

Qualities and Long-Term Effects of Mediation

Peter Kaiser¹, Gerald Eisenkopf¹, Andrej Marc Gabler², and Felix Lehmann³

- 1 University of Vechta, Vechta, Germany
- 2 Schleswig-Holsteinisches Oberlandesgericht, Schleswig, Germany
- 3 Schleswig-Holstein, Landgericht Kiel, Kiel, Germany

Keywords

Negotiation research, mediation psychology, long-term outcomes, effectivity factors, prospective longitudinal study, follow-up evaluation, quality management

Correspondence

Peter Kaiser, Dr. phil. habil,
University of Vechta, Driverstr. 22, D-
49377 Vechta, Germany, e-mail:
peter.kaiser@uni-vechta.de

10.34891/2022.612

Abstract

To clarify the long-term effects and sustainability of mediation, we reviewed approaches and findings from mediation research, psychology, and counseling and therapy research. On this basis, we have developed a hypothetical model of mediation qualities that we tested in a prospective longitudinal study. To this end, we investigated the long-term effectiveness of mediation in 303 escalated civil disputes of various types. We refer to main findings that indicate there are long-term effects of antecedent *structural qualities* such as personal items of the participants, mediator qualifications, and as well as system and conflict issues, but also *process qualities* such as conduct of negotiations, explanation of all concerns and issues, and honesty of participants. *Outcome qualities* of the agreement also had long-term effects like contract compliance, or satisfaction. *Sustainability qualities* had long-term effects like time and cost savings, long-term fairness, relationship, and quality of life, satisfaction and conflict competence, and parties' attitudes toward mediation. Reflections on further research, practice and training conclude.

Volume 16, Number 2, Pages 132-164

© 2023 International Association for Conflict Management

We would like to thank the then heads of the mediation departments of the participating courts, Andrej Marc Gabler and Insa Norden (formerly Paul), as well as the presidents of the two courts, the participating mediators, lawyers and parties for making the study possible and for their dedicated support. For important contributions we thank Prof. Dr. Winfried Bach (Vechta) for statistical and, Prof. Dr. Hans-Peter Heekerens (Munich) for methodological questions, for data analysis Dr. Lisa Gutenbrunner (Marburg), Dipl.-Psych. D. Paulina Matyjas (Berlin) and Prof. Dr. Tobias Arthur Müller (Heidelberg). We sincerely thank Prof. Dr. Reiner Bastine (Heidelberg) and Prof. Dr. Gert Sommer (Marburg) for valuable comments. We sincerely thank the Editor-in-Chief of NCMR, Prof. Dr. Qi Wang (Villanova), for her friendly invitation and her helpful comments and advice.

The study was largely financed by the university's own funds, part of the electronic evaluation work by the Gesellschaft für Systemische Psychologie e. V., and the printing costs for the questionnaires by the participating courts.

The full research report, including all results and a detailed description of procedures and research methods, as well as additional information and data sets, are available from the first author.

This article summarizes our considerations and results from various German publications in an updated form in English.

Introduction

A mediation process is usually considered successful when it is concluded with an agreement. It remains questionable how completely and differentiated the existing problems have been worked through and how fair, satisfactory, and workable the negotiated arrangements are, how well and for how long the agreements are adhered to, how satisfied the participants are with them and whether their relationship, well-being, quality of life, and competence to deal with conflict have improved can only be seen after a longer period of time. However, we still know too little about these long-term effects and how they come about. To date, an empirically validated coherent psychological theory of mediation that also incorporates the full breadth of approaches and findings from psychological research in detail is rudimentary (Bickerdike & Littlefield, 2010; Donohue et al., 2016; Druckman & Herrman et al., 2017; Kalter et al, 2018; Kaiser, 2018; McNeece & Thyer, 2004; Wall, 2017; Wissler, 2017). Although mediation is a professional counseling process, approaches and findings from counseling and therapy research are underreported (for example, Norcross & Wampold, 2019; see below). Most of these findings and the procedures and strategies derived from them are relevant to *all* helping professions regardless of specific problem and application areas. We therefore used relevant approaches and findings from these disciplines to formulate a hypothetical model of mediation qualities. We were able to test this model for the first time in a longitudinal study. For reasons of space, we limit ourselves here to a brief literature review and main findings from our study.

Long Term Success of Family Mediation and Corporate Mediation

An agreement does not equate to lasting success of the mediation process (e.g., Johnson et al., 1985). In this section, we examine what conditions are decisive for long-term success in both family and organizational mediation. In doing so, characteristics of the different fields of activity, relationships, and role structures, as well as the conflicts themselves must be taken into account.

We start out with a review of relevant interdisciplinary research that relates to our project in order to provide a theoretical illustration of key variables of mediation success. Afterwards we describe our own empirical study in detail and how our database allows for testing our theoretical expectations regarding long-

term relationships in mediation processes. We then proceed to the results and conclude with a summary and discussion of our findings.

Family Mediation

In *family mediation*, a two-year follow-up of mediation with highly contentious couples, Johnston et al. (1985) found a significant reduction in parental conflict and hostility in 45% of cases. However, unfavorable antecedent *structural* qualities like *personality* traits, *parental disputes*, and *extended family* influences resulted in no improvement in 40%, and deterioration in 15% over the longer term.

In their longitudinal study, Pruitt et al. (1993) examined 73 mediation sessions that were recorded and analyzed. In addition, participants were interviewed immediately after the mediation and four to eight months later. They found correlations between *process qualities* like the *fairness* of the *negotiation process*, *complete resolution* of all issues, and long-term success. No correlation was found between the quality of the agreement and long-term effects such as *compliance*, improvement of *relationships* and avoidance of *new problems*.

Irving and Benjamin (1995), in their review of 51 studies of family mediation, reported that 22% of the parties had as a long-term outcome even *reconciled*. In the majority, divorcing couples honored agreements over time and, when circumstances warranted, made *new arrangements* by *mutual agreement* when necessary. This was accompanied by substantial positive changes in *parental cooperation*, as evidenced by *child satisfaction*, *parent-child relationships*, and more appropriate *child behavior* when the out-of-home parent visited. For these long-term effects, *structural qualities* like communication *competence*, and cooperativeness of the parties, and especially the mediator were important in helping the parties to *understand* their own and the other party's *feelings* as procedural qualities (see also Donohue et al., 1989). Kelly (2004) found similar results in her review of nine studies of family mediation in the public and private sectors, in voluntary and mandatory services, and at different stages of the conflicts described. Using a variety of methods, metrics, and large samples, mediation resulted in settlements in custody and access disputes, divorce, and child protection disputes. Settlement rates generally ranged from 50-90%. In follow-up surveys, 40-60% of respondents expressed satisfaction, felt negotiations and outcomes were fair, felt listened to, respected, were able to say what was important to them, were not pressured to reach agreement, were able to work together as parents, and felt their agreements were good for their children. Thus, greater process and outcome satisfaction appeared to contribute to long-term effects like better compliance with agreements in the long run, but also to better cooperation.

In the California Divorce and Mediation Project report, 76% of women and 62% of men said mediation helped them get along better, and 15-20% were dissatisfied with both the process and the outcomes. Thirteen percent felt *pressured by the mediator*. Men were more likely to feel that women had an *unfair advantage* in mediation. This suggested a lack of *neutrality*, *impartiality*, and *abstinence* on the part of the mediators (see below). Fifty-one percent of parties who did not reach agreement indicated that the *mediator's evaluations* or *court decisions* had negatively impacted their relationship (Kelly, 2004).

On the other hand, the U.S. Department of Health and Human Services (2002) found in studies of 125 parents in five states that 74% of those who reached agreement and as many as 59% of those who did not would *recommend mediation*. Some studies showed that 40-65% of the parties had made mutually agreeable changes to the agreements. Greater satisfaction was associated with more accurate *compliance* with agreements. Twelve years after divorce, fathers in mediation were more committed to their children and reached a better relationship than were litigation fathers. When mediators were sufficiently experienced and well trained, even success with angry clients and those with mental disorders and family problems was possible. At the same time, psychosocial functioning itself did not noticeably improve.

Risks to sustainable negotiation success included *mistrust* and *lack of fairness*, *anger* and *dissatisfaction*

with the divorce process and outcome, and a rather *rushed* or *coercive* mediation process by untrained or inappropriate mediators (see also Bickerdike & Littlefield 2010). Some high conflict clients required more intensive *therapeutic* forms of mediation that lasted longer. These integrated individual and group sessions with counseling, parent coordination, and training (Cowan et al., 2019; Kelly 2004; Kline-Pruett & Johnston 2004).

Kline-Pruett et al. (2004) found long-term reductions in hostility and conflict in their study of divorce mediation. In 15% of the cases, conditions worsened after some time, as did the well-being of some children who were initially symptom-free after the intervention. In the opinion of the authors, longer psychological care, which could also be legally secured, would have been necessary here. In a long-term study over 12 years, Sbarra and Emery (2010) found significantly more *non-acceptance* of the end of their marriage among mediation clients than among couples who had gone through litigation. Fathers were more affected and reported less parental level conflict than mothers. Separation, after all, runs counter to the *basic need* for *attachment* anchored as a neuropsychic *schema in brain structures*. As we will see, one can separate from a partner, but not from one's own brain structures. The internal attachment persists even after a separation, which is why the attachment figure is sorely missed despite conflicts (Brisch, 2019; Cowan, 2019; Epstein, 2003; Grawe, 2004; Strauß & Schauenburg, 2016; see below). Because of these neuro-psychic contexts, intrapsychic and interpersonal conflicts can become malignantly intermingled, placing particular demands on participants and especially mediators.

The results of longitudinal research on family mediation show that the long-term effects varied widely and even deteriorated. *Structural qualities* such as personal characteristics of the partners, strong ties, and contentious relationships at the couple level were relevant for success. *Process qualities* that influenced long-term success were a conduct of negotiations that was experienced as fair and appreciative and that took into account all issues relevant to the participants and the associated emotions. It appeared to be a hindrance when poorly trained and less experienced mediators were not able to deal with the sometimes intense emotions of the parties or did not remain neutral and abstinent. Also relevant to success was how the extended family of the parties reacted to the mediation and its results. Long-term success was promoted by *outcome qualities* such as reconciliation of the conflicting parties and improvement in cooperation at the parental level, which enabled agreements to be adapted to changed circumstances if necessary. Long-term satisfaction was better the more closely the agreed arrangements were adhered to.

Corporate Mediation

The situation was somewhat different in Corporate Mediation. Here, the focus is less on kinship relationships than on economic goals and the roles and hierarchies they imply.

In the study of Poitras and Le Tareau (2009) with 207 employees and employers involved in workplace disputes mediated by 17 mediators, 74% of the participants reached an agreement. Respondents rated the extent of five dimensions, (a) *mediator's usefulness* (average of 4.90 of 6 points), (b) the *procedural justice* (average of 5.10 of 6), (c) *satisfaction with the agreement* reached (an average of 4.29 of 6), and (d) *confidence* in the contractual compliance of the other party (average of 4.94 of 6); (e) the participants were in average of 3.56 of 6. Only 29% of participants were *reconciled* with the other party a little. Reconciliation was apparently less important for many because ending the employment relationship and financial compensation were the main issues. If the relationship has also improved, the authors spoke of "value-added agreement" (Poitras & Le Tareau, 2009, p. 374). *Disappointing agreements* did produce poorer ratings of mediator's usefulness, and procedural justice, and did produce same satisfaction with the outcome than the no agreement group. Poitras and Le Tareau suspect that some mediators were not competent to handle relational conflicts or to reconcile parties.

In their study of workplace conflict, Kalter et al. (2018) surveyed 96 participants following their

mediation and one year later. They used Poitras and Le Tareau's (2009) five dimensions (see above). Hierarchical regression analyses showed that reconciliation after mediation also predicted lasting reconciliation after one year. Similarly, short-term satisfaction with the mediator and mediation also predicted long-term satisfaction after one year. Hierarchical position and trust in the mediation agreement predicted long-term trust in the other party's compliance to the contract (see also Riera Adrover et al., 2020).

In organizational mediation, *structural qualities* were characterized less by personal relationships or ties than by roles and hierarchies. *Process qualities* such as competent negotiation by the mediator, who responded to the concerns and emotions of the participants, were significant for long-term success. *Outcome qualities* relevant in the long term were agreements perceived as fair and trustworthy in the other side.

