

History

The Centre of Civil and Commercial Mediation was established on 13th March 2003 under the name Mediation Centre of the Luxembourg bar association. This was at the request of lawyers of the Luxembourg Bar association, the Chamber of Commerce, and the Chamber of Crafts. The Centre was renamed and restructured on 27th April 2012 after the law on civil and commercial mediation had come into effect on 24th February 2012.

This non-profit association has the following objectives:

- to promote knowledge about and understanding of mediation,
- to create a climate of openness towards mediation by having qualified mediators chosen by the Centre who then mutually share their experiences and therewith enrich their roles.
- to offer companies and private persons an easy means for resolving their disputes.

The association addresses enterprises as well as private persons within the scope of civil, commercial, or social conflicts.

What is mediation?

As defined by law, mediation is “**the structured process during which two or more conflict parties on voluntary basis try to come to an agreement regarding the conflict resolution by themselves with the help of an independent, impartial and competent mediator.**“

The mediation procedure applies to national as well as to cross-border conflicts.

The mediator’s role as third party is to help the conflict parties to reach an agreement by themselves, bearing in mind that they are in full knowledge of their situation. As the special technique of mediation procedure is applied, the agreement respects each party’s needs.

The mediator is neither judge nor arbitrator and is strictly bound to respect the mediation process’s confidentiality. In particular, it means that he may not make any facts public which he became aware of in his role as mediator

In order for the mediation to be successful, it requires all parties’ common willingness to search for an amicable solution for their differences in good faith. The parties remain owner of their conflict as well as their (contractual) relationship. At any time, they can ask the mediator to support them by applying his conflict resolution technique.

Mediation Goals

Mediation is an efficient, quick, and compared to a classic court proceeding and even to an arbitration relatively cost-effective method to resolve a conflict. It is of special note that mediation guarantees confidentiality, especially in case of failure.

In addition to / Besides finding a conflict resolution or not, the parties can maintain their professional and social relationships. A classical court proceeding inheres the risk of the relationship being broken for good.

Furthermore, same as in an arbitration process, the mediation procedure permits the parties to choose a person who has the technical and/or legal competences which are suitable for their dispute.

Guarantees stipulated by law

The law guarantees confidentiality of mediation.

It also ensures that the parties’ respective rights do not get time-barred during the mediation procedure.

In addition, the reached agreement can be homologated. Therewith, it has the same value as an enforceable judgment.

Mediation costs

The mediator’s fees are invoiced based on a fix fee per hour as set in the joint agreement between the mediator and the parties.

In addition, the CMCC might charge administrative costs.

Procedure and duration

Mediation can be initiated outside of or during a proceeding.

At the beginning of a mediation, the mediator and the parties sign an agreement called mediation agreement. By doing so, the parties agree to resolve their dispute by means of mediation in compliance with the Mediation Rules of the Centre for Civil and Commercial Mediation. The parties declare to respect these rules.

In the performance of his mission, the mediator helps the parties to find a negotiated solution for their dispute. The mediation duration may not exceed three months starting from the day when the mediation agreement is signed. In any case, the duration can be extended based on all parties' joint agreement. At each moment the parties, including the mediator, can stop the mediation at their discretion.

Once the parties come to an agreement, this so-called **mediation settlement agreement** describes in detail which actions have to be taken by each party. It is signed by all parties.

Who are the mediators?

The mediators are chosen from a list of accredited mediators which is kept by the CMCC. The choice is based on the dispute's nature and the parties' expressed request. The mediator meets the required selection criteria and complies with the recommended deontological code passed by the CMCC.

The mediators chosen this way come from all economic sectors (general managers, lawyers, advocates, accountants, auditors, engineers, ...)

They are selected based on two major criteria:

- their professional skills and their knowledge of the business world in general and
- their knowledge and abilities to master the specific process of mediation.

The accredited mediators participate in on-going training courses. Respective training is organized by the CMCC together with other mediation centres.

These training courses are open for each professional who wants to get familiar with the mediation process, spirit, and techniques.

Engaging the Centre of Mediation

The CMCC gets engaged based on a written mediation request which has to indicate the following information:

- surname, first name, function or company name and address as well as both parties' phone numbers and advisors,
- short summary of the dispute, both parties' views or in case of a unilateral request only the view of the party approaching the CMCC.

The CMCC informs the parties about its engagement and provides them with the Mediation Rules.

The parties have 15 days to answer. In case of not receiving any answer from a party or receiving an express refusal of the mediation proposal, the dossier is closed immediately.

Contact

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La médiation
au service des citoyens
et des entreprises.



Centre de Médiation
Civile et Commerciale