



Settlements can be  
**achieved**

MEDIATIONSGUIDE

Einigung ist  
**planbar**

**forum**

[www.wirtschaftsmediation.at](http://www.wirtschaftsmediation.at)

# Our Mission Statement

1. The forum wirtschaftsmediation is a group of experienced and professional business mediators that combines different expertise and competences in a variety of relevant professional divisions. Together and on an interdisciplinary basis, we work with a high level of personal and idealistic commitment to disseminate the idea of business mediation in Austria, regardless of any political position.
2. From our experience we know that not only the skills and experiences of the profession itself and profound mediation training are essential to the practice of business mediation but in fact the personal maturity and mediation approach in terms of empathy and reflectivity.
3. We cooperate on a national and international level with selected mediation associations, initiate open working groups and work with various training institutions to make use from the experiences and insights of our colleagues for the business mediation landscape in Austria.
4. Through the lectures and teaching activities of our members as well as public and internal events of the forum wirtschaftsmediation, decision makers from economy, the politics and society of our country are addressed and won over to business mediation.
5. Our internal communication is characterized by openness, exchange and mutual interest. Our members contribute their skills to achieve the common goals. They know each other personally and work together in respective positions in the area of theoretical development of business mediation and the practice co-mediation.
6. Our aim is to increase the proportion of constructive conflict resolution in internal and intercompany conflicts as well as conflicts between economy and society by the publication and application of business mediation and meditative techniques in conflict management or in dealing with conflicts.
7. The forum of business mediation sees itself as a centre of competence as well as a hub and first contact point for business mediation in Austria.

# Mediation in a nutshell

Mediation is a process in which a neutral third person (mediator) supports conflicting parties (clients) in jointly resolving their conflicts by negotiation. Clients develop their own mutual solutions based on the interests and needs of all conflicting parties.

## Mediation

- is goal-oriented, forward-looking and self-determined
- can be employed immediately without prejudging the outcome
- is quick, efficient and unbureaucratic
- saves (precious) effort, time and resources
- stands for sophisticated, nuanced solutions and viable (/workable) results
- enhances the conflicting parties' personal (/soft) skills
- restores a positive atmosphere

## Mediation vs. litigation

Court rulings issued by judges can (more often than not) only refer to past actions (rather than the present or the future).

## Mediation vs. conciliation

In conciliation, external experts introduce options for solutions and render a decision.

## Clients

- participate voluntarily
- are willing to be fair
- are open (/candid, upfront) towards each other and confidential towards outsiders
- make their own decisions in a goal-oriented mindset
- secure commitment through legally binding agreements

## Mediators

- provide a neutral atmosphere for constructive conversation
- support the development of independent solutions
- provide assistance in reaching an agreement
- maintain confidentiality and are unbiased and omni-partial (equally supportive of all parties)
- provide competence (/expertise, skills) and structure for the mediation process
- trust their clients' skills to resolve their conflict

## Lawyers and experts

- participate consensually (/voluntarily) as professionals of their respective fields of expertise
- advise their clients and provide expertise
- help find a legally and factually well-grounded solution
- phrase a legally valid settlement reflecting the agreement reached

## Austrian Law on Mediation in Civil Law Matters (ZivMediatG 2003)

- sets forth the basic legal framework
- suspends (court) deadlines (/periods)
- secures confidentiality among mediators

## Fields of use for commercial mediation

Opportunities to use mediation in a business context are diverse. Internal conflicts between employees or departments of a business, disagreement among shareholders, disputes with clients, suppliers or banks are just some examples given to illustrate this broad field.

One of the key leadership skills is to recognize unproductive conflicts and to manage them effectively. The costs incurred in stagnant, unresolved conflicts are well hidden.

They don't appear in financial statements such as the profit and loss account, yet research has shown how dauntingly high they are.

Sometimes it is advisable for management to not intervene in person, but rather to involve commercial mediators – conflicts experts with a business background.

Mediation is an all-in-one process to resolve conflicts and to develop creative solutions. They very often provide a competitive advantage.

Commercial mediation is the much needed and long overdue professionalization of conflict management. It is the answer to a world where competition pressure, time constraints and new forms of employment produce increasingly complex conflicts. Commercial mediation emphasizes the social skills of those who initiate it.