Key Factors of the Mediation Process

After a comprehensive research overview of the different mediation areas., Herrman et al. (2006) organized the empirical findings from a variety of different studies into a detailed formulated hypothetical framework. The authors considered in detail long-term effects of mediation processes as well as the preconditions responsible for them. They attribute *antecedent structural qualities* to personal characteristics, attributes and beliefs as well as to conflict features and system context. They identified empathy, fairness, neutrality and conduct of negotiations by the mediator as well as active participation and understanding by the parties, active negotiation, discussion of the problem aspects and the associated needs, and formulation of options as decisive *process variables*. Among the *short-term outcomes*, they summarized satisfaction with the legal system and the mediator, with the process and conduct of negotiations, with the content and fairness of the agreements, costs incurred, and improvement in relations. As *long-term effects*, they identified compliance with the agreed arrangements and, where appropriate, further litigation, reparation, reconciliation and security from attacks by the other side.

As has been shown, *prospective long-term studies* are indispensable for the development of an empirically based theory on the interrelationships of effects and sustainability of mediation processes. Here, the parties are *not* only asked about their experiences after the mediation, but one already records the situation *before* the mediation with the associated relevant pre-mediation variables or structural qualities. These can then be compared and related to process qualities of the procedure, mediation outcomes and relevant postmediation variables as outcome qualities as well as long-term effects of mediation (Bastine, 2014; Benjamin & Irving, 1995; Herrman et al., 2006; Montada & Kals, 2013).

Mediation could probably be even more effective and sustainable if more use were made of approaches and findings from empirical psychology.

Mediation-Relevant Findings from Psychological Research

Psychological approaches and findings provide an *evidence-based understanding* of conflict and negotiation. Findings from cognitive psychology on the *selectivity* and *perspectivity* of *perception* show how incompletely and biasedly people perceive and judge. Information may go unnoticed due to ignorance, sensory overload, or distraction, or it may be repressed or denied due to internal defenses (summarized by Bak, 2020; Gigerenzer, 2019; Koelsch, 2014; Seiffge-Krenke, 2017; Wendt, 2014). Due to faulty information processing, false conclusions and attributions occur, triggering corresponding emotions (see below). Parties and mediators should therefore ensure that all relevant information and its interrelationships are taken into account and misunderstandings are cleared up in order to minimize the risk of new conflicts and difficulties in negotiations.

Memory and Stress

Memory is also prone to errors, because different brain areas are active when remembering. When several simultaneous events have not been correctly classified or when the individual is later confronted with very different evaluations and versions of reports about them, it can unconsciously lead to incorrect linkages of information and momentous erroneous memories and false conclusions (Gigerenzer, 2019; Gruber, 2018; Shaw, 2016). Therefore, when appropriate, accurate reconstruction and evidence collection in mediation is useful for verifying proffered memories.

An often overlooked obstacle to reality-based information processing and remembering is *stress*. It is a psychophysiological syndrome that is set in motion by the alarm center in the brain when the individual feels threatened in his *basic needs* for *orientation/control*, *attachment/belonging*, *pleasure gain/unpleasure avoidance*, and *appreciation/self-affirmation* due to situational cues (Epstein, 2003). In all creatures, stress activates the organism for *flight*, *fight* or *freezing*. For this purpose, the energy supply to the cerebrum is reduced, which impairs perception, remembering, and thinking and can make one "headless" (e.g., Brunner, 2017; Epstein, 2003, Grawe, 2004; Koelsch, 2014). Therefore, it is useful to examine with regard to which basic needs the parties feel restricted and which *emotions* are triggered.

Emotions and Person Features

Emotions are psychophysic syndromes that are experienced as *sadness*, *disapproval/contempt*, *disgust*, *anger/rage*, *fear*, *surprise*, or combinations thereof, depending on the situation (Ekman, 2011). Subsequently, the brain actively seeks cue stimuli that confirm existing emotions and avoid dissonance experiences (Brunner, 2017; Gigerenzer, 2019; Radkiewicz & Korzeniowski, 2017). Different areas of the brain are responsible for the storage of facts and the emotional evaluation of experiences. By linking randomly occurring stimuli together, new stimulus-response patterns can arise unconsciously by way of conditioning and cause attributions can be derived from them. This happens, for example, in traumatic experiences with extreme stress, whereby schemata are formed in the brain that can lead to post-traumatic or panic reactions.

Emotions can be triggered by random stimuli and unpredictably often occur many years later and can be completely dysfunctional (Grawe, 2004; Linden, 2017). For example, current conflicts can trigger memories of very different earlier offenses and even lead to panic attacks through corresponding schema activation. Thus, the brain can *construct realities* according to its own non-conscious criteria. Triggered emotions run autonomously and can strongly influence behavior and experience (Sacchi et al., 2021).

Since people often *identify* with their emotions, mediators are well advised to always first address the emotions of the parties and in this way to detect related but partly *unconscious* or *unspoken* factual issues (see below). This is more easily accomplished by attentively observing *nonverbal signals* and directly verbalizing the associated emotions (Ekman, 2011; Grawe, 2004). If necessary, targeted stress management and calming measures are helpful (e.g., Schamber et al., 2020; Singer & Bolz, 2013; see below).

Personality traits such as neuroticism/emotional irritability, openness to new experiences, extraversion/introversion, conscientiousness, and agreeableness (Big Five; McCrae & Costa, 1999; Sandy, 2014). They are anchored in the brain structures as schemas and can be changed in the long term at best. Other behavioral and conflict determinants that are mostly unconsciously effective are also neuropsychically anchored *attachment schemas* that control *bonding relationships*, which are particularly relevant for success in family mediation (see above; Kelly 2004; Pruett & Johnston 2004; Cowan et al. 2019; Strauß & Schauenburg 2016). Bonding relationships can also be relevant in workplace mediation when *love relationships* or *kinship ties* are (often kept secret) conflict components.

Lack of *intelligence* (e.g., Deary et al., 2021; Katz & Sosa, 2015; Thomas, 2012), *coping styles*, *social skills*

(e.g., Braun, 2020; Stett, 2010; Thomas, 2012), as well as the common *mental disorders*, can also influence conflict vulnerability and conflict behavior (e.g., National Institute of Mental Health, 2021; Petermann et al., 2018).

Since such traits, schemas, and mechanisms influence susceptibility and behavior in conflicts and negotiations, mediators should take their significance and effects into account when analyzing conflicts and conducting negotiations (see above; Cowan et al., 2019; Kaiser, 2009; Kelly, 2004; Pruett & Johnston, 2004; Strauß & Schauenburg, 2016). Psychosocial impaired parties require special understanding and support in mediation negotiations in order to avoid disadvantages. Many findings and strategies from clinical psychology that have been studied in counseling and therapy research lend themselves here.

Mediation-Relevant Findings from Counseling and Therapy Research

In counseling and therapy research, differentiated studies have been conducted for decades on which *client*, *system*, and *counselor variables* interact in what way and contribute to what results and long-term effects (Benjamin & Irving 1995; Cowan et al., 2019; Howieson & Priddis, 2015; Morris et al., 2018; Norcross & Lambert, 2019; Rogers, 1957; Wampold et al., 2018). Applied to mediation, this means helping the parties to understand themselves, the conflict, and the other side as much as possible, and to find successful arrangements from which all parties can benefit in the long term (Bastine, 2014; Herrman et al., 2006; Kalter et al., 2018, among others). If the participants take into account each other's basic mental needs and their partially nonconscious implications (see above) in their behavior, the more trust and adherence can apparently develop in a working relationship that becomes more sustainable as a result (see also Grawe, 2004; Norcross & Lambert, 2019).

The current state of knowledge in counseling and therapy research has been compiled by the *Task Force on Evidence-based Relationships and Responsiveness*, commissioned by the American Psychological Association (APA), based on thousands of empirical studies and numerous meta-analyses which should also be considered in mediation proceedings (Norcross & Lambert, 2019; Norcross & Wampold, 2019). According to that evidence, the items that are consistently effective for lasting relationship and counseling success are as follows (see also Herrman et al., 2006; Riera Adrover et al., 2019): *Trust* in the mediator and offensive sensitive clarification of relationship breakdowns, misunderstandings, and transference processes to avoid strain on the cooperation mediator's *impartiality/neutrality* and *openness* to results, *self-congruence* in the context of *allegiance*. Doubts about the credibility of the mediator, the mediation, and its prospects for success should be addressed, even if expressed nonverbally, accurate *empathy* on the part of the mediator toward the participants and their emotions, including those expressed nonverbally (see also Katz & Sosa, 2015), *positive regard* and affirmation of a positive expectancy, which is highly significant given the usually battered self-esteem of those involved in conflict situations and reinforces hope for sustainable settlements (Farber et al., 2019), *client feedback* - regular surveys and consideration of client feedback to ensure process quality, rapport, and goal consensus at all times (Lambert et al., 2019), *managing countertransference*; what counselors perceive is influenced by their own psyche and experiences (Hayes et al., 2019; König, 2010). This issue is particularly important in mediation because neutrality and impartiality depend on it.

Structural qualities like unfavourable personality traits, competence deficits and mental disorders, chronic family and partnership conflicts, procedural qualities like insufficient empathy of the mediator, especially in dealing with emotional problems, and after mediation dissatisfaction with the procedure and outcome of mediation, lack of contractual compliance of the parties, have been shown to be *risks* for lasting success (Benjamin & Irving 1995; Herrman et al., 2006; Howieson & Priddis, 2015; Kelly, 2004; Pruitt et al. 1993). These conclusions about evidence-based practice in counseling and therapy also seem useful for mediation. We now turn to examine whether these findings can also be confirmed in mediation research.

The Prospective Kiel Longitudinal Study (PROKLOS)

Mediation can only achieve its goals in cooperation with the users. As a counseling procedure, mediation must be questioned about the quality of its foundations, processes, and results: 1) whether, how well and how permanently it is effective (effectiveness/sustainability); 2) how quickly and with what effort the parties are helped to a sustainable solution (efficiency); 3) how it works and which interrelationships of effects are relevant for a sustainable conflict settlement (mechanisms of action; Kaiser et al., 2017).

In order for the parties to achieve their goals and secure them in the long term, there is a need, in addition to antecedent *structural qualities/preconditions*, for *processual qualities* in the way the persons involved in the negotiation deal with each other. This system can be traced back to Donabedian, who proposed a model of quality of care as the "degree of correspondence between the goals ... and the care actually provided" to evaluate the services of the American health care system (Donabedian, 1966/1980, p. 80 ff; see Figure 1). In order to make progress in the development of a psychological theory of mediation and to determine conditions for lasting success and optimization possibilities of mediation, we have used this quality model in addition to the model of Herrman et al. (2006) for our longitudinal investigation presented below. The goal, as in medicine, is to advance the *evidence-based* nature of mediation (Sackett et al., 1996).

In addition to the quality model, we distinguished between *micro-, meso-* and *macro-level* variables according to the concept of *systemic multilevel analysis* (Kaiser, 2009). The applicable legal system and its structures were assigned to the macro level, family and institutional variables to the meso level, and individual variables to the micro level.

The extant literature indicates that the long-term success and sustainability of mediation are essentially determined by a set of complex interrelationships between different components as depicted in Figure 1. We will discuss the model by way of example and propose the key conceptual relations through the following hypotheses:

H1. The sustainability of mediation is influenced by antecedent *structural qualities* like *traits, states, and roles* of the parties, and their *relationships*, the *qualification of mediators, case characteristics* (micro level), and, in addition, of family and institutional *system contexts* (meso level) as well as macro-level conditions such as the *applicable legal system*.

H2. The sustainability of mediation is influenced by *process qualities* of the procedure like *communication, and relationships, understanding, and appreciation, fairness* of the conduct of negotiations in dealing with the problems, and the *satisfaction* of the participants with the course of the procedure.

H3. The sustainability of the mediation is influenced by *outcome qualities* such as *agreements* reached, mutual *understanding* and *positive regard, fairness* of the arrangements and *satisfaction* with them, and improvements of *relations*.

