

Newsletter Research Group on Mediation 2019

14th (International) Research Colloquium of ForMed in Cracow from 13th to 15th June 2019



The 14th Colloquium of the Research Group on Mediation took place this year at Jagiellonian University in Cracow. For the second time organised in an international constellation, several professors, PhDs and those striving for it in the field of mediation, presented their ongoing research projects, their multiple mediation processes in academic contexts, present and future of mediation in the numerous countries of origin of the participants originated.

The Research Group was hosted by the Faculty for Law and Administration, which was represented during the colloquium in alternation by Prof. Dr. jur. Jerzy Pisuliński, Prof. Dr. jur. Bartosz Brożek, Prof. Dr. jur. Janina Czapska as well as by Dr. Małgorzata Kożuch. The Faculty dean Prof. Bartosz Brożek welcomed ForMed and the participants from Denmark, Germany, Italy, Poland and the US and underlined the importance of mediation and dialogue with a contribution on philosophy and law. As a philosopher and lawyer Brożek is familiar with interdisciplinary work, why he expressed his excitement about the interdisciplinary constellation of ForMed and the combination of practice and research.

Conception and Preparation of the event was done by the representative team: mainly by Dr. jur. **Katarzyna Schubert-Panecka** - mentally supported by Prof. Dr. **Katharina Kriegel-Schmidt** and **Klaus Schmidt**.

After getting to know each other, Schubert-Panecka briefly presented the history of ForMed and the structure of the colloquium which is also inspired by aspects of sociocracy. She underlined the participative character of the colloquium and illustrated parallels of its procedure and structure to mediation itself. The aspects of inter-, multi- and transdisciplinary research were highlighted and those add to the opportunity of exchange and the gain of new insights through the participants' high quality feedback within the next 2,5 days. Subsequently the stage was opened for the participants who presented their research projects briefly, followed by a group discussion and comments.

In the first presentation, MA **Paweł Kłos** from Marie Skłodowska University in Lublin presented his dissertation project *Confidentiality of Mediation: A Theoretical and Legal Analysis*. In a conceptual and a comparative analysis of national and international regulation on confidentiality before, in and after mediation sessions the PhD student described different functions of mediation and thereby illustrated the connection between practice and the legal framework. His main research question is concerned with the possibilities and limitations of confidentiality in mediation, analyzed in legal theory and investigated for practice relevance.

Next, MA **Emma van Bijnen**, currently enrolled as a PhD at Università della Svizzera Italiana and University of Copenhagen presented her contribution on the topic of *Mediator Proximity: Insights of Research on Communication in Facilitated Conflict Resolution*. The PhD student focused the role of the mediator as designer of a process focused on resolution. Van Bijnen's idea is that a minimum of common ground is necessary for an exchange of arguments and finally a conflict resolution between mediants and mediators to enable conflict resolution processes. She observed and illustrated the mediator's possibilities to intervene and to (re)create this common ground. Her empirical study collected data on communicative interactions within observed mediations and the scientist differentiates her findings along two axes: degree of proximity and degree of formality of the mediative process.

The third and last contribution of the first day was by MA **Gisela Kohlhage** from the Open University Hagen on her dissertation project *Justice in Mediation*. The PhD student is interested in insights for research on mediation extractable from comments from its critics (sociological, philosophical and legal). From these critiques, Kohlhage developed eight gateways to injustice in mediation which still find insufficient attention last but not least in mediation's self-descriptions. To increase quality and realism concerning justice in mediation the researcher wants her analysis to contribute to a solid foundation for self-reflection of mediators



which could view themselves more and more as gatekeepers of justice.



The first day ended with a joint dinner in a vibrant festival Cracow beer garden.