Mediators work confidentially and impartially. Both working principles are secured by law (Austrian Law on Mediation in Civil Law Matters 2003). Mediators are specifically trained to guide clients through the process, making efficient use of their resources in an atmosphere of empathy and trust. Their extensive training enables them to multiply options for potential solutions. A successful commercial mediation can lay the groundwork for productive cooperation in the future.

We also provide preventive support in situations which often lead to conflict such as mergers, start-ups and new foundations, association, transfer of businesses and other processes of change.

Mediation is also used successfully in other areas of life, including the private sphere.

[Contact us and manage conflicts more efficiently!](#)

## Mediation vs. litigation

The claim has been filed and the parties have exchanged written submissions carefully drafted by their respective counsels. The first oral hearing has been scheduled or has already taken place. In other words: the conflict has escalated to a whole new level.

In recent years, countless pending court cases – often involving claims in the millions – have successfully been resolved consensually by reaching a mutual agreement.

There are many reasons to prefer an interest-based exchange to court proceedings (litigation).

Let this exemplary list inspire you (wörtlicher: Here are some good reasons which speak in favor of a mutual balancing/reconciliation of interests):

- litigation takes time, be prepared to endure years of legal proceedings
- litigation generates high costs (court and legal fees), sometimes even close to the sum claimed
- litigation involves a nearly incalculable risk
- litigation potentially damages the public image of your business and/or causes loss of reputation among the stakeholders
- parallel pending court cases can be fused into one single mediation process in which all disputes can be resolved jointly
- personal values and relations intensify conflicts litigation
- litigation narrows and disintegrates a conflict into legally disputable matters, whereas in mediation all issues and topics of a conflict can be covered in a much broader sense
- mediation involves all relevant stakeholders and is not limited to claimant and respondent
- mediation avoids hidden costs - your counsel provides the necessary legal certainty for you and is free to join you in the mediation after prior consultation with the mediator(s)

In mediation, not only comprehensive or partial solutions are considered a success. From their professional experience, judges report that mediation often significantly improves the atmosphere in litigation hearings. Parties who have been to mediation collaborate more effectively, which facilitates reaching a court settlement. The mediation itself remains completely confidential, even to the court.

Our mediators conform to strict quality criteria, which reach beyond the standards set forth by the Austrian Law on Mediation in Civil Matters (ZivMediatG).

**Take your chance to reach a solution in almost no time – incurring only manageable costs.**

# Agreement can be scheduled - check out our Mediation Guide

From our own experience, we know just how tough it can be to convince conflicting parties to participate in mediation. Finding mediators best suited for a specific conflict can be an incredibly challenging task. However, it does not have to be: our Mediation Rules aim to facilitate the initiation phase of a mediation and enable parties interested in mediation to get started as soon as possible. You can mandate us for only a small expense allowance and we:

- try to obtain consent to mediation from all parties involved in the conflict
- propose a minimum of three qualified and available mediators for your conflict (shortlist)
- propose a second shortlist of mediators in case our first proposal does not suit your preferences
- provide a ranked shortlist or moderate a hearing with shortlisted mediators (optional)
- administer your mediation under strict confidentiality, as soon as a mediation contract has been signed by the conflicting parties and the selected mediator(s) (optional)

Our [Mediation Guide](#) incorporates the [Code of Ethics](#) (only available in German) set forth by the Austrian Network for Mediation (Österreichisches Netzwerk Mediation, ÖNM) which secures fairness of procedure in mediation.

- **Agreement can be scheduled: you dictate the process – choose what suits you best and when**
- **Agreement can be scheduled: rely on our professional support**
- **Agreement can be scheduled: involve all relevant stakeholders**
- **Our Mediation Rules provide a fair, well-structured and goal-oriented process.**

## Step 1:

Preparation for the initiation of a mediation, obtaining consent from all parties and confirming consent to all parties

## Step 2:

Choice of mediator(s) from a shortlist, proposal of a ranked and/or alternative shortlist if no agreed-upon choice can be made from the first shortlist

## Step 3 (optional):

Providing the process of mediation and its administration through forum wirtschaftsmediation under § 6 Mediation Rules.

Expense allowance:

The amount we charge for steps 1 and 2 is based on actual expenses as well as the number of parties involved in the conflict.

Hint: according to § 6 Z 27 UStG (Austrian Value Added Tax Act) forum wirtschaftsmediation is exempt from value-added tax (VAT).

## Contact:

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you dictate the process – choose what suits you best and when**
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