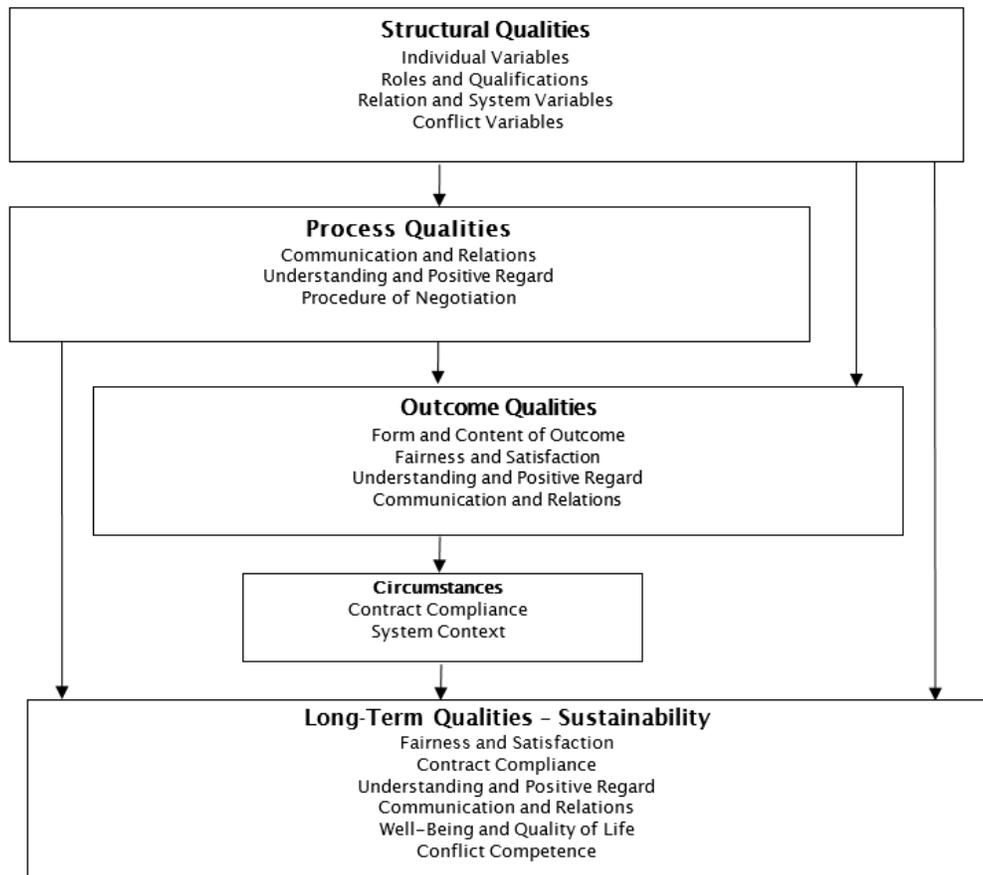
H4. Long-term success and sustainability of mediation are initially influenced by intervening variables (circumstances) such as interim compliance with the agreement and meso- and macrosystemic contexts.

The distinction between circumstances and long-term effects could only be made logically-conceptually and thus hypothetically, since both were collected simultaneously. In the long term, the sustainability of mediation is influenced by (a) time and cost savings, (b) lasting contract compliance, (c)

fairness of settlements, (d) relationship improvement, (e) improved quality of life including stress reduction, (f) lasting satisfaction with the agreements, and (g) increase in conflict competence (Figure 1). We assumed complex interactions among these variables (Appendix A).

Figure 1

Hypothetical Model of Mediation Qualities (Kaiser et al., 2017, p. 333; adapted from Donabedian, 1966/1980; Herrman et al., 2006)



Method

Sample

The study sample consisted of parties suing/being sued for civil disputes of different nature (see Table 2) at the district court and the regional court in Kiel/Germany. In 397 cases, judicial mediation according to the Harvard Model (Fisher et al., 2015) was proposed to these parties as an alternative to litigation. If they agreed, the court proceedings were suspended. Parties and their attorneys, as well as mediators, completed our questionnaires in 303 cases from fall 2009 to fall 2011 (see Tables 1 and 2). The mediators were 25 judges trained according to the Harvard Model who had already conducted an average of 111 mediation proceedings. The parties or their lawyers could (de)select specific mediators. Randomization was therefore not possible.

Variables and Measurements

We surveyed at T1, parties, attorneys, and mediators about antecedent variables and structural qualities (see H2, Table 1, Figure 1; Kaiser et al., 2014, 2017) immediately prior to mediation. These included questions about personal and professional characteristics as well as *success criteria*, *wishes* and *fears* in connection with the mediation process, their *system context*, their *role* as plaintiff or defendant, as well as *characteristics of relationships* of the parties and their previous history. To assess items of *personality items*, the parties received a modified personality questionnaire to the Big Five model (Gerlitz & Schupp, 2005; McCrae & Costa, 1999). At T1, we also identified characteristics of *qualification* and *system context* of mediators and lawyers as well as *case characteristics* such as *content*, *length of time*, *dispute value*, *difficulty*, and *complexity* (see Table 2).

At T2, all parties were asked directly after the mediation regarding the process qualities and short-term outcome of the mediations (see Table 1, Figure 1), to what extent their *success criteria* and *wishes* regarding, among other things, *conduct of negotiations*, *understanding*, *abstinence*, and *all-partiality* were fulfilled, to what *conclusion* the process came, and how they rated it (*fairness*, *satisfaction*, *encouragement* etc.; see H2, H3).

At T3, parties and lawyers were asked again about long-term effects/sustainability one year after, how *fair* they found the arrangements made, how well they were *adhered to*, how their *relationships*, *well-being*, and *quality of life* developed, and how *satisfied* they were with their mediation arrangements negotiated. We also asked the parties how they rated their *competence* to deal with conflict and their *willingness* to mediate again after one year (see H4, Tables 1 and 2, Figure 1).

At the three survey time points, we used eight questionnaires with a 11-point Likert-type rating scales for closed-ended questions. See Appendix A for the measurement items used for each variable. See Appendix B for the variable correlations based on the conceptual relations laid out in Figure 1.

Data Analyses

Data processing and analyses was performed content-analytically and inferentially statistically using IBM's SPSS software (Statistical Package for the Social Sciences; see also Kaiser, 2018). Because psychosocial processes are usually not linear and act in a multivariate and systemic networked manner (see Bertalanffy, 1968; Kriz, 2018), all variables of the different subject groups and survey time points were related to each other in order to gain evidence for differences and correlations both between subject groups and between antecedent variables (T1), course and outcome variables (T2), and long-term variables (T3). The variables within the individual survey time points were also examined for constellations of characteristics at the same survey time point (e.g., between outcome justice and outcome satisfaction at T2 and T3, respectively; see Figure 1). For this purpose, we used the usual descriptive, and inferential statistical procedures such as Spearman and canonical correlation, simultaneous regression analysis, and exploratory varimax factor analysis, as well as Mann-Whitney-U test, and Kruskal-Wallis test.

For the 73 parties that participated in the survey at all three time points, we also conducted a time series analysis (see Table 12). Due to space limitations, only the highly significant correlations to the theory-based hypotheses formulated here are reported in this paper. More detailed information on the analysis is available from the first author (see Kaiser, 2018; Kaiser et al., 2014, 2017).

Results

In the following, we will first discuss the return rates at the three survey dates, the types of cases heard and their settlement rates, and the data on the conflicts as well as proceedings (Tables 1-2). We then present results about the conditions of the long-term effects (Tables 3-11)

Return Rates

With a few exceptions, we will only deal with the responses of the parties in the following. 329 parties participated at T1, 232 at T2, and 245 at T3, 73 at all three survey time points. Parties, lawyers, and mediators did not participate in all surveys in equal numbers and answered all questions completely (see Table 1). In the Appendix, we provide an overview of results from respondents that answered all questionnaires at least partially.

Table 1

Return Rates at the Different Survey Times

	Parties	Lawyers	Mediators
Questionnaires	1 142	1 142	571
Response rate T1	329 (28.8%)	276 (24.2%)	303 (53.1%)
Response rate T2	232 (20.3%/70.5%*)	244 (21.4 %/88.4%*)	276 (48.3%/91.1%*)
Response rate T3	45 (21.5%/74.4%*)	233 (20.4 % / 84.4%*)	--

Note. Values marked with * refer to figures at T1.

Characteristics of Conflicts

There were studied mediations of *civil* conflicts, especially family, contractual, and neighborly conflicts, that had already escalated to the point of leading to lawsuits in the courts with jurisdiction over them (see Table 2). In the majority of cases (84.3%), the amount in dispute was up to € 50,000 ($M = 1.81$; $SD = 1.01$; $n = 233$).

According to the mediators, the duration of the conflicts averaged three years ($M = 3.02$; $SD = 3.62$; $n = 276$). Thirty three percent lasted up to one year, 30% one to two years, 14% two to three years, 13% of conflicts three to five years, and 5% of conflicts lasted five to eight years and 5% eight years or longer.

The time spent on mediation was based on the number of sessions and the time required for them. Ninety two percent of proceedings were completed in one session according to mediators ($M = 1.11$; $SD = 0.57$; $n = 270$), and 91.7% of sessions lasted three hours or less ($M = 2.84$; $SD = 1.39$; $n = 267$).

Interestingly, no correlation was found between the number of sessions, and the amount in dispute, and the long-term success of mediation. However, as will be shown, correlations emerged between the *thoroughness* with which the process was conducted and the long-term qualities.

Table 2
Conflict Items and Settlement Rates in the Mediation

	Agreement		Total	
	<i>n</i>	%	<i>n</i>	%
Marital property dispute	23	92	23	92
Dispute about children	5	100	5	100
Inheritance dispute	17	89.5	19	100
Non-marital partnership	3	100	3	100
Building/architect contract	22	84.6	28	100
Company law	5	100	5	100
Lease contract	24	92.3	26	100
Loan	7	70	10	100
Service contract	14	93.3	15	100
Neighbor dispute	10	83.3	12	100
Donation	9	90	10	100
Rental agreement	38	80.9	10	100
Medical liability	2	100	2	100
Liability dispute	9	100	2	100
Consultant liability	1	60	2	100
Labor law	2	100	2	100
Accident	2	80	5	100
Illicit act	4	80	2	100
Total	188	87	216	100

Note. In 13% of the cases, no information was provided on the subject of the conflict, which mainly occurred when several problem areas were negotiated.

Agreement as Short-Term Outcome

According to the court offices, 376 (94.7%) of the 397 mediation proceedings initiated at the District Court and 130 (75.3%) of the 173 mediation proceedings initiated at the Local Court ended successfully with a notarized mediation agreement. The average agreement rate at both courts was 85%, according to the parties 91% (T2; $n = 223$; $SD = 0.6$). The agreement rates in the various conflict areas are shown in Table 2.

If the overall balance was positive, it was now necessary to clarify on what the long-term compliance with the agreements depended and how they performed in the long term (see Bastine, 2014; Donabedian,

1966/1980; Kaiser, 2018).

Long-Term Time and Cost Savings

The *success criterion time saving* was important for 60.7% of the parties before the mediation (degree of fulfillment 6-10 on the 10-point rating scale; $M = 7.49$; $SD = 2.91$; $n = 281$), for 36.1% maximally important. After one year, 73.2% of the parties stated that *the success criterion of saving time (no further consultation with a lawyer, no compulsory enforcement of the agreement etc.)* was still fulfilled for them after the conclusion of mediation (fulfillment levels 6-10 on the 10-point rating scale; $M = 7.19$; $SD = 3.16$; $n = 217$). The item *time savings* loaded $r = .52^{**}$ ($p < .01$; $n = 227$) on the factor *Justice* of the mediation in the varimax factor analysis conducted.

The success criterion time saving was fulfilled for the parties in the long run the more pronounced the *structural qualities emotional irritability, inclination to artistic, aesthetic experiences and openness and sociability, low conflict duration* as well as the *fewer years of practice* the mediators had behind them (moderate correlations; see Table 3).

Table 3

Conditions of Sustained Time Savings

Structural qualities	ρ	df	Process qualities	ρ	df	Outcome qualities	ρ	df	Sustainability qualities	ρ	df
Emotional irritability	.39**	54	Lawyer preparation	.58**	59	Comprehensive solution	.45**	62	Stress reduction	.78**	150
Imaginative	.37**	81	Support for settlement ¹	.57**	144	Causes eliminated ¹	.45**	141	Cost saving	.66**	147
Aesthetic inclination	.35*	57	Fair procedure	.38**	64	No court decision	.42*	58	Compliance	.57**	148
Openness sociability	.28*	59	Legal advice	.37**	59	Fair results	.42**	64	Encouragement	.55**	148
Conflict duration	-.27*	59	Contribution appreciated	.37**	58	Relationship improved	.34**	59	Long-term satisfaction	.50**	149

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

Process qualities that promoted long-term time savings were *good preparation for the mediation process by the lawyer* and *support for an amicable settlement* (higher correlation; see Table 3), a *fair procedure*, *legal advice* by the lawyer, and *that one's own contribution to the conflict settlement was appreciated* (moderate correlations).

Outcome qualities impacting sustained time savings were *a comprehensive and sustainable solution*, *elimination of root causes*, a *comprehensive resolution*, *no desire for a court decision*, a *fair results*, and an *improved relationship* (medium correlations).

Long-term effects that affected sustained time savings were *reduced stress*, *cost savings*, *compliance with agreements*, *encouragement*, and *long-term satisfaction* (higher correlations).

