

Fact sheet

Type of procedure

- | | |
|---|--|
| <input checked="" type="checkbox"/> Mediation procedure | ☞ Procedure including mediation elements |
| ☞ Other similar procedure (see annex) | ☞ Other: |

Topic area

- | | |
|---|---|
| ☞ Urban and land use planning | ☞ Water management/supply and distribution |
| ☞ Waste management | ☞ Industry, trade, enterprises |
| ☞ Power industry | ☞ Telecommunications |
| <input checked="" type="checkbox"/> Traffic, transportation | ☞ General environmental policies (genetic engineering, nuclear policy etc.) |
| ☞ Nature conservation | ☞ Neighbourhood conflict |
| ☞ Tourism | ☞ Other: |

Initiator(s)

Dr. Thomas Prader, Lawyer and Mediator

Short summary

The mediation process at Vienna International Airport focused on two central subjects: First, the current level of and ways to reduce noise pollution: work in this area led to the conclusion of a partial contract on current measures in May 2003, which has already been implemented and is now undergoing evaluation.

Second, environmentally relevant expansion plans by Flughafen Wien AG and their impact: after the conclusion of the partial contract, discussions turned to what will happen when the airport needs a third runway to manage the growth in traffic. The result is represented by a package of contracts, which creates a secure framework for all parties.

Participants (number of individuals, names of participating public authorities, institutions, interest groups etc.)

Core Group:

Vienna International Airport, neighbouring communities, Provinces of Vienna and of Lower Austria, Environmental Protection Advocacies of Vienna and Lower Austria, all citizens' initiatives that focus on aircraft noise (on regional and supra-national levels)

Extended Core Group:

Chamber of Labour, Chamber of Commerce, Chamber of Agriculture, employees' representatives, representatives of the Vienna Airport AG, Austrian Airlines, Austro Control (Austrian Air Traffic Control), all political parties represented in the provincial parliaments of Vienna and Lower Austria, tourism unions, Viennese district representatives
Since 2004, district conferences have been additionally established with the local Citizens' Initiatives and all participating communities.

In total, more than 300 persons have been directly involved in the negotiations.

Client / financial sponsor

Initially, the procedural costs were to be shared among the Vienna International Airport, the Provinces of Vienna and Lower Austria and – to a lower extent – the communities. Finally, the costs were covered almost entirely by the Vienna International Airport.

Procedural guidance by (e.g. mediators, environmental advocacies etc.)

Process provider: Dr. Thomas Prader

After an international selection procedure, the mediation team of Mag. Gerhard C. Fürst, Dr. Ursula König and Prof. Dr. Horst Zillessen was assigned. Mag. Fürst left the mediation team at his own request in the spring of 2003. The mediation team managed the mediation procedure, together with the process provider Dr. Thomas Prader.

Geographic dimension

local regional state-wide
 country-wide international EU-wide

Status of process

concluded in execution

Start, end, duration of the process (if still in execution: estimated end)

May 2000 – June 2005

Background of the Conflict

Air traffic has been rising dramatically in the past few decades, and forecasts for future flights and passenger development show further huge increases.

In the 1990s, air traffic prognosis for 2010 predicted 20.9 million passengers at the Vienna airport, up from 8.5 million in 1995, and 267,500 flight movements (143,800 in 1995). For 2015, the projection rose to 26.5 million passengers and 304,600 flight movements. The Vienna airport management expected that the rising needs would exceed the capacities of its two runways in 2010 at the latest, and started the planning for extensive infrastructure expansions. A third runway should be built, ideally at a distance of 2,220 meters to the existing runways to enable a curved approach, thus increasing the frequency of landings and creating new capacities.

On 31 March 1998, the managing board of Vienna Airport AG presented the “Masterplan 2015” to its supervisory board. When the plan was subsequently presented in the municipalities surrounding the airport, it was met with strong reactions from the public and the media, which developed into fierce resistance. The presentation of the Masterplan was considered a provocation instead of an offer of information. Not just the Vienna Airport AG felt the heat but local politicians too.

The population in the surrounding communities had been suffering from noise pollution due to the rising air traffic for years and decades. Although technical innovations had led to a noise reduction of the engines and somewhat reduced the burden, the affected people feared that a new runway would reverse the development. Several local and regional citizens’ initiatives mobilized against existing and future noise and environmental pollution, demanded a ban on night flights and acted especially against a third runway. Citizens’ groups and the mayors of the affected municipalities signed numerous resolutions against the construction of a third runway.

