

Strategic Partnership Project:
“Increasing SME Apprenticeship Engagement”

Mediation experiences within SME´s

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1.

I want to thank you very much for the invitation. It's a great pleasure for me to have the opportunity to report on mediation experiences. I appreciate your interest. My intention is to give you a brief overview of mediation, especially business mediation, in Germany. I want to talk about my experiences of cooperation with the Potsdam Chamber of Commerce and thereby illuminate the position of SMEs in Western Brandenburg on this issue.

My name is Anja Köhler. I'm a lawyer and used to work in various legal professions, for example, in a copyright society, at the Humboldt University in Berlin, and later as a notary in Brandenburg and as advocat in Berlin. Today I'm mainly active as mediator and as a lecturer in the fields of notary law, real estate law and business mediation.

2.

As you know, mediation is a confidential and structured process in which parties with help of a mediator voluntarily and autonomously seek an amicable settlement of their conflict.

The mediator is an independent and neutral person, elected by the parties, who leads the mediation.

When I started to occupy with mediation in 1999, I was especially interested in family mediation in connection with separation and divorce. In this time, this was the most important kind of mediation. While family mediation has already established in the 80s and has become well accepted, the business mediation was still in the late 90s a "sleeping giant". Why?

There were serious reservations, such a procedure, which was interpreted as a "soft", to use for solve "hard" economic conflicts. Such opinions had reasons

- in ingnorance of the mediation-procedure (confusion with meditation)
- in underestimation of existence of deeper interests and emotional components in the hard business world and
- in insistence on traditional power structures.

3.

During the last 15 years not only a rethinking has taken place concerning the use of mediation in business relationships, but also an increase of practical acceptance of mediation has developed. Why?

- This trend was supported by treatment this subject within the European Union and the transfer in national legislative initiatives. In Germany there is the Mediationsgesetz since 2012.
- The success of negotiation methods according to the Harvard Concept in commercial relationships has moved the mediation process more into focus.
- The development of business mediation in Germany is closely connected with scientific studies. The studies by University Viadrina, Frankfurt/O., in cooperation with PriceWaterhouseCoopers which created during the last 10 years are especially interesting. For example, the studies "Commercial Dispute Resolution - Conflict Management process compared" and "Practice of conflict management in German companies" examined how companies resolve conflicts with other companies and dealt with the causes of the result of the first study. In summary you could see: There is a big interest and esteem for mediation, but not the same readiness to realize it.

In 2009 the Consulting company KPMG presented a very interesting study about the costs of conflicts. That means not the fees for the mediator who involved, but the costs which enterprises loose by bad used labor time if employees quarrel, not communicate, make only work-to-rule, sicken because of bad working atmosphere, stress or mobbing. The annual damage for the enterprises is incredibly high.

In this context, certain terms have been clarified, too. The term skilled mediator was born - The expert mediator of certain conflicts, for example, Conflicts in sports clubs. This idea is controversial because the mediator is responsible for the process and the parties for the contents. Or the term business mediation: At first, business mediation was understood in the narrow sense as mediation between enterprises, now business mediation includes internal conflicts in a company, too.

Many mediation organizations and associations were founded.

For a long time I was speaker of the working group Mediation at the advocat assoziation Berlin.

In 2003, I founded together with two colleagues the Society for Mediation and Conflict Management NAVIGATUR. In cooperation with the Potsdam CCI, in 2006 we have established the additional qualification business mediator.

Most important result of these years and in this process was: the advantages of mediation in general and of business mediation in particular were increasingly apparent, especially

- sustainability of conflict resolution
- improving the culture of debate
- increase employee retention, also very important for trainees
- saving the cost of conflict
- promote empathy and respect
- possibility of future cooperation despite conflicts

It was interesting to see that the big companies took up this idea and began to convert into practise, for example AUDI AG, Bayer AG, Bombardier Transportation GmbH, Computacenter AG & Co oHG, German Railways, German Bank AG, German Telekom AG. They have money, connections, opportunities and be able to live with a certain risk. These big companies (nearly 30) are organized in round table mediation, a good place for exchange of informations and experiences. Such an approach is for the SMEs impossible. So we have in practice the situation that extrajudicial conflict resolution works very well in large enterprises, but is very little represented in SMEs.

4.

The competence of the IHK Potsdam covers the second largest area in Germany. Which covers about 79200 enterprises in West Brandenburg.

Absolutely most of them are small or medium-sized enterprises. These enterprises haben an average of 4.5 employees.

The companies are not in one simple situation. Some of them have low incomes. The CCI supports companies by exposing the chamber fees. Only financially successful companies have to pay.

The companies offer apprenticeships, and to ensure their survival. The CCI motivates companies to by relieving the companies of the examination fees for the trainees (€ 600,000 annually). Right now there are about 800 free apprenticeships.

The reasons for this situation are:

1. demographic trends (low birth cohorts)
2. there is a trend in society to finish school to improve their chances on the labor market (crafts has a low esteem)
3. proximity to Berlin, where you have better income opportunities (daily commuter 4000 between Potsdam and Berlin).

The Potsdam CCI is not one of the rich chambers in Germany such as Munich or Dusseldorf. The Potsdam CCI is innovative. For example, it has identified early the advantages of mediation. Since 2006 it offers the additional qualification "Wirtschaftsmediator IHK" (200 hours) offered. Yesterday, the 14th course completed successfully. The participants represent various professional groups and come from different parts of Germany, not only from Berlin and Brandenburg. In their future they will work as multipliers for mediation or even act as mediators.

Catalog of ideas concerning mediation 2016-2020 (CCI Potsdam)

- a) creation of a network for extrajudicial dispute resolution in Potsdam under the leadership of IHK Potsdam
- b) developing of a mediator-pool in the IHK Potsdam for service for SMEs in Westbrandenburg
- c) offer of assembly modules or training events for mediators
- d) improving of curriculum for the additional qualification "Wirtschaftsmediation IHK"
- e) special offers for the SME in Westbrandenburg (discussions, events, in-house seminars etc.) to to develope their interest in mediation and improve the contact between mediator and SME
- f) implementing of special talks – come together of mediators and representatives of SME (every two months for two hours a topic keynote speech with discussion)
- g) last year in September the IHK Potsdam carried out first time the "Day of Business Mediation", very succesfull, now we want to do it every year