Similar correlations were found for *cost savings* (see Table 4). *The success criterion cost savings* was

important for 74.3% of the parties before mediation (fulfillment levels 6-10 on the 10-point rating scale; $M = 7.00$; $SD = 3.06$; $n = 280$), and maximally important for 38.8%. The *success criterion cost savings continued to be fulfilled* for 70.3% of the parties one year after completion of mediation (no further costs due to foreclosure measures, etc.; fulfillment; level 6-10 on the 10-point rating scale; $M = 7.05$; $SD = 3.28$; $n = 216$). The cost savings item loaded $r = .68^{**}$ ($p < .01$; $n = 227$) on the factor Satisfaction with mediation in the varimax factor analysis conducted.

Table 4*Conditions of Sustained Cost Savings*

Structural qualities	ρ	df	Process qualities	ρ	df	Outcome qualities	ρ	df	Sustainability qualities	ρ	df
Aesthetic inclination	.48*	57	Contribution appreciated	.50**	58	Relationship clarified	.47**	58	Stress reduction	.69**	150
Affability	.29*	59	Understanding	.48*	57	Time saving	.42**	62	Time saving	.66**	147
Mediation years M.	-.29**	69	Confidentiality	.47**	59	Comprehensive solution	.40**	62	Encouragement	.59**	139
Shy inhibited	-.26*	81	Lawyer prepared	.40**	55	Fair results	.40**	63	Confidentiality	.57**	140
Imaginative	.35**	80	No court decision	.39**	57	Stress reduction	.39**	62	Long-term satisfaction	.56**	147

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

The success criterion cost savings was fulfilled for the parties in the long term the more pronounced the *structural qualities* inclination to artistic, aesthetic experiences, and affability, as well as and the less shy and inhibited the parties were, and the fewer *years of practice the mediators* had behind them (moderate correlations; see Table 4).

Process qualities that promoted long-term cost savings were that the parties felt their *contribution to problem solving was appreciated* and *understanding* from the other party, that the *confidentiality was maintained by the participants*, they had *good preparation for the mediation process* by the lawyer, and not *seeking a court decision* (medium to moderate correlations).

Outcome qualities with implications for sustained cost savings were *clarification of the relationship*, that they had *time saved*, a *just outcome*, *stress reduction*, *encouragement*, and *satisfaction* with outcomes (moderate correlations).

Long-term effects that had an impact on sustainable cost savings were that the parties experienced *less stress* and *saved time*, felt *encouraged* and that *confidentiality* was maintained, and that they were permanently *satisfied* (higher correlations).

According to the parties, the important conditions for time and cost savings were mainly psychosocial reasons that are not judicable and whose criteria must therefore be sensitively determined by mediators.

Long-Term Fairness

As a *criterion for success*, a *fair outcome* was important to 73.2% of the parties before mediation (strengths 6-10 on the 10-point rating scale; $M = 7.69$; $SD = 2.68$; $n = 291$). After mediation, 52.4% (fulfillment

levels 6-10 on the 10-point rating scale; $M = 5.70$; $SD = 3.09$; $n = 221$), and after one year, 52.7% considered the *success criterion of fair outcome* to be fulfilled (fulfillment levels 6-10 on the 10-point rating scale; $M = 5.54$; $SD = 3.15$; $n = 210$). Forty seven percent considered the success criterion of fair outcome to be still *less* fulfilled directly after the mediation and one year later (fulfillment levels 0-4 on the 10-point rating scale). The item *fair long-term outcome* loaded $r = .79^{**}$ ($p < .01$; $n = 227$) on the factor general *Fairness* of process and outcome in the varimax factor analysis performed.

The more pronounced the *structural qualities* of *shyness and inhibition* (an item of the personality factor *emotional irritability*), *inclination to artistic, aesthetic experiences* (an item of the personality factor *openness to experiences*) and *emotional irritability* as personality items, and the better their *information state* were, the more the parties were able to *fulfill the success criterion of a fair outcome* in the long term (medium to moderate correlations; see Table 5).

Table 5
Conditions of Long-Term Fairness of the Mediation Agreement

Structural qualities	ρ	df	Process qualities	ρ	df	Outcome qualities	ρ	df	Sustainability qualities	ρ	df
Shy inhibited	.52**	57	Relationship clarified	.56**	57	Comprehensive solution	.63**	61	Goals enforced	.75**	144
Aesthetic inclination	.37**	54	Understanding mediator	.52**	60	Outcome satisfaction	.57**	60	Long-term satisfaction	.64**	145
Information state	.37**	132	Fair procedure	.52**	62	Confidentiality	.56**	58	Contribution appreciated	.62**	139
Emotional Irritability	.36**	54	Understanding	.48*	56	Fair results	.56**	62	Comprehensive solution	.61**	143
			Perspectives clarified	.46**	59	Security from attacks	.55**	59	Stress reduction	.60**	145

Notes. Spearman’s ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

Within the framework of the *process qualities* long-term fairness was also greater the more the parties were able to *clarify their relationships*, and the *fairer* they found *the process*, the better they felt *understood by the mediator* and the *other side* and were able to *clarify how the parties perceived the individual aspects of the conflicts* (medium to moderate correlations).

Outcome qualities that promoted long-term fairness were *sustainable comprehensive solutions*, when the mediation *agreement satisfied* them, *confidentiality* was maintained, their success criterion of having *fair results* and they were *secure from attack of the other side* (higher to medium correlations).

In the *long run*, the parties found the mediation results all the more just the more they had *achieved their goals*, the more *satisfied* they were after one year *with the mediation agreement*, the more they felt that their *contribution to solving the problem was appreciated*, and the more *comprehensive and sustainable the solution* found was, the *fewer stressed* they felt by the conflict (*higher to medium correlations*).

It can be concluded from the results that mediators should repeatedly check which criteria the parties have for fairness in all phases of the process, especially in the case of difficult parties and contexts. Accordingly, mediators should ensure that both parties benefit sufficiently (Win-Win principle; e.g., Fisher et al., 2015) and repeatedly review the agreements reached for their long-term suitability or even develop

concepts with the parties for implementing them as reliably as possible in the future.

Long-Term Contract Compliance

Sustained compliance can only be seen after a longer period of time. We therefore asked our subjects again after one year to what extent *the criteria for success continued to be fulfilled for them after the conclusion of the mediation and the other party ... has so far kept to the agreements made in the mediation*. According to the parties, the mediation agreements have been well observed in the long term in 75.8% of cases, too little in 19.1%, and not at all in only 5.1% of cases. The parties rated the degree of compliance with the contract by the other side on average with 7.49 (assessment on a 10-point scale at T3; $M = 7.49$; $SD = 3.19$; $n = 227$), the lawyers even with 8.23 out of 10 points ($M = 8.23$; $SD = 2.68$; $n = 198$). The item Contract compliance loaded $r = .52^{**}$ ($p < .01$; $n = 227$) on the factor (general mediation) *Satisfaction* in the varimax factor analysis performed. In 21.8% of the cases, claims had to be enforced. On the basis of the mediation agreement, the parties were then able to achieve compliance after all with the help of lawyers.

In accordance with our theoretical model of mediation qualities, we now wanted to know how these findings could be explained.

Structural qualities that promoted sustainable compliance with the agreements were, the more pronounced *qualities* in the form of personality items *aesthetic inclination* and *imaginative richness* (both items of the personality factor *openness for experience*), the less *incompatible* the parties were, and the better the *relationship* between the parties before the mediation were, and the more hours of professional *training* the mediator had (moderate correlations; see Table 6).

Process qualities that promoted sustainable compliance with the agreements were, the better the *relationship with the opposing counsel* and the *mediator* was, the better the *mediator showed understanding* and did *not push for an agreement*, the more the parties have made concessions to reach an agreement (moderate correlations; see Table 6).

Outcome qualities that promoted better compliance with agreements were the conclusion of a *mediation agreement*, *satisfaction with results*, *improvement in relationships* and *encouragement*, and the better *confidentiality* was maintained (moderate correlations; see Table 6).

Long-term qualities that promoted better compliance with the agreements were, especially if the resolution of problems was *comprehensive and sustainable*, *stress* levels were reduced, the parties *saved time* and *money*, and were *satisfied* in the long term (higher to moderate correlations).

It is therefore advisable to make sure that the parties are questioned in detail as to what *criteria* they apply to lasting and correct compliance with the contract. Then it should be clarified in more detail what is important in the longer term in terms of the practicability of the arrangements. Particularly in more complex cases, mediation agreements would have to be drawn up in corresponding detail and more differentiated concepts for implementation would have to be developed that also provide for ways of dealing with new life constellations (see also Kelly, 2004).

Table 6
Conditions of Long-term Contract Compliance

Structural qualities	ρ	<i>df</i>	Process qualities	ρ	<i>df</i>	Outcome qualities	ρ	<i>df</i>	Sustainability qualities	ρ	<i>df</i>
Aesthetic inclination	.43**	59	Relation opp. counsel	.33*	52	Agreement	.41**	62	Comprehensive solution	.64**	149
Incompatible	.42*	57	Concessions	.32**	64	Outcome satisfaction	.36**	61	Stress reduction	.64**	150
Imaginative richness	.36**	47	Mediator urged	-.32*	52	Relationship improved	.35**	59	Time saving	.57**	148
Relationship	.39*	35	Session hours	-.30**	62	Encouragement	.34**	58	Trust in the other party	.57**	129
Training hours	.36**	73	Relation mediator	.30*	53	Confidentiality	.34**	59	Long-term satisfaction	.52**	149

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

Long-Term Improvement of the Relationship

Depending on the nature of the conflict, for example, in the case of contractual disputes, the relationship was over once the mediation was completed and the arrangements implemented. In other cases, such as family, neighborhood, or rental disputes, the parties had to continue to get along.

Whereas before mediation 77.7% of the parties thought their *relationship with the first counterparty* was poor, after one year the relationship was bad at only 54.4% (levels 6-10 on the 10-point scale). Before mediation, 10.4% had rated their relationship as medium poor; after one year, 31% did so, i.e., three times as many (level 5 on the 10-point scale; $M = 5.96$; $SD = 3.57$; $n = 178$). At the same time, after one year, 29.7% of the parties indicated that their *desire for the relationship between the parties to improve* had been *fulfilled as a result of this mediation process* (levels 6-10 on the 10-point scale; $M = 4.20$; $SD = 3.16$; $n = 192$). The relationship improvement item loaded $r = .71^{**}$ on the *Understanding* factor in the varimax factor analysis conducted ($p < .01$; $n = 227$). There were clear improvements in the relationships between the parties, but also disillusionment; the negativity of the relationship decreased in a highly significant way during the course of the process and was still stable after one year (Wilcoxon test; from $Z = 9$ at T1 to $Z = 5$ at T3; $p < .01$; $n = 149$).

After one year (T3), the more the *structural qualities of roughness and belligerence* were pronounced as personality items in the parties and the longer the *relationship* with the other party had existed, the more *complex the case*, and the less *evidence difficulties* were, the better the parties' *relationship* (medium to moderate correlations; Table 7). Thus, parties with unfavorable personality traits and complex conflicts benefited most from mediation.

Table 7
Conditions of Sustained Relationship Improvement

Structural qualities	ρ	<i>df</i>	Process qualities	ρ	<i>df</i>	Outcome qualities	ρ	<i>df</i>	Sustainability qualities	ρ	<i>df</i>
Roughness	.54**	53	Support for settlement ¹	.46**	50	Perspectives clarified ¹	.54**	138	Long-term Satisfaction	.43**	137
Belligerence	.28**	57	Less left to advocate ¹	.30**	136	Goals clarified ¹	.54**	138	Fair outcome	.38**	143
Length of relationship	.48**	45	Activity in mediation ¹	.26**	132	Conflict cause eliminated ¹	.50**	135	Conflict insight	.34**	127
Case complexity	.50**	50	Relation opp. counsel ¹	.24**	132	Autonomous resolution ¹	.37**	132	Conflict competence	.34**	127
Evidence difficulties	-.38**	45				Comprehensive solution ¹	.36**	136	Confidentiality	.34**	132

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T31 are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

In the context of the *process quality* of the procedure, the relationship with the other side in long term improved the more the parties *were supported in reaching an amicable settlement*, the *less they left it to their advocate* and the more *actively they participated* in the negotiations, the better their *relationship* with the *opposing lawyer* was (both retrospective data for T3; moderate correlations).