Parties / Stakeholders to the Mediation

The **neighbouring communities** of Fischamend, Enzersdorf/Fischa, Schwadorf, Kleinneusiedl, Schwechat, Rauschenwarth, Gross Enzersdorf, Zwölfaxing, Himberg, Maria Ellend/Haslau, Trautmannsdorf, Bruck/Leitha, Arbenthal-Göttlesbrunn, Gramatneusiedl, and Vienna;

The **Vienna districts** of Simmering, Favoriten, Penzing, Rudolfsheim-Fünfhaus, Liesing and Donaustadt;

Aviation Group: Austro Control, Vienna International Airport, Austrian Airlines Group

Citizens' initiatives: Platform for Flight Noise in Austria, Citizens' Initiative Fischamend, Citizens' Initiative AL Schwechat, Residents Association in Lobau, Central Association of Garden Owners in Austria, Citizens' Initiative Pro Margarethen, Residents Association in Essling, Citizens' Initiative Götzendorf/Pischelsdorf, Citizens' Forum in Haslau/Maria Ellend, Association for Active Environmental Protection in Himberg, Platform against the 3rd Runway, Citizens' Initiative Trau.di

Environmental Advocacy Offices of Lower Austria and Vienna

Province of Lower Austria and Vienna

Political parties: Austrian Peoples' Party of Lower Austria, Social Democratic Party of Lower Austria, Freedom Party of Lower Austria and Social Democratic Party of Vienna, Green Party

Chambers and special interest groups: Austrian Federal Chamber of Labour, Austrian Federal Chamber of Commerce, Chamber of Agriculture, Lower Austria Marketing Association, Vienna Tourism Association, representatives of employees and employers at Vienna International Airport

The **district conferences** of Bruck, Baden, Vienna/South, Mödling and Gänserndorf, which were created during the evaluation process following the implementation of the partial contract in 2004.

In addition, the newly founded Union of Citizens' Initiatives and Residents' Associations surrounding Vienna International Airport also joined the process as a partner. This association represents the Citizens' Forum in Haslau Maria Ellend, Platform for Flight Noise in

Austria, Citizens' Forum Götzendorf/Pischelsdorf, Citizens' Forum against Flight Noise in Liesing, Citizens' Forum in Trautmannsdorf (Trau.di), Association for Active Environmental Protection in Himberg, Citizens' Forum Pro Margarethen, Residents' Association in Essling, Citizens' Forum Stop-Flight Noise in Vienna South-West, Citizens' Forum in Fischamend.

Mediation Process

The Beginnings

The Vienna Airport AG took the opposition against its extension plans very seriously. Considering the opposition the Airport had to expect in the subsequent environmental impact assessment, the newly appointed managing board wanted a dialogue with all stakeholders before the procedure would start. In December 1999, the company put out a tender for public relations and process providing for the third runway. At that time it was planned that the process provider would accompany the communication process between Vienna Airport AG and the population: moderate information events, prepare employees, and examine the written communication material. The goal was to convince the population of the necessity of an airport expansion and to strengthen Vienna Airport's position until summer 2001 when the environmental impact assessment would probably start. In addition to several public relations companies, the airport management also asked the Viennese lawyer Helmut Prader, who is well-know among citizens' initiatives, to submit an offer. Prader, together with the mediators Gerhard Fürst and Ursula König, offered a strategic concept for an open dialogue with all stakeholders – an entirely different idea, instead of public relations or an expensive advertising campaign only.

Pre-Mediation

In March 2000, the Vienna Airport AG asked Prader to take on the coordination. Prader had many preliminary conversations with the managing board, people from citizens' initiatives and political parties, provincial representatives and communities. In May, he proposed to undertake a mediation procedure with representatives of the airport, local politicians, administrative authorities and citizens' groups, and the managing board agreed. A preparatory group was established to prepare the actual mediation procedure. The group consisted of two representatives of Vienna Airport, two persons from citizens' groups, four persons from the neighbourhood advisory board and one representative each of the Provinces of Vienna and Lower Austria and the Environmental Advocacy Office of Vienna and Lower Austria.

