

Conflict within the company regarding the collaboration among employees? Argument with your supplier about the delivered service or product. Dispute over the future of your family business? Or a dispute among shareholders?

Most probably you want to get rid of the conflict as soon as possible. You have thought about going to court but most of the time the outcome is uncertain. At the same time you could find yourself in a situation where you want, or have to move onward together. Often, however, the conflict has come to a point where future cooperation seems impossible. Mediation can change this.

## Mediation

As a professional and independent moderator, a mediator, leads the discussions and monitors the process of discovering a solution. Contrary to judges and arbiters a mediator however does not provide or offer solutions to involved parties and does not make decisions. The task of the mediator is to guide those parties through a participative and collaborative process with the goal of finding a creative solution to the conflict, to find a win-win outcome for the parties. A win-win outcome is more durable than a solution whereas one party wins and the other loses as consequence of a court verdict. With mediation, it's all about the interests, desires, concerns and emotions of both sides. The challenge is to discover the real underlying reasons to the conflict. Facts play a secondary role.

## Basic principles of mediation

Mediation has three basic principles:

- **Voluntariness;** You cannot be forced to take part in mediation. Both parties must voluntarily choose for mediation as an alternative form of conflict resolution.
- Voluntariness is not equal to non-committal. Once mediation is decided the parties have a **commitment** to each other to genuinely seek a solution to their conflict.
- **Confidentiality;** parties will sign a confidentiality agreement. Everything that is discussed during the mediation is classified and cannot be used in court. Parties are not bound to what is discussed only a written agreement is binding.

## How does mediation work?

Mediation starts by signing a mediation-agreement. The parties make a commitment to try their utmost to solve the conflict. Parties also agree to confidentiality of all that is discussed during the mediation. All court initiatives are set on hold. What is said during mediation cannot be used in

court. After this the mediation process begins. The mediator manages the process and invites each participant to elaborate about the conflict, to express their views and feelings and in this process the mediator tries to uncover the real interests of the parties. Mediation goes to the core of the conflict and brings it out in the open. In this collaborative process it is not so much about the past, or about the participant's standpoint and position, but it is about the future and in what ways the parties would like to see the dispute resolved. What is agreed must be truly important to all involved and must meet their real interests. A mediator helps parties to find an acceptable solution to the conflict by themselves. The outcome is drafted in an agreement of outcome.

## Why choose mediation?

- You want a problem solved, despite communication problems with the other;
- An independent and neutral person guides you, which gives you a fair opportunity to speak up during the mediation, without the fear of the other party using it against you; you commit to only what is agreed upon in the agreement of outcome;
- With mediation, you think in terms of solutions. You focus on the future instead of dwelling on the past;
- You want or must preserve your relationship with the other party (or bring the relationship to an amiable end). For example, despite the conflict you value the (business) relationship or you have to continue to work together;
- You are looking for a creative win-win solution because a juridical settlement (court verdict) doesn't usually account for the complete case on hand. Through mediation you work jointly on a solution, which will thereby suit you better;
- Because of the confidentiality agreement, it will be easier to discuss certain topics or express views that would otherwise be too sensitive, also from a business point of view;
- A mediation has the potential to come to a conclusion in a lesser amount of time (and thereby less expensive) than a judicial procedure;
- Last but not least you want to keep the solution in your own hands.

## LIKE TO KNOW MORE?

Do you wish to know more about Mediation & Dispute Resolution? Feel free to contact us through [info@medwork.aw](mailto:info@medwork.aw) or call us at +297 587 8880.

