

# MEDIATION

## in detail

Do you have a conflict, an argument, a difference of opinion with another person or also within or with an organization or institution?

First of all, you will usually try to resolve conflict through negotiation directly with the other party. If this fails, you may ask an independent third party to give an opinion and/or make a decision. Your influence on the outcome will be minimal.

### Mediation solves conflicts differently!

- ➔ **Mediation** is a confidential and structured procedure in which the parties, with the help of one or more mediators, voluntarily and independently strive for an amicable settlement of their conflict.
- ➔ A **mediator** is an independent and neutral person with no decision-making authority who guides the parties (through the process of?) mediation.

Mediation is based on a constructive, communal interaction. It provides a way to resolve disagreements, disputes, or conflicts in a better way.

The aim of mediation is to strive for **win-win solutions**, i.e. solutions that yield more for both conflicting parties rather than a simple compromise.

Instead of having a third person or party deciding, you work out the solution yourself **together** with the other party to the conflict **under the guidance of a neutral third party**.

This neutral third party is a **mediator**.

### When does mediation make sense?

Mediation is a sensible method of resolving a conflict if as many of the following criteria as possible are met:

- Discussions or negotiations are deadlocked
- Both sides are aware that there is a conflict
- An agreement is sought in which none of the conflicting parties should lose face
- Resolution is less about being right and more about finding a fair solution
- The parties know each other or are otherwise related to each other
- The parties want, need or will remain in contact or relationship in the future
- An expensive and lengthy legal dispute should be avoided
- In addition to factual issues, personal issues are also the cause of the conflict
- Both parties are highly motivated to resolve the conflict on their own responsibility
- There are no very big differences in power between the parties

### How does a mediation process work?

A mediation process is usually divided into five phases:

<b>Phase I</b>	Order clarification, agreements on the procedure
<b>Phase II</b>	Inventory, determination of the issues in need of regulation
<b>Stage III</b>	Working on the areas of conflict, searching for the interests behind the positions
<b>Stage VI</b>	Development and evaluation of solution options
<b>Phase V</b>	Design phase, description of the solution, conclusion of the mediation process

### I offer mediation in the following fields:

Field	Example
Workplace	Conflicts between <ul style="list-style-type: none"> <li>- Colleagues / Teams</li> <li>- Supervisors / Employees</li> <li>- Executives</li> </ul>
	Examples of conflict <ul style="list-style-type: none"> <li>- Work organizations</li> <li>- Skills</li> <li>- Training conditions</li> <li>- Manners</li> <li>- Work ethic</li> <li>- Mobbing</li> </ul>

Business area	Conflicts between	<ul style="list-style-type: none"> <li>- Companies</li> <li>- Customer and service provider</li> </ul>
	Examples of conflict	<ul style="list-style-type: none"> <li>- Area of responsibility</li> <li>- Task sharing</li> <li>- Acceptance of guarantee</li> <li>- Conflict of interest</li> <li>-Lack of communication</li> </ul>
Community	Conflicts between	<ul style="list-style-type: none"> <li>- Neighbours</li> <li>- Owners (e.g. residential property)</li> <li>- Associations, clubs</li> </ul>
	Examples of conflict	<ul style="list-style-type: none"> <li>- Right to use a facility</li> <li>- Allocation of costs for renovations</li> <li>- Board matters</li> </ul>

### My approach

The number of mediation sessions required depends on the type of conflict, its scope and complexity, and to a large extent on the parties/persons involved in the conflict (see also above “When does mediation make sense?”).

Before starting a mediation process, I need a brief overview of the parties involved and the conflict itself. Further, all parties involved will have to confirm that they are interested in a successful mediation process with me as their mediator. If necessary, a short telephone discussion will be scheduled.

These are all advance services from my side, which are free of charge.

Prior to the first mediation session a mediation contract will be signed in which all parties involved, the mediator, a brief description of the conflict, general contractual conditions and costs are specified.

### My pricing

A mediation session normally takes between 60-120 minutes, but this can vary significantly. The parties involved usually share the costs of the entire mediation process. However, this can be agreed individually and will also be specified in the mediation contract.

I generally charge **100 Euros for the first hour**. This also applies if a solution is found within shorter time. Thereafter, billing takes place every **half hour**.

### General remark

In principle, the term "mediator" is not protected, but it makes sense and is helpful for a mediator to be able to draw on a knowledge of conflict management, group dynamics, basic legal backgrounds, possibly detailed knowledge in specialist areas and a reasonable common sense.

On May 19, 2013, the Mediation Act came into force in Portugal. Portugal has thus transposed Directive 2008/52/EC of the European Parliament and Council of May 21, 2008 on certain aspects of mediation in civil and commercial matters into national law.

In order to be able to carry out a mediation process recognized by Portuguese law and, therefore, applicable before Portuguese courts, an official examination and authorization as a mediator must be carried out before the Portuguese Ministry of Justice.

I am obliged to state that I do not have this approval in Portugal, but I would like to point out that I am sufficiently trained to lead a competent and solution-oriented mediation process as part of an out-of-court settlement effort.



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