The *outcome quality* of the agreement improved the relationship in the long term, the better the *perspectives*, views of the *individual aspects of the problem* and the *goals and concerns clarified*, the better the *background* to the conflict was *eliminated*, the better the parties felt able to *resolve the conflict independently* and the more *comprehensive and sustainable* this had turned out to be (retrospective information on T3; medium to moderate correlations).

As a result of the *sustainability* of mediation, the relationship between the parties improved the more *satisfactory* and *fair* they found the mediation outcome after one year, the more conflict insight they gained by better *understanding the conflict and themselves*, and the more they were able to improve their *conflict competence* the more *confidentiality* was maintained by the participants (moderate correlations). The information provided by the parties showed how important it was for them to discuss everything that affected them and to understand relationships and - even many non-judicable - problem backgrounds more precisely. Parties with unfavorable personality items, long relationship histories and complex unclear problems were apparently able to benefit particularly from the skillful approach of experienced mediators. In this way, they were able to clarify their concerns and goals more easily and eliminate causes of conflict. That the relationship with opposing counsel was important to some parties points to the benefit of lawyers in mediation paying attention not only to the relationship with their own clients, but also to improving the relationship with the other side and their own contribution to it. Mediators are called upon here to help lawyers accomplish this task. It was questionable whether these aspects also affected well-being and quality of life after one year.

Sustainable Improvement in Quality of Life

An important motivation for mediation is to reduce stress, improve well-being and quality of life. The Win-Win principle and the deterrent possibility of losing in a dispute play important roles here.

I am currently satisfied with my own quality of life, said 75.9% before mediation ($M = 5.83$; $SD = 2.90$; $n = 295$), 74.5% after mediation, and 82% of the parties one year later (levels 6-10 on the 10-point scale; $M = 7.70$; $SD = 2.59$; $n = 210$). The item long-term improvement in *quality of life* loaded $r = .76^{**}$ ($p < .01$; $n = 227$) on the factor *Satisfaction* with mediation in the varimax factor analysis performed.

Table 8
Quality of Life One Year After Mediation

Structural qualities	ρ	df	Process qualities	ρ	df	Outcome qualities	ρ	df	Sustainability qualities	ρ	df
Shy inhibited	.60**	58	Compromise	.40**	60	Conflict insight	.34*	49	Well-being	.60**	139
Well-being	.44**	62	Understanding ¹	.34**	130	Goals clarified ¹	.34**	140	Encouragement	.48**	143
Openness to experience	.32**	39	Urge mediator	-.34*	48	Comprehensive solution ¹	.31**	140	Confidence in compliance	.40**	127
Length of relationship	-.32*	149	Support for settlement ¹	.32**	139	Well-being	.25*	60	Long-term satisfaction	.38**	143
Relation lawyer	.26**	126	Contribution appreciated	.27*	58	Perspectives clarified ¹	.28**	139	Cost saving	.37**	145

Notes. Spearman’s ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

After one year, the parties rated their quality of life higher, the less pronounced *structural qualities* such as *shyness* and *inhibition* (an item of the personality factor emotional irritability), the better their personal *well-being* before the start of mediation. And, the more *open* they were to *experience* (a Big Five personality trait), the shorter the *relationship* with the other side had lasted, and the better their *relationship* with their *lawyer* (higher to moderate correlations).

Process qualities that had a long-term impact on the parties' quality of life were *compromise in favor of agreement* and *understanding* of the other side, if the mediator *supported* the parties *in reaching an amicable settlement* rather than *pushing* them *to reach an agreement*, and if *the parties were* appreciated *of their contribution to the conflict settlement* (moderate correlations).

Outcome qualities that promoted quality of life over the year were when the parties better *understood the conflict and themselves* after mediation, when the *goals and concerns of the parties were clarified*, when a *comprehensive and sustainable solution* to the problems was achieved, and when it was *clear how the parties perceived the different aspects of the problems* and when they *felt well* (moderate correlations).

In terms of *long-term qualities*, the more *comfortable* and *encouraged* the parties felt after a year, the more *confident* they were, the more *satisfied* they were over the year, and the more *costs and time* they had *saved* (higher to moderate correlations).

The parties' well-being and quality of life benefited significantly from the *reduction in stress* caused by mediation: .73.2% of parties reported after one year that their *success criterion of experiencing less stress from the conflict* continued to be met for them (levels 6-10 on the 10-point scale; $M = 6.68$; $SD = 3.10$; $n = 220$). The item permanent stress reduction loaded $r = .71^{**}$ ($p < .01$; $n = 227$) on the *Peace* factor in the varimax factor analysis conducted.

The stress level decreased over the course of the year, the more as *structural qualities* the items belonging to the personality trait openness to experience of *aesthetic inclination*, and *imaginativeness*, and the less the items of the personality factor emotional irritability *inhibition* and *shyness* were pronounced, and the better the *quality of life* and the *relationship* with the own *lawyer* were (moderate correlations; see Table

9).

Table 9
Stress Reduction after One Year

Structural qualities	ρ	<i>df</i>	Process qualities	ρ	<i>df</i>	Outcome qualities	ρ	<i>df</i>	Sustainability qualities	ρ	<i>df</i>
Aesthetic inclination	.45**	59	Advocacy preparation	.49**	60	Causes eliminated	.56**	59	Time saving	.76**	150
Imaginative	.35**	83	Relationships clarified	.48**	59	Encouragement	.47**	60	Cost saving	.69**	150
Shy inhibited	-.35**	84	Understanding	.42**	58	Comprehensive solution	.47**	63	Comprehensive solution	.67**	150
Quality of life	.29*	62	Consultation lawyer	.34**	60	Outcome Satisfaction	.41**	63	Encouragement	.66**	141
Relation lawyer	.24*	84	Perspectives clarified	.32*	61	Confidence in compliance	.40**	59	Compliance	.64**	150

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

Process qualities that contributed to sustained reductions in stress levels were *good preparation for the proceedings* and *advice on legal consideration* of the problems by the lawyer, that *clarified relationships* in the proceedings, and *understanding* of the other side, and *clarification of how the parties perceive the individual aspects* of the problems (moderate to moderate correlations).

Outcome qualities that contributed to sustained stress reduction were that the parties were able to *eliminate the causes of the conflict*, felt *encouraged* by the mediation, achieved a *comprehensive and sustainable resolution* of the problems, were *satisfied* with the mediation outcome, and *trusted in the compliance of the other party* (medium to moderate correlations).

Sustainability qualities that influenced the sustainable reduction of stress were *time and cost savings*, a *sustainable and comprehensive solution* to the problems, *encouragement* and *compliance* with the agreements (higher correlations).

The numerous psychosocial indicators that are significant for quality of life and stress reduction show how important it was to deal with such non-judicable aspects of the conflicts in mediation and what significance this had for the sustainability of mediation. Mediators would thus do well to pay sufficient attention to these "soft" factors.

Long-Term Satisfaction

If directly after the mediation (T2) 58.8% of the parties said, *the mediation agreement satisfies me* (levels 6-10 of the 10-point scale), 9.8% moderately (level 5), and 38.8% less to none (levels 0-4; $M = 5.99$; $SD = 3.12$; $n = 214$), one year later as many as 64.4% of the parties were satisfied (levels 6-10 of the 10-point scale; $M = 6.43$; $SD = 3.20$; $n = 213$), 12.2% moderately satisfied (level 5), and 23.5% less satisfied (levels 0-4). The item long-term satisfaction loaded $r = .62^{**}$ ($p < .01$; $n = 227$) on the factor (overall) *Satisfaction* in the varimax factor analysis performed.

The parties' long-term satisfaction was higher the more pronounced as *structural qualities* personal items of *aesthetic inclination* and *openness for experience*, and *consideration, kindness* (an item of the

personality factor compatibility) were. Long-term satisfaction was also greater the more *supervision* and *training* the mediators had completed (medium to moderate correlations; see Table 10).

Table 10
Conditions on Long Term Satisfaction

Structural qualities	ρ	df	Process qualities	ρ	df	Outcome qualities	ρ	df	Sustainability qualities	ρ	df
Aesthetic inclination	.56**	59	Goals clarified ¹	.58**	145	Cause eliminated ¹	.45**	141	Fair outcome	.64**	145
Supervision hours	.40**	51	Support for settlement ¹	.56**	145	Stress reduction	.42**	63	Comprehensive solution	.60**	148
Training hours	.34*	52	Contribution appreciated ¹	.56**	143	Cost saving	.41**	60	Goals enforced	.60**	148
Openness to experience	$r = .34$ **	38	Perspectives clarified ¹	.44**	144	Time saving	.37**	65	Time saving	.50**	149
Consideration kindness	.26**	79	Understanding ¹	.50**	134	Fair results	.32**	64	Stress reduction	.59**	150

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

Process qualities that promoted long-term satisfaction were *clarification of the parties' goals and concerns, support in reaching a mutually agreeable settlement*, that the parties felt *appreciated in their contribution* to this, that they *felt understood*, and *clarification of how the parties perceived the individual aspects* of the problems (comments on T3; higher to moderate correlations).

Outcome qualities that promoted long-term satisfaction were *elimination of the causes of conflict* (T3), *reduction of stress levels, savings in costs and time*, and a *fair mediation agreement* (moderate correlations).

Qualities of sustainability that promoted long-term satisfaction were a *fair mediation agreement, comprehensive and sustainable solutions* to the problems, that the parties were able to *achieved their goals, saving time, and reducing stress* (higher correlations).

Since satisfaction depends on attitudes towards the conflict, mediation, and corresponding satisfaction criteria, it would be useful to determine more precisely how differentially these are formulated (see also Kaiser, 2009). Next, we examine how mediation experiences affect conflict competence and attitudes towards mediation.

Attitudes Towards Conflict Competence and Mediation

Since the parties were all involved in escalated conflicts that were already pending in court and were experienced correspondingly, it was of interest to examine to what extent they were able to improve their appraisal of their conflict competence (*learned to deal with conflict*) in connection with the mediation process.

Table 11*Conflict Competence after One Year*

Structural qualities	ρ	<i>df</i>	Process qualities	ρ	<i>df</i>	Outcome qualities	ρ	<i>df</i>	Sustainability qualities	ρ	<i>df</i>
Openness sociability	.45**	54	Goals clarified ¹	.43**	131	Causes eliminated ¹	.40**	126	Conflict insight	.63**	128
Relation opp. counsel	.44**	38	Perspectives clarified ¹	.39**	130	Goals enforced ¹	.38**	131	Encouragement	.56**	125
Supervision hours	.40**	51	Backgrounds clarified ¹	.37**	127	Conflict competence	.33*	55	Understanding	.40**	124
Well-being	.37**	56	Support for settlement ¹	.33**	129	Comprehensive solution ¹	.29**	130	Stress reduction	.39**	133
Training hours	.34*	52				Relationships clarified ¹	.23*	129	Confidence in compliance	.39**	121

Notes. Spearman's ρ correlations ordered by level; * $p < .05$, ** $p < .01$. Statements about process and outcome qualities collected at T2 or at T3¹ are noted in the associated columns. Because of the large number of results, only the five highest correlations are listed in each column, indicating the importance of different qualities for mediation sustainability.

After one year, 32,4% of the parties reported that they now *understand the conflict and themselves better* (levels 6-10 of the 10-point scale); 21.3% reported moderate progress (level 5) in this regard, and 53.7% reported little progress (levels 0-4; $M = 4.31$; $SD = 3.03$ $n = 188$).

Apparently, insights into conflicts and one's own part in them did not increase sufficiently over the course of the year. A total of 39.7% of the parties stated, that *the mediation process had taught ... to deal with conflicts better* and to be more competent (level 6-10 on the 10-point scale; $M = 4.83$; $SD = 3.04$; $n = 192$). 22.9% were only moderately competent (level 5) and 37.5% less competent (levels 0-4). After one year, 29.7% were confident, *that in similar cases they would be able to settle the conflict with the other party without outside help in the future* (level 6-10 on the 10-point scale), 15.8% were moderately confident (level 5), and 54,4% were less confident (levels 0-4; $M = 3.96$; $SD = 3.13$; $n = 171$). The item lasting improvement in conflict competence loaded $r = .53^{**}$ ($p < .01$; $n = 227$) on the factor lasting *Conditions for Success* in the varimax factor analysis conducted.

Thus, only a minority of the parties report a sufficient increase in conflict competence. Given the short duration of mediation – usually one session of two to three hours – the competence enhancement is possibly also attributable to having been experiencing the conflict for longer and the lawyer's support.

The desire for improvement in conflict competence was more likely to be fulfilled for the parties in the long term the more pronounced the antecedent *structural qualities* of *openness and sociability* (an item of the trait extraversion), unencumbered *relationship with opposing counsel*, *hours of supervision* and *training* by the mediators, and good *personal well-being* (T1) were (moderate correlations; see Table 11).