On 18 January 2001, the first meeting of the mediation forum took place. More than sixty representatives of fifty different groups participated – making it the biggest mediation procedure ever undertaken in Europe. It was agreed that the most urgent issues to be dealt with were the expansion plans of Vienna Airport and the issue of noise pollution. A separate work group should draft a mediation agreement.

On March 1st, 2001, all fifty stakeholders participating in the process signed a mediation agreement, with two key objectives to be negotiated:

- ? Airport expansion project of the Vienna International Airport
- ? Flight movements in the two-runway system; existing noise pollution

The mediation procedure was welcomed and supported by all stakeholders. Not a single group voted against it. The goal was that binding and enforceable agreements among the parties should be achieved, and a balance be found between the economical and ecological interests.

The Institute for Interdisciplinary Research and Civic Education (IFF) of the University of Klagenfurt was asked to do the accompanying research

The Mediation Process – Work Structure

The largest entity was the mediation forum where all parties were represented. It was the highest board that made all binding decisions. It held 15 sessions in total.

The process steering group had about 20 members and held 49 sessions. It discussed all procedural questions, collected all information, established and disbanded work groups, determined the process design and the next steps to be taken – always with the consensus of all parties involved.

Work groups existed for various issues. In more than 100 work sessions, the actual work was carried out. Some work groups created sub-committees.

All minutes of meetings and work documents were published on the website www.viemediation.at, after having been approved by the appropriate group. The procedure managers regularly prepared summaries, especially for the sessions of the mediation forum. The procedure managers, especially Dr. Prader, regularly held face-to-face conversations with various parties and informed the process steering group of the essence of his informal talks.

After the mediation agreement was concluded on 1st March 2001, the real mediation procedure about the disputed issues began. First, the focus was on the required transfer of information and knowledge.

In December 2001, a first intermediate report was presented to the public, and in the 8th session of the mediation forum in April 2002, the first year was reviewed. The mediation agreement contained a provision that participants would decide after one year if and in what form the procedure would be continued. The panel decided unanimously to continue the mediation. During 2002 and half of 2003, the mediation procedure dealt almost exclusively with the exposure to aircraft noise. In November 2002, the 9th session of the mediation forum accepted the results of the work group dealing with noise, and found a preliminary

consensus about the final report regarding noise limits. In May 2003, the parties agreed on a partial contract about „Current Measures“, reorganising the actual air traffic. Almost all parties signed that partial contract about “Current Measures”. Thus, the first part of the mediation procedure was completed.

Starting in fall of 2003, the focus shifted to the expansion plans of Vienna International Airport and all related issues (the third runway, environmental fund, night-flight regulation, technical noise protection, regional conflict management, setting an upper limit on aircraft noise, land allocation questions, etc.).

The First Result: A Partial Contract

On 27 May 2003, the first partial contract was concluded. The mediation agreement in 2001 had provided that solutions found in a limited area could be signed off in partial contracts before the final mediation contract would be signed.

The partial contract dealt with all demands about “current measures”. The goal was to ameliorate the current situation, in particular with regard to noise. The number of regionally affected people should be decreased, and the most heavily affected people should get a noise reduction by time limitations. Especially noise resulting from night flights should be reduced. Representatives of the airport accepted certain limitations to advance solutions for the whole region. The agreements included a prolongation of the time period forbidding overflights by three hours, no landings at night for approaches from the South, and a distribution of flight movements to the lesser affected areas.

Furthermore, agreements about new landing and departure routes were made, the distribution of traffic worked out, and noise-reduced landing and departure procedures explored. The contract contained also regulations about financial support for sound-proof windows to be provided by the Vienna Airport, noise measurement, monitoring, ground noise and sewage disposal.

Final Outcome

On 22 June 2005, more than 50 contractual partners signed a whole package of contracts and a general final declaration. The package contains legally binding contracts, furthermore a non-binding summary of the process and final statements by the participants of the mediation procedure. The legally binding agreements between the contractual parties do not, as a matter-of-course, interfere with the rights of the authorities (public law).

In the **General Mediation Contract** – one of the legally binding contracts – the following agreements were made:

Environmental impact assessment: If the Vienna Airport AG wants to build the third runway, it must be guaranteed that the project submitted to the authorities will contain all regulations agreed upon during the mediation process.

Procedural agreements: It is agreed that all problems and conflicts regarding flights shall be resolved in a constructive way in the future as well. As some problems could not be resolved now while other problems are still unknown, the participants agreed on procedures whose payment is secured and that will guarantee that all affected persons will be involved, and solutions will be found by keeping to certain criteria.