The second day started with a contribution by Prof. Dr. jur. **Ulla Gläßer** from European University Viadrina in Frankfurt Oder on an international research project which she pursued together with Prof. Dr. jur. Lin Adrian from Copenhagen University: *The Impact of Postgraduate Academic Training in Mediation, Conflict*

Resolution and Negotiation - an Evolving International Research Project. The two directors of the master programs in mediation and conflict resolution at Viadrina and Copenhagen Universities investigate the multiple impacts of such post-graduate academic trainings on professional and personal development as well as on the environment of the alumni. Thereby the research team intentionally doesn't restrict the definition of impact (and personal goals) of the training to account for more than just full-employment as a mediation professional and collects data on other impact levels (work life, personal wellbeing, further spread of mediation and conflict resolution). Subsequent steps of their study will investigate how these insights can lead to a broader understanding on mediative competencies and finally on societal benefits of mediation training.

Next, MA **Vittorio Indovina** from Kennesaw Universität in Georgia gave a presentation on his dissertation project *Mandatory Mediation and its Impact on Cultural Change of Dispute Resolution*. The PhD student observed this interdependence in Italy where information on mediation procedures is obligatory and thus affects lawyers. He now analyses possible processes of enculturation of mediation among attorneys of family law in the federal state of Georgia and whether mediative influences by a pro-mediation politic of the legal system drive the process of enculturation. Indovina's hypothesis states that such a pro-mediation politic and regulation would support processes of internalisation of application possibilities and advantages of mediation. In the discussion of this topic the essential distance of researchers to their object, aspect or process of investigation reoccurred as a theme to contribute scientifically objective and critical to the investigation of a phenomenon.

Besides academic work, the participants could learn during their stay at the university about its impressive history and architecture. For example, during the lunch break on the second day the group enjoyed visiting the 1364 built *Collegium Maius* and one could picture the concentrated atmosphere in the historical premises where many important thinkers such as Mikotaj Kopernik had studied and advanced the sciences significantly. The slogan *Plus Ratio Quam Vis* (knowledge goes beyond strength) still carries meaning today and resonates with the concept of mediation.

After lunch and a short Aikido exercise with some parallels to conflict resolution behaviour and to mediation, Prof. Dr. **Susan S. Raines** from Kennesaw University in Georgia, USA presented her research topic *Attorneys a Non-Attorneys Approach of Mediation*. To identify the influences of professional affiliation of mediators on their

success, the researcher processed ethic complaints, the settlement rate of mediations and the results of exit surveys which are carried out directly after the process by American courts or centers for mediation (after a relatively short mediation process compared to the western idea of mediation). She found out which impacts interventions in mediation cause and which of them are applied by lawyers mainly. The essence of the research lies in questioning the settlement rate as the one and only criteria for a successful mediation. She proposes to look for methods such as interventions which take other success criteria into account and to integrate them in professional work of mediators with diverse training backgrounds.

This quantitative study from the USA was followed by MA **Beatrice Roesler**'s research project, whose PhD project is affiliated with the University of Gloucestershire in Great Britain and located in the field of behavioral economy: *Connecting the „Formal Mediation Gap“ and Behavioral Decision Patterns to the Choice of a CRM in Attorney-Client Counseling Sessions*. In the presentation of her first research steps her central question is concerned on whether clients receive information on possible procedural steps (e.g. those made obligatory by German regulation) or whether subjective recommendations of lawyers predominate. Through interviews, Roesler wants to analyze to what degree the desired procedural justice is granted and therefore the idea of alternative dispute resolution procedures is served sufficiently.

Friday's last presentation was made by Dr. jur. **Małgorzata Kożuch** from the Jagiellonian University. Her project investigates the *University as a Learning Organisation in the Field of Dispute Resolution* where she describes the possibilities, challenges and potential frameworks for the introduction of a conflict management system at her university. Participants of the colloquium were invited to contribute with their practical and scientific expertise and they could refer to own studies and literature on the issue. Here, again, the advantage of the international and interdisciplinary group of researchers in the colloquium proved its value.

At Saturday, the third and last day of the colloquium started with an intense method to tap the accumulated knowledge of the participants, originating from *Liberating Structures* (<http://www.liberatingstructures.com>). The method *Wise Crowds* helps to collaborate with multiple perspectives in a creative and structured way. Everyone had the opportunity to pose a (research) question to a small team and after a brief phase of clarification the team discussed the question and the author listened and gained new approaches and perspectives on his or her issue.