Process qualities that promoted long-term improvements in conflict competence were *clarification of what the parties' goals and concerns were* and *how they perceived each aspect of the problems* (perspectives), that the *background of the problems was clarified*, and that the parties *received support in reaching an amicable settlement* (stated at T3; moderate correlations).

Outcome qualities that promoted long-term improvements in conflict competence were that *causes of the conflicts were eliminated*, the parties were *able to assert their goals* and increase their *conflict competence* already after mediation, they reached a *comprehensive and sustainable solution* to the problems, and they were *able to clarify their relationships* (feedback at T3; moderate correlations).

Long-term qualities that promoted the sustainable increase in *conflict competence* were that after one

year the parties *understood the conflict and themselves* better, *felt encouraged by the mediation*, experienced *understanding* from the other side, were able to reduce their *stress levels*, and had *confidence in the other side's compliance* with the agreements (higher to moderate correlations).

Most important for competence development, then, was the development of understanding of the conflict and one's own part in it, as well as a motivational boost from the experience of encouragement through mediation. Self-reflection and motivation for competence have also been shown to be important prerequisites for competence development in therapy research (Bandura, 1977; Grawe, 2004; Norcross & Wampold, 2019).

After one year, 84% of the parties would be keen use mediation again in similar conflicts. 44% now even preferred *out-of-court mediation*, 40% to repeat court mediation, and only 16% preferred litigation ($M = 2.33$; $SD = 0.88$; $n = 177$).

Contrary to fears that judicial mediation would threaten to displace out-of-court mediation, it now seemed more advantageous to the parties to have conflicts professionally mediated at an *earlier stage* in order to *avoid escalation*. Thus, they benefited not only in the current individual conflict case, but also in terms of conflict competence and intention to mediate in the future.

Last but not least, the appendix shows a comprehensive correlation pattern from those participants who provide responses to most items in all three questionnaires. The included variables illustrate the hypothesized model of mediation qualities based on repeated measures of the crucial outcome variables. Therefore, they capture the intertemporal dynamics of the mediation process. While some of the previous results become insignificant, we observe fairly robust evidence of a relationship between key mediation quality factors and long-term outcomes in the subsample.

Discussion and Conclusion

In the course of our long-term study, we found a wealth of conditions for the long-term success of mediation processes, of which we could only present a small selection here.

Although the average settlement rate at T2 was 85%, the sustainability of the mediation effects at T3 was significantly lower in some cases: (a) 70% of the parties were able to save costs and 72.3% time in the long run. (b) Compliance with agreements succeeded in more than 75% of cases, but coercive measures were required in 21.8%. (c) Permanently fair agreements were reached by only 52.7% of the parties. (d) Although relations improved significantly over time, only 29.7% of the parties spoke of improvement after one year. This depended on the nature of the conflict and the type of relationship. (e) Improved quality of life was reported by 82% of parties after one year, and less stress by 73.2%. (f) Satisfaction with outcomes was reported by 64.4% after one year. (g) Increased conflict competence by 39.7% of the parties.

Overall, the sustainability of mediation was found to be influenced by an *interplay* of structural qualities, process qualities, outcome qualities, and long-term qualities, supporting the model depicted in Figure 1.

The following *structural qualities* proved to be particularly beneficial: *Personal traits* such as *informedness* about mediation, *openness* to experience, and *cooperativeness* were found to be the most beneficial. *Emotional irritability* and *incompatibility* had a negative effect. If necessary, mediators should take appropriate measures (see above).

Training, experience, and supervision of the mediators (micro level) as well as *support* from the presidency and colleagues in the institutional system context (meso level) proved to be relevant to success. Here, presidiums and ministries of justice could become even more involved.

In the long term, *conflict characteristics* such as the *duration* and *complexity* of the problem were also relevant to success and may require more differentiated attention in practice. Contrary to expectations, the *value of the dispute* had little influence.

As expected, *process qualities* such as *understanding* and *appreciation*, good *communication* and *relationships* among all participants forwarded to the sustainability of mediation. Surprisingly, this also affected opposing counsel. Significant importance for long-term success also had *active participation* in the negotiations, maintaining *confidentiality*, *honesty*, and *sincerity*. Long-term success was also more likely when negotiations were *fair* and *satisfactory*, and *all aspects* of the problems and their *backgrounds*, as well as the *goals*, *concerns*, and *relationship* of the parties were thoroughly *clarified*. The *support of an all-party mediator* was important in this regard. The results support a *facilitative* mediation style.

We were surprised to find that the number of *hours* had little, and the number of *sessions* had no long-term effect. Needs-based appreciative negotiation can save a lot of time if the parties feel more accepted and therefore express less emotional resistance and concern.

Outcome qualities such as *fair*, *workable*, and *satisfactory agreements* supported the sustainability of mediation. Long-term qualities were beneficial when the parties *achieved their goals*, improved their *self and conflict insight* and *understanding*, *communication*, and *relationships* by having more *positive regard* for each other.

Long-term qualities increased the sustainability of mediation in that the parties were able to clarify their conflicts in a more nuanced way through *improved communication* and achieved more *self and conflict insight*, *understanding*, and *c* for each other. This seemed to help them *achieve their goals* more easily and develop more *comprehensive and sustainable arrangements* that they found *fair*, *workable*, and *satisfying*. Such arrangements also appeared to be easier to honor in the long run. As a result, the parties were more likely to *save time* and *money* and to *reduce or avoid stress*. Such *encouraging* experiences made it easier for the parties to *improve* their often strained relationships and their *conflict competence* and *quality of life*.

In sum, according to the findings, there was thus considerable scope for optimizing the effects of mediation, which may not have been exploited because the conditions for success discussed above were not sufficiently met. Discussions with some mediators showed that they did not feel responsible for deeper sustainable conflict management. They saw this more as tasks for extrajudicial mediation or therapy, who, however, usually did not involve them of their own accord.

Overall, correlation patterns between variables illustrated, the theory-based model of mediation qualities based on repeated measures of the crucial long-term outcome variables (Figure 1). The correlations captured the intertemporal dynamics of the mediation process. Thus, we found fairly robust evidence of a relationship between key mediation quality factors and long-term outcomes.

The findings are largely consistent with those of other research on the individual questions (e.g., Donohue et al., 2016; Kelly, 2004; Kline-et al., 2004; Herrman et al., 2006; Bickerdike & Littlefield, 2010; Pruitt, 2011; Kalter et al., 2018; see above), psychology (see also Gigerenzer, 2019; Kaiser, 2009) and further with counseling and therapy research (e.g., Grawe, 2004; Wampold et al., 2018; Cowan et al., 2019; Norcross & Lambert, 2019). Due to methodological limitations, our findings remain hypothetical in nature.

Limitations

Informative value of our results is limited in several ways: Since only judicial mediation proceedings led by experienced judge-mediators were involved in our study, it is unclear to what extent the results are transferable to in areas of conflict other than civil law or extrajudicial proceedings with differently trained or less experienced mediators in other countries and cultures. However, since we primarily examined psychologically relevant aspects and mechanisms, we assume that a hypothetical transferability is possible.

What remains open is the significance of questionnaires not previously checked for test quality, missing responses, and dropout of subjects in the course of the study ("cohort mortality"). Some participated in only one or two surveys, not at all three measurement times. So mostly only group comparisons were possible. This may have led to selection bias (Hogan et al., 2004; Deng et al. 2013 ; Kalter et al., 2018). Only

73 parties participated at all 3 measurement time points, which were directly comparable. The intertemporal analysis of this subsample (see the appendix) faces statistical limitations due to limited statistical power and possible differences between respondents and nonrespondents on important characteristics. We consider it a rather conservative robustness check of the previous results.

The non-experimental character of the natural research design and the statistical correlations found allow - as emphasized at the beginning - only hypothetical conclusions on possible systemic interaction relationships.

Since the results confirmed all our theory-based hypotheses in a highly significant way, we assume that the confirmation would have been even more convincing if the above-mentioned limitations had been omitted. Future research should include further survey procedures and other possibly relevant variables. It could also focus on identifying exogenous variations in mediation processes that generate quasi-experiments which would allow for a cleaner identification of causal relationships. Thus, the open questions await further clarification in future studies.

Directions for Future Research

We still know too little about what actually happens before and in mediation processes and what effects result from them in the longer term. To this end, video and other recordings of the behavioral, emotional, cognitive, and psychophysiological responses of the individuals involved before, during, and after mediation, as well as in follow-up studies, would be useful (for example, Ekman, 2011; Gottman & Schwartz-Gottman, 2017; Jakob et al., 2013). For example, it would be necessary to investigate in more detail which neuropsychic schemata are triggered in the context of transference/countertransference processes and what *nonverbal* signals the participants show and whether and how sensitive the others and the mediator react to them (Hayes et al., 2019; König, 2010). Perceptual sensitivity and cognitive-emotional processing are significant here, as are physiological responses like blood pressure, sweat secretion, hormonal and cerebral processes (for example, Brunner, 2017; Ekman, 2011; Gottman & Schwartz-Gottman, 2017; Jakob et al., 2013; see above). This context would also be useful to include the psychosocial and medical *health status* and *history* of parties and mediators in the analysis. Some of our findings suggest that the importance of *personal* traits, as well as *social skills* of parties and mediators should be investigated in more detail.

In all fields of mediation activity, there would also be a need to study more intensively what *risks* and *side effects* or even *harms* result from mediation processes for the parties in the longer term (Johnston et al., 1985; Kelly, 2004; Kline-Pruett & Johnston, 2004; Linden & Strauss, 2018; Upcounsel, 2020).

On the mediator side, *person features* such as personality traits, professional competencies, as well as role perception and sustainability orientation would need to be examined more closely for their influences on long-term mediation outcomes. This would also make it easier to determine in which areas our training programs for mediators should be optimized and who is *suitable* for training as a mediator in the first place and who should not work as a mediator for certain combinations of characteristics in order to *protect the users*.

Implications for Practice and Training

Practice and training should also be adapted to unfavorable initial conditions such as difficult clients and more complex cases. Parties with unfavorable personal items and social competence deficits, for example, require special support from the mediator in order to compensate when they feel threatened by the other party and in order to work through mistrust and learn to engage and express themselves better (see also Heister, 1985; Kline-Pruett & Johnston, 2004). Mediators should therefore learn in their training to recognize such disadvantaged parties in good time and to provide targeted support to those affected - if

necessary in cooperation with social workers, doctors and psychologists.

In order to ensure long-term compliance with the agreement, especially in more complex cases, the mediation agreement should be drawn up in a differentiated manner and provided with detailed instructions for implementation (e.g., Kaiser, 2009; Kelly, 2004; Morris et al., 2018). In this context, it would also be useful to specify who monitors the progress of the implementation of the regulations, in what way, and when. Here, experts or auditing organizations can provide useful services, if necessary. Compliance with the agreements should be monitored in the context of *catamnese*s and ensured through long-term *follow-up*. Both would also be relevant for the quality management of mediation.