Regulations for night flights: Health and quality of life shall be protected while taking the economic interests into consideration. The night flight regulations will permanently limit the burden on the population; the burden will be predictable. The night flight regulation must always be seen in connection with technical measures of noise reduction, especially at night. Medical experts consulted during the process have judged the regulation positively.

The agreements concluded in the General Mediation Contract must always be considered in their entirety. The municipalities and the “Union of Citizens' Initiatives and Residents' Associations surrounding Vienna International Airport” have waived their right to fight the approval of a third runway with all possible legal and political means; instead, they will let an eventual permit come into force, which is an irreversible concession. Therefore these circumstances must be taken into consideration in an eventual arbitration regarding night flights.

Technical measures for protection from noise: As air traffic is a fact and causes noise pollution, the agreements were made to protect the health of affected people, to secure and increase the quality of residential areas and to find replacement for limitations of use.

Upper limits for the zones of noise: The agreement shall limit noise pollution and therefore prevent air traffic from growing uncontrollably. The municipalities shall be protected from an expansion of the zones of noise from air traffic and resulting limited development opportunities; in lieu thereof, air traffic is protected from ever advancing new residential buildings.

Agriculture: To compensate for the land utilization caused by the airport expansion, agreements were made to secure the economic viability of the farmers – for example, by creating a good network of roads and caring for a sufficient size of land.

Establishment of an environmental fund: The fund shall provide financial support to those municipalities that suffer the most under the air traffic noise. Annually, three million euros will be distributed as follows:

- ? 37.5 % for communities affected in their development perspectives by air traffic;
- ? 37.5 % for communities, depending on their noise burden (day/night);
- ? 25 % for funding of projects promoting a sustainable development in the region.

The fund is directed by a managing board of three persons and an advisory board representing the Vienna Airport AG, the communities and citizens' initiatives. A contract between the Environmental Fund and the Vienna Airport AG determines and secures the endowment.

Establishment of the Dialogue Forum Vienna International Airport:

The Dialogue Forum Vienna International Airport is primarily responsible for regional conflict management. It is also the custodian of the concluded contracts and will decide on procedural issues of how to deal with future problems.

Members of the managing board are representatives of Vienna International Airport, Austrian Airlines, Austro Control, municipalities, provinces, district conferences and citizens' initiatives.

If this forum is unable to reach a generally acceptable solution on disputed issues, the partners to the general mediation agreement and the founding members of the Association Dialogue Forum Vienna International Airport have concluded an arbitration agreement.

Arbitral tribunal: A solution including an arbitral tribunal was chosen because

- ? Decisions can be made that reflect the spirit of the whole mediation process;
- ? Decisions can be made fast and in a trusting atmosphere;
- ? Citizens' groups and the association 'Union of Citizens' Initiatives and Residents' Associations surrounding Vienna International Airport' can initiate procedures to claim their rights without having to fear incalculable costs;
- ? The arbitral tribunal contract guarantees that not only the parties to the dispute will be heard but other contractual partners will be included in the procedure too.

Conclusions

What do conflicting parties mean when they speak about *participation*? Hand out information? Have a say in a decision? Be involved? Or be part in the decision-making process? And when a decision is accepted, is the acceptance due to silent suffering, sheer tolerance or joyful consent?

The participants in the mediation procedure for the Vienna airport experienced participation in all its variants: from the simple dissemination of information to being a part in the decision-making. However, accepting to take part in a mediation procedure about the development of a region also implies the whole spectrum of possible reactions to the outcome: from sighing,

pragmatic tolerance to joyful agreement. This did not happen because of some cunning, wily convincing. Rather, it was acceptance due to cooperation.

At the beginning, the mediators had to deal with serious resistance and blockade. Stereotypical images of the opponent dominated (“managers don’t care about our health” versus “those gripers won’t understand a thing”). The path was to find a constructive dealing with the conflict and to turn all creative energy that had been used to build the blockades into a search for solutions. For that, the conflict partners needed to get some distance – distance to themselves, to the conflict, to their own endearing solution.

Trust was at a low point at the beginning of the procedure. Simple questions – when to start a meeting –, and big issues – whether the airport needed an extension at all – were intermingled.