Dr. **Andrea Zechmann** from Friedrich-Alexander-University Erlangen-Nürnberg started the scientific phase of the day with her topic: *Acceptance of and Reservations against Mediation: How do People in Germany Perceive Mediation?* She uses a model of conflict styles and combines it with attributes of mediation to identify significant correlations. She concludes that e.g. the mediative services of diverse institutions and mediators should definitely differ to provide tailored offers to the addressees according to their respective conflict and communication styles.



The results of her study provide a large application spectrum for the specific communication of mediation services as well as for the clarification of their limitations.

The last presentation of the colloquium came from MA **Anna Wojcieszczak**, a PhD student of the hosting university who used the opportunity to share her thoughts on the project with ForMed in order to discuss the idea to create a room for dialogue, implement or expand respectively an evolving and practical mediation service at the Jagiellonian University. This service should allow all 36,000 students and other thousands of employees a constructive conflict resolution and teach mediative competences in a preventive way. During the discussion of her project, the cultural diversity, the richness of approaches to research and to the establishment of a conflict resolution system and the existing experiences among the participants became obvious. An accompanying scientific study for the project was recommended.

In conclusion, Schubert-Panecka emphasized the wish to furthermore provide a platform for German-speaking researchers for methodological, scientific as well as personal exchange along with the desire to establish the international dimension of the colloquium. I.a. the idea was mentioned to locate the colloquium in a bi-annual rhythm in Poland and in Germany to underline the international character. In the subsequent feedback session, the participants expressed their pleasure about the inspiration and new contacts, about the colloquium's format and the collegial and constructive collaboration, the generosity and diversity of the contributions as well as the openness. The interdisciplinary approach in mediation research has convinced all participants, also because it establishes a culture of inclusion of different scientific approaches and knowledge forms. The collaboration within the 14th colloquium could not be described better than with the words of Dr. Jirko Kraus in his report on the 13th colloquium: "All discussions were full of mutual appreciation and interest in the topic. There was an inspiring atmosphere: productive, enjoying collaborative action and free from any competition and the urge to show off. One could feel the potential of new cooperation and research projects".

Between the described highly interesting presentations and inspiring feedback and in the breaks and in the evening, lively discussions across disciplinary boundaries took place and new ideas could be developed. The success of the colloquium was contributed to by the participants' engagement and by the very special role of Schubert-Panecka, who facilitated sovereignly the process, with her professional

organization and moderation. As a warm-hearted host she clearly added to the comfortable atmosphere.

M.Sc. Lea Kohlhage

Perspective

In the second international issue of the colloquium ForMed could convince that the research on mediation in an international context does not only increase the scientific added value but also strengthens the mediative competence significantly while the participants negotiated concepts of mediation and their research in collaboration and in the attitude of the students which continually develops. In this sense we are happy to meet again in the 15th German colloquium in Hamburg in early 2020 and the 16th English colloquium in Winter 2020/2021 or early 2021 respectively. We take home from this year's colloquium that ForMed is turning into a valuable and attractive partner in scientific cooperation. The management team of ForMed will pursue the question about which organizational format could be appropriate for these cooperations. We want to develop our website to parallel support the scientists from various disciplines and countries, technically and linguistically. As we want to help the mediation research on a continual voluntary basis, we are grateful for any support in this endeavour. Everyone who can picture himself/herself in contributing to this can contact us as usually at info@forschungsgruppe-mediation.de.

15th Colloquium of the Research Group on Mediation in Hamburg April 17th - 18th 2020

The 15th colloquium in Hamburg will take place from April 17th - 18th and we will be guests at the European University of Applied Sciences. The call for papers can be found at www.forschungsgruppe-mediation.de and all interested colleagues can apply by January 15th 2020 at info@forschungsgruppe-mediation.de:

Management Team of ForMed

Dr. Katarzyna Schubert-Panecka, Dr. Katharina Kriegel-Schmidt and Klaus Schmidt

www.forschungsgruppe-mediation.weebly.com