References

- Bak, P. M. (2020). *Wahrnehmung, gedächtnis, sprache, denken*. Springer.
- Bandura, A. (1977). Self-efficacy: Toward a unifying theory of behavioral change. *Psychological Review*, *84*, 191-215.
- Bastine, R. (2014). Konflikte klären, Probleme lösen - die Psychologie der Mediation. In J. M. Haynes, M. John, A. Mecke, R. Bastine, & L. Fong (Hrsg.), *Mediation - Vom Konflikt zur Lösung* (S. 11-45). Klett-Cotta.
- Benjamin, M., & Irving, H. H. (1995). Research in family mediation: Review and implications. *Mediation Quarterly*, *13*(1), 53-82. <https://doi.org/10.1002/crq.3900130107>
- Bertalanffy, L. von. (1968). *Organismic psychology and systems theory*. Clark University Press with Barre Publishers
- Bickerdike, A. J., & Littlefield, L. (2010). Divorce adjustment and mediation: Theoretically grounded process research. *Mediation Quarterly*, *18*(2), 181-201. <https://doi.org/10.1002/crq.3890180207>
- Braun, O. L. (Hrsg.). (2020). *Positive Psychologie, Kompetenzförderung und mentale Stärke. Gesundheit, Motivation und Leistung fördern*. Springer.
- Brisch, K. H. (Hrsg.). (2019). *Bindung - Scheidung - Neubeginn*. Klett-Cotta.
- Brunner, J. (2017). *Psychotherapie und Neurobiologie. Neurowissenschaftliche Erkenntnisse für die psychotherapeutische Praxis*. Kohlhammer.
- Coleman, P., Kugler, K. G., & Mazzaro, K. (2016). Getting beyond win-lose and win-win: Situated model of adaptive mediation. In K. Bollen, M. Euwema & L. Munduate (Eds.), *Advancing workplace mediation through integration of theory and practice* (pp. 21-38). Springer.
- Cowan, P. A., Kline-Pruett, M., & Pruett, K. (2019). Fathers' and mothers' attachment styles, couple conflict, parenting quality, and children's behavior problems: An intervention test of mediation. *Attachment & Human Development*, *21*(5), 532-550. <https://doi.org/10.1080/14616734.2019.1582600>
- Deary, I. J., Hill, W. D., & Gale, C. R. (2021). Intelligence, health and death. *Nature Human Behaviour*, *5*, 416-430. <https://doi.org/10.1038/s41562-021-01078-9>
- Deng, Y., Hillygus, D. S., Reiter, J. P., Si, Y., & Zheng, S. (2013). Handling attrition in longitudinal studies: The case for refreshment samples. *Statistical Science*, *28*(2), 238-256.
- Donabedian, A. (1966/1980). *Explorations in quality assessment and monitoring. Vol. 1: The definition of quality approaches to it's assessment*. Health Administration Press.
- Donohue, W. A., Lyles, J., & Rogan, R. (1989). Issue development in divorce mediation. *Mediation Quarterly*, *24*(3), 19-28.
- Donohue, W. A., Sherry, J. L., & Idzik, P. (2016). Interaction dynamics predict successful negotiation in divorce mediation. *Journal of Language and Social Psychology*, *35*(4), 374 -393. <https://doi.org/10.1177/0261927X15603090>
- Druckman, D., & Wall, J. A. (2017). A treasure trove of insights: Sixty years of JCR research on negotiation and mediation. *Journal of Conflict Resolution*, *61*(9), 1898-1924.

<https://doi.org/10.1177/0022002717721388>

- Ekman, P. (2011). *Gefühle lesen. Wie Sie Emotionen erkennen und richtig interpretieren*. Elsevier Press.
- Epstein, S. (2003). Cognitive-experiential self-theory of personality. In T. Millon & M. J. Lerner (Eds.), *Comprehensive handbook of psychology: Vol. 5. Personality and social psychology* (pp. 159-184). Wiley & Sons.
- Eubanks, C. F., Muran, C. J., & Safran, J. D. (2019). Repairing alliance ruptures. In J. C. Norcross & M. J. Lambert (Eds.), *Psychotherapy relationships that work* (3rd ed., Vol. 1, pp. 549-579). Oxford University Press.
- Farber, B. A., Suzuki, J. Y., & Lynch, D. A. (2019). Positive regard and affirmation. In J. C. Norcross & M. J. Lambert (Eds.), *Psychotherapy relationships that work* (3rd ed., Vol. 1, pp. 288-322). Oxford University Press.
- Fisher, R.; Ury, W.; Patton, B. M. (2009). *Das Harvard-Konzept: Der Klassiker der Verhandlungstechnik*. Campus.
- Folberg, J., Milne, A., & Salem, P. (Eds.). (2004). *Divorce and family mediation. Models, techniques, and applications*. Guilford.
- Gerlitz, J.-Y., & Schupp, J. (2005). *Zur Erhebung der Big-Five-basierten Persönlichkeitsmerkmale im SOEP*. DIW Research Notes 4. DIW Berlin. <https://www.diw.de/documents/publicationen/73/43490/rn4.pdf>
- Gigerenzer, G. (2019). Kognition. In Wirtz, M. A. (Ed.), *Dorsch Lexikon der Psychologie*. Hogrefe. <https://dorsch.hogrefe.com/stichwort/kognition>
- Gottman, J. M. & Schwartz-Gottman, J. (2017). The Natural Principles of Love, *Journal of Family Theory and Review*, 9, 7-26. DOI:10.1111/jftr.12182
- Grawe, K. (2004). *Neuropsychotherapie*. Hogrefe.
- Gruber, T. (2018). *Gedächtnis*. Springer.
- Hagemann, D., Spinath, F. M., Bartussek, D., Amelang, M., & Stemmler, G. (2016). *Differentielle Psychologie und Persönlichkeitsforschung*. Kohlhammer.
- Hayes, J. A., Gelso, C. J., Kivlighan, M. D., & Goldberg, S. B. (2019). Managing countertransference. In J. C. Norcross & M. J. Lambert (Eds.), *Psychotherapy relationships that work* (3rd ed., Vol. 1, pp. 522-548). Oxford University Press.
- Heister, J. W. (1985). Sequential mediation: A necessary therapeutic intervention technique. *Mediation Quarterly*, 9, 57-61. <https://doi.org/10.1002/crq.39019850908>
- Herrman, M. S., Hollett, N., & Gale, J. (2006). Mediation from beginning to end: A testable model. In M. S. Herrman (Ed.), *The Blackwell handbook of mediation: Bridging theory, research, and practice* (pp. 129-147). Blackwell.
- Howieson, J., & Priddis, L. (2015). A mentalizing-based approach to family mediation: Harnessing our fundamental capacity to resolve conflict and building an evidence-based practice for the field. *Family Court Review*, 53(1), 79-95. <https://doi.org/10.1111/fcre.12132>
- Jakob, M., Weck, F., & Bohus, M. (2013). Live-Supervision: Vom Einwegspiegel zur videobasierten Online-Supervision. *Verhaltenstherapie*, 23(3), 170-180. <https://doi.org/10.1159/000354234>
- Johnston, J. R., Campbell, L. E. G., & Tall, M. C. (1985). Impasses to the resolution of custody and visitation disputes. *American Journal of Orthopsychiatry*, 55(1), 112-129. <https://doi.org/10.1111/j.1939-0025.1985.tb03425.x>
- Kaiser, P. (Hrsg.). (2009). *Konflikte im Krankenhaus lösen. CNE. Fortbildung 4*. Thieme.
- Kaiser, P. (2018). Erfolgsbedingungen für Mediation und nachhaltige Konfliktregelung - Befunde aus der gerichtsinternen Mediation und Schlussfolgerungen für Praxis und Qualitätssicherung. *Konfliktdynamik*, 3, 216-225. DOI 10.21706/kd73216
- Kaiser, P., Gabler, A. M., & Norden, I. (2017). Wirkfaktoren für Qualität und Nachhaltigkeit von Mediation – Ergebnisse einer Längsschnittstudie zu gerichtlicher Mediation und allgemeine Implikationen. In K. Kriegel-Schmidt (Hrsg.), *Mediation als Forschungsgegenstand. Auf dem Weg zu einer deutschsprachigen*

- Mediationswissenschaft* (S. 331-356). Springer VS.
- Kals, E., & Montada, L. (2017). Mediation. In D. Frey & H. W. Bierhoff (Hrsg.), *Enzyklopädie der Psychologie. Kommunikation, Interaktion und soziale Gruppenprozesse. Sozialpsychologie, Band 3* (S. 939–963). Hogrefe.
- Kalter, M., Bollen, K., & Euwema, M. (2018). The long-term effectiveness of mediating workplace conflicts. *Negotiation Journal*, 34(3), 243-264. <https://doi.org/10.1111/nejo.12227>
- Kelly, J. B. (2004). Family mediation research: Is there empirical support for the field? *Conflict Resolution Quarterly*, 22(1-2), 3–35. <https://doi.org/10.1002/crq.90>
- Kline-Pruett, M., & Johnston, J. R. (2004). Therapeutic mediation with high conflict parents: Effective models and strategies. In J. Folberg, A. L. Milne, & P. Salem (Eds.), *Divorce and family mediation* (pp. 92-111). Guilford.
- Koelsch, S. (2014). Emotionen im Konflikt - Neurobiologische Grundlagen. In C. Fischer & H. Unberath (Hrsg.), *Grundlagen und Methoden der Mediation* (S. 43-64). Beck.
- König, K. (2010). *Gegenübertragung und die Persönlichkeit des Psychotherapeuten*. Brandes & Apsel.
- Kohlberg, L. (1976). *Moral development and behavior*. Holt, Rinehart & Winston.
- Kressel, K., & Pruitt, D. G. (1989). Conclusion: A research perspective on the mediation of social conflict. In K. Kressel & D. G. Pruitt (Eds.), *Mediation research: The process and effectiveness of third party intervention* (pp. 394–435). Jossey-Bass.
- Kriz, J. (2019). «Evidenzbasierung» als Kriterium der Psychotherapie-Selektion? Über eine gutes Konzept – und seine missbräuchliche Verwendung. *Psychotherapie-Wissenschaft*, 9(2) 42– 50 2019. <https://doi.org/10.30820/1664-9583-2019-2-42>
- Lambert, M. J., Whipple, J. L., & Kleinstäuber, M. (2019). Collecting and delivering client feedback. In J. C. Norcross & M. J. Lambert (Eds.), *Psychotherapy relationships that work* (3rd ed., Vol. 1, pp. 580-630). Oxford University Press.
- Linden, M. (2017). *Verbitterung und Posttraumatische Verbitterungsstörung*. Hogrefe.
- Linden, M., & Strauß, B. (2018). *Risiken und Nebenwirkungen von Psychotherapie. Erfassung, Bewältigung, Risikovermeidung*. Hogrefe.
- McCrae, R. R., & Costa, P. T. (1999). A five factor theory of personality. In L. Pervin & O. P. John (Eds.), *Handbook of personality* (pp. 139-153). Guilford Press.
- McNeece, C. A., & Thyer, B. A. (2004). Evidence-based practice and social work. *Journal of Evidence-Based Social Work*, 1(1), 7-25. https://doi.org/10.1300/J394v01n01_02
- Montada, L., & Kals, E. (2013). *Mediation. Psychologische Grundlagen und Perspektiven* (3., überarbeitete Auflage). Beltz.
- Morris, M., Halford, W. K., Petch, J., & Hardwick D. (2018). Predictors of engagement in family mediation and outcomes for families that fail to engage. *Family Process*, 57(1), 131-147. <https://doi.org/10.1111/famp.12270>
- National Institute of Mental Health. (2021). *Mental Illness*. <https://www.nimh.nih.gov/health/statistics/mental-illness>
- Norcross, J. C., & Lambert, M. J. (Eds.). (2019). *Psychotherapy relationships that work* (3rd ed., Vol. 1). Oxford University Press.
- Norcross, J. C., & Wampold, B. E. (Eds.). (2019). *Psychotherapy relationships that work* (3rd ed., Vol. 2). Oxford University Press.
- Poitras, J., & Le Tareau, A. (2009). Quantifying the quality of mediation agreements. *Negotiation and Conflict Management Research*, 2(4), 363–380. <https://doi.org/10.1111/j.1750-4716.2009.00045.x>
- Pruitt, D. G. (2011). Negotiation and mediation in intergroup conflict. In D. Bar-Tal (Ed.), *Frontiers of social psychology. Intergroup conflicts and their resolution: A social psychological perspective* (pp. 267-289). Psychology Press.