The participants developed three principles:

1. Cooperation – give and take are inseparable
2. The greatest burden deserves the highest attention.
3. The solution must take into account the whole picture instead of individual aspects.
4. For the decision-making, consensus is required to protect minority opinions and weak parties. However, tyranny by the power of veto will not be accepted.

This mediation procedure for the Vienna International Airport was – as far as we know – the largest ever performed mediation. After five years of work, the participants achieved a consensus about the future development of the airport and the distribution of exposure to aircraft noise. The advantage for the Vienna International Airport is that presumably the construction permit for the third runway will be approved faster in the subsequent environmental impact assessment, and the political resistance against it will be significantly weaker. The advantage for the involved communities, the citizens’ initiatives and the affected population is that by way of mediation they got concessions, impact reductions and substitute benefits they would never have achieved in the course of an environmental impact assessment.

The specific problem of aircraft noise is that everybody aims at not being exposed to it, but due to the high settlement density, such an exposure is unavoidable and even rises due to the steadily increasing number of flights. The specific challenge in the procedure was the enormous number of parties and contradicting interests. Each community was in conflict with all its neighbouring communities while discussing the distribution of the aircraft noise. The procedure was eminently political also for the fact that all political parties from Vienna and Lower Austria were involved. For the provinces of Vienna and Lower Austria, aircraft noise is a political problem, but at the same time both provinces are shareholders of the Vienna International Airport, each of them holding 20 % of the shares. They also have other economic interests, such as tourism, jobs, keeping Austria as the Central and East European headquarter for corporations, etc.), having therefore an eminent interest in the airport being upgraded.

Therefore it was of particular importance that the mediation procedure was suggested by a third party. From the very beginning, the procedure management had been entrusted to a third party (process provider, mediation team), serving equally the interests of all parties. The process provider Dr. Prader has enjoyed the trust of all parties and was in permanent contact with them. The entire process preparation, the course and structure of the procedure were all jointly constituted by the procedure management and the parties involved.

The citizens' initiatives have enjoyed a high standing from the very beginning. On the one hand, they were the driving force in the process, being tightly involved in it; they proved great competence as of the contents and were able to gain the respect of all parties. On the other hand, regarding the issues, they were the driving force pushing Austrian Airlines and the Vienna International Airport. A particular role was assigned to the air traffic control (Austro Control) who was also devoted to the procedure and proved willing to cooperate.

The Vienna International Airport was ready to pay for the procedure costs and never exerted pressure on the procedure or its management. Thus, the participants had ample time to develop the procedure, to raise all issues and discuss them thoroughly.

A team of social researchers observed and accompanied the procedure, doing 'intervention research' and giving valuable feedback to the procedure management, to various parties, to the mediation forum and the procedure steering group.

This procedure proved that even extremely controversial issues that generally do not lead to a win-win situation can finally be satisfactorily solved by means of a mediation procedure. However, it is clear that fundamental societal conflicts between economic and ecologic interests cannot be solved within the framework of a mediation procedure.

Finally, some parties, for varying reasons, did not or at least did not entirely support the outcome of the mediation. Only one party single-handedly rejected and criticised the procedure and all results in their entirety (the citizens' initiative "Citizens' Noise against Aircraft Noise", Zwölfaxing). Some political parties did not approve the results – either because of fundamental reflections (Green Party) or because of politics (upcoming municipal council elections in Vienna). All other parties, except for the mentioned citizens' initiative, stressed that this procedure was reasonable and fair and has led to positive results.

Unfinished business

Some things could not be achieved. Consensus on everything with everybody was not possible – and realistically it could not be expected either.

It remains to be seen whether the political climate will be improved permanently.

The limits of mediation became clear. General issues – whether permanent economic growth is compatible with sustainable development – could not be answered while searching for a solution for a very specific project. Mediation participants have no influence on the taxation of kerosene or ownership of the airport in Bratislava, Slovakia – therefore, it was impossible to look for solutions in a mediation process.

Costs

At the end, a question comes up: Was it worth it? Considering the dimension of the conflict, all participants say yes. Costs are not just monetary costs, such as court fees, planning costs, expert fees, work time, but also social costs.

Undoubtedly the mediation procedure was much work: 15 sessions of the mediation forum (the biggest group), about 50 sessions of the process steering group, more than 200 working sessions with 3 to 30 people, certainly more than 10,000 emails, two public events and several press conferences.

Information on the provider of information and his/her institution

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