respondents' answers to the above question in this paper is that half of those who begin the procedure will not lose their position and power and the other half will. It is evident from the cases that the result reflects this status: half of the cases initiated were concluded by agreement with the other half without any agreement. Half or half of the cases justify the fact that the participants are moving forward or back to trust or to power. In mediation, turning to trust as a turning is a step forward. This paper aims to be forward-looking in the sense that it emphasizes the importance of trust as a basis for conflict, its management, connectivity and peaceful settlement, as well as all connections -presenting conclusions of the case-related issues with the implementation of case studies by increasing the pattern of cases and pooling experience in different countries.

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