- Radkiewicz, P., & Korzeniowski, K. (2017). Justification and indifference: Diverse permissive attitudes toward witnessed violence against the elderly and disabled. *Journal of Interpersonal Violence, 32*(24), 3797-3821, DOI: 10.1177/0886260515603974.
- Reid, L. (2015). Finding a peace that lasts: Mediator leverage and the durable resolution of civil wars. *Journal of Conflict Resolution, 61*(7), 1401-1431. <https://doi.org/10.1177/0022002715611231>
- Riera Adrover, J. A. R., Castañer, M. E. C., & Moreno, J. J. M. (2019). Mediators' and disputing parties' perceptions of trust-building in family mediation. *Negotiation and Conflict Management Research, 13*(2), 151-162. <https://doi.org/10.1111/ncmr.12167>
- Rogers, C. R. (1957). The necessary and sufficient conditions of therapeutic personality change. *Journal of Consulting Psychology, 21*(2), 95-103. <https://doi.org/10.1037/h0045357>
- Sacchi, L., Merzhvynska, M., & Augsburger, M. (2020). Effects of cumulative trauma load on long-term trajectories of life satisfaction and health in a population-based study. *BMC Public Health, 20*(1), 1612. doi: 10.1186/s12889-020-09663-9. PMID: 33109171; PMCID: PMC7590721.
- Sackett, D. L., Rosenberg, W. M. C., Muir Gray, J. A., Haynes, R. B., & Richardson, W. S. (1996). Evidence based medicine: What it is and what it isn't. *British Medical Journal, 312*, 71-72. DOI:10.1136/bmj.313.7050.170c
- Sandy, S. V., Boardman, S. K., & Deutsch, M. (2014). Personality and conflict. In P. T. Coleman, M. Deutsch, & E. Marcus (Eds.), *The handbook of conflict resolution: theory and practice* (pp. 400-429.). Jossey Bass
- Sbarra, D. A., & Emery, R. E. (2010). Coparenting conflict, nonacceptance, and depression among divorced adults: Results from a 12-year follow-up study of child custody mediation using multiple imputation. *American Journal of Orthopsychiatry, 75*(1), 63-75. <https://doi.org/10.1037/0002-9432.75.1.63>
- Schamber, G., Meinicke, E., & Schäfer, T. (2020). EMDR ohne Therapeuten? Konzeption und doppelblind-randomisierte kontrollierte Evaluation eines EMDR-Stressbewältigungsprogramms (EMDR-SBP). *Verhaltenstherapie und Verhaltensmedizin, 41*(1), 41-57.
- Seiffge-Krenke, I. (2017). *Widerstand, Abwehr und Bewältigung*. Vandenhoeck.
- Shaw, A. (2010). Divorce mediation outcome research: A meta-analysis. *Conflict Resolution Quarterly, 27*(4), 447-467. <https://doi.org/10.1002/crq.20006>
- Singer, T., & Bolz, M. (Hrsg.). (2013). *Mitgefühl in Alltag und Forschung*. Max-Planck-Gesellschaft. <http://www.compassion-training.org/de/online/files/assets/basic-html/index.html#2>
- Strauß, B., & Schauenburg, H. (Hrsg.). (2016). *Bindung in Psychologie und Medizin. Grundlagen, Klinik und Forschung - ein Handbuch*. Kohlhammer.
- Thomas, S. (2012). *Wisdom during social conflict: Age differences and integration of cognition and affect*. Dissertation, Fakultät für Biowissenschaften, Pharmazie und Psychologie. Universität Leipzig.
- Upcounsel. (2020). *Disadvantages of mediation: Everything you need to know*. <https://www.upcounsel.com/disadvantages-of-mediation>
- U.S. Department of Health and Human Services. (2002). *Effectiveness of access and visitation grant programs*. U.S. Government Printing Office.
- Wampold, B. E., Imel, Z. E., & Flückiger, C. (2018). *Die Psychotherapie Debatte. Was Psychotherapie wirksam macht*. Hogrefe.
- Wendt, M. (2014). *Allgemeine Psychologie - Wahrnehmung*. Hogrefe.
- Wissler, R. L. (2006). The role of antecedent and procedural characteristics in mediation: A review of the research. In M. S. Herrman, (Ed.), *The Blackwell handbook of mediation: Bridging theory, research, and practice* (pp. 129-147). Blackwell.

Author Bios

Peter Kaiser is Professor emeritus of Psychology and Pedagogy and head of the Task Force Mediation Research at the University of Vechta, Germany. He received his diploma in Psychology from the University of Heidelberg and his Dr. phil. in Psychology and his Dr. phil. habil. in Clinical Psychology and Psychotherapy from the University of Oldenburg. His research focuses on conflict and mediation research, clinical and family psychology, structural and communication problems of couples and families as well as of social and health care institutions. He founded and headed of continuing education programs for mediation, family therapy, supervision and health-oriented organizational development.

Gerald Eisenkopf is Professor of Business Administration at the University of Vechta. He received his Diploma in Psychology at the Free University of Berlin, his M.Litt. in Management, Economics and International Relations at the University of St Andrews and his PhD in Economics at the University of Konstanz. His research focuses on cooperative, competitive and conflict behavior and the impact of social preferences in organizations.

Andrej Marc Gabler, Presiding Judge at the Court of Appeal in Schleswig, Schleswig-Holstein, Germany, Mediator and lecturer in certified Mediator training.

Felix L. B. Lehmann, Dr. jur., Presiding Judge at the Regional Court in Kiel, Schleswig-Holstein, Germany, Mediator, Lecturer at the Christian-Albrechts-University of Kiel.

Appendix A Variables and Measures

The following variables and measures were examined using our questionnaires (wording in questionnaire in italics; see also Figure 1; all questionnaires are available from the first author).

Structural Variables (T1)

As structural variables, we examined what entered the conflict and the subsequent mediation process as initial conditions. These included:

- Person variables of the parties involved: *age, gender and marital status, number of children*, personality variables of the parties (Big Five questionnaire by Gerlitz & Schupp, 2005; McCrae & Costa, 1999) with 4-5 items each on the personality traits neuroticism, emotional irritability, openness to new experiences, extraversion/introversion, conscientiousness, and agreeableness.
- Role as *plaintiff/defendant*, mediator, or advocate.
- Level of information, attitude, *reason for consent*, and *prior experience* of parties and attorneys *regarding mediation*.
- Quality of life: state of *quality of life and well-being, burden of relatives, stressed when others argue in my presence* (conflict anxiety)
- Mediator variables: Number of *hours completed in mediation training, supervision*, number of *years practicing as a judge and as a mediator*, and number of *mediations conducted*.
- Relationship variables: *Type and duration of relationship, quality of communication and relationship between*

parties, lawyers, and mediators.

- Conflict variables: *Type, duration, and complexity, legal difficulty, and amount in dispute of conflicts as assessed by mediators*
- System context variables: *Burden of relatives, support of mediator by colleagues and Presidium*

Process Variables (T2)

- Length of process: *Number of meetings and hours*
- Relationship variables: *Communication and relationship clarified and improved, understanding and appreciation, protected from attacks by other participants in the process, confidentiality maintained by all participants*
- Negotiation variables: *one-on-one meetings, more room for maneuver than in court proceedings, active participation, compromising, consideration of all significant issues, clarification, ...how the parties involved perceive the individual aspects of the conflict, the importance and impact of the individual aspects of the conflicts for the parties involved, the goals and concerns of the parties to the conflict, that the parties are supported in reaching a mutually agreeable settlement, fairness of the proceedings*
- Mediator variables: *Understanding, appreciation, encouragement to reach a mutually agreeable settlement, genuineness, neutrality/all-partiality, abstinence, that the mediator does not legally judge the matter in dispute, urging*
- Advocacy variables: *Appreciation, preparation and help to legally assess the matter in dispute, urging.*

Outcome Variables (T2)

- Conclusion and quality of agreement: *Assertion of own goals, justice, comprehensive resolution of conflict, elimination of causes of conflict, background of problems clarified, satisfaction*
- *Time and cost savings*
- Relationship variables: *Communication and relations between the parties clarified and improved, positive contribution to the resolution of the problem appreciated, honesty and sincerity of all parties involved, protected from attacks by other parties to the proceedings*
- Quality of life: *Encouragement, stress reduction, conflict anxiety, burden of relatives, satisfaction with well-being and quality of life*
- Compliance: *Assessment of one's own and the opponent's compliance with the contract*
- Attitude towards mediation: *In case of similar conflicts in the future, I will seek a court decision/judicial mediation extrajudicial mediation*
- Conflict ability: *Conflict insight, competence awareness*

Variables of the Circumstances (T3)

- Compliance: *Own and opponent's contractual compliance*
- Security: *Protected from attacks by other parties to the proceedings*

Sustainability Variables (T3)

- Long-term quality of agreement: *Justice, comprehensive resolution of conflict (no relapse), elimination of causes of conflict, enforcement of my goals, background of problems clarified, satisfaction*

- Retrospective assessment of the conduct of negotiations: *Compromising, active participation, consideration of all essential issues, clarification, ...how the parties involved perceive the individual aspects of the conflict, the goals and concerns of the conflict participants*
- Mediator variables in retrospect: *Impartiality, assisting the parties in reaching a mutually agreeable settlement.*
- *Time and cost savings (no need for lawyer to consult again, no need to force agreement to be enforced, etc.)*
- Relationship variables: *Communication and relationships between parties clarified and improved, positive contribution to resolution of problem appreciated, honesty and sincerity of all parties, protected from attacks by other parties to proceedings*
- Lasting quality of life: *Feeling of well-being, encouragement, less stress caused by the conflict, fear of conflict, burden of relatives*
- Lasting compliance: *Assessment of own and adversary's previous and future contractual compliance, agreements reached had to be enforced by force (reminder by lawyer, bailiff, penalty payment)*
- Attitude towards mediation: *In case of similar conflicts in the future I will seek a court decision/judicial mediation extrajudicial mediation*
- Conflict competence: *Conflict insight, understand the conflict and myself better, competence awareness, through the mediation process I have learned to deal with conflicts better.*

Appendix B
Intertemporal Correlations of Key Variables in the Subsample (df = 72)

	df 71	Time saving 3 68	Cost savings 3 70	Fair Outcome 3 70	Compliance 70	Relation A better 3 62	Quality of life 3 65	Satisfaction 71	Stress Reduction 3 70	Conf. competence 58
Structural Qualities										
Emotional irritability	.12	.06	.06	.03	.20	-.05	-.09	.08	.05	
Slyness, Inhibition	.17	.05	.34*	.18	.24	.01	.13	.13	.07	
Imaginative	.07	.01	.01	.05	.11	.07	.04	.02	.15	
Aesthetic inclination	.21	.18	.16	.19	.18	.12	.18	.16	.14	
Openness Sociability	.14	.01	.11	.22	.30*	.08	.01	.22	.10	
Roughness	-.10	.20	.26*	.29*	.40**	.27*	.26*	.21	.21	
Belligerence	.02	.10	.22	.12	.06	.28*	.10	.16	.28	
Relationship Attorney	.17	.13	.19	.18	.08	.24	-.11	.24	.10	
Quality of Life1	.20	.23	.16	.29*	.08	.01	.16	.23	.10	
Duration of conflict	.12	.01	-.03	-.05	-.25	-.03	.17	-.08	.20	
Complexity of Case	.01	.08	-.11	.11	-.01	-.01	-.07	.00	.09	
Relationship1	.02	.18	.00	.18	.09	.05	.05	.09	.05	
Mediation years	.24*	.32**	.14	.26*	.04	.04	.16	.22	.20	
Training hours	.25*	.30*	.00	.36**	.03	.12	.18	.19	.10	
Supervision hours	.19	.16	.01	.23	.05	.10	.12	.08	.20	
Process Qualities										
Fair procedure	.17	.28*	.21	.21	.02	.16	.23	.20	-.13	
Good information	.05	.05	.13	.13	.09	.10	.11	.01	.05	
Encouragement	.07	.10	.07	.00	.22	.03	.01	.05	.18	
Conflict competence	.09	.06	.16	-.13	.11	.13	.05	.07	.05	
Preparation by lawyer	.03	.00	.04	.12	.03	.04	.10	.05	.03	
Urging the mediator	.00	.01	.04	-.08	-.04	-.14	-.01	.02	-.26	
Understanding Conflict	.04	.15	.22	.24	.28	.04	.20	.18	.12	
Number of sessions	.00	.03	-.04	.06	-.21	.04	.17	.02	.10	
Agreement	.04	.07	.20	.03	.07	.08	.10	.06	.16	
All issues	.05	.06	.17	-.10	.01	.20	.01	.01	.30*	
No court decision	.17	.43*	.17	.05	.12	.05	.15	.02	.23	
Outcome Qualities										
Time saving 2	.06	.15	.11	.02	.12	.04	.12	.04	.10	
Cost saving 2	.10	.26*	.18	.04	.03	.24	.14	.11	.22	
Fair outcome 2	.11	.21	.31**	.13	.02	.05	.21	.24*	.21	
Wellbeing	.02	.03	.00	.10	.03	.16	.00	.14	.00	
Autonomous resolution	.12	.08	.26	.02	.01	.02	.01	.15	.00	
Stress avoidance 2	.07	.14	.22	.03	.04	.00	.11	.04	-.05	
Sustainability										
Time saving	1.00	.64**	.40**	.59**	.33**	.18	.42**	.78**	.19	
Cost saving	.64**	1.00	.46**	.54**	.41**	.27*	.54**	.63**	.13	
Long-term fairness	.40**	.46**	1.00	.36**	.49**	.25*	.61**	.49**	.16	
Compliance	.59**	.54**	.36**	1.00	.32*	.32**	.57**	.70**	.12	
Relationship better	.33**	.41**	.49**	.32*	1.00	.28*	.37**	.46**	.34*	
Quality of life	.18	.27*	.25*	.32**	.28*	1.00	.35**	.26*	.30*	
Well-being3	.42**	.43**	.35**	.57**	.27*	.51**	1.00	.48**	.12	
Stress reduction	.78**	.63**	.49**	.70**	.46**	.26*	.56**	1.00	.32*	
Conflict competence	.19	.13	.16	.12	.34*	.30*	.26*	.32*	1.00	