

# EFFECTIVE TECHNIQUES FOR APPROACHING COMMUNICATION IN MEDIATION

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## **Abstract**

*Communication is a decisive element in restoring and restoring human relations, as well as the bridge that the mediator creates between the parties, so that, finally, the conflict resolution becomes a formality administered with mastery and art. Used wisely and patiently, communication becomes a negotiation technique within the reach of any professional in the conflict, allowing the parties to reach a unanimously accepted understanding.*

**Keywords:** *mediation, cultural approach, value system, strategy, administration, communication.*

## **1. Introduction**

„Mediation is an elaborate process in which the conflicting parties have the opportunity to express their wishes, needs, aspirations, expectations and interests, while also helping the reflection of the individual and the group, in order to make the decision most satisfactory to themselves." [1]

Mediation is primarily an alternative way of resolving conflicts, this procedure not excluding the parties to the conflict the possibility that they may be involved in another procedure, contentious or non-contentious, formal or informal, to resolve the conflict, either on its own friendly or imposing.

The mediation procedure is an eminently non-contentious, extrajudicial, voluntary procedure, whereby the parties are helped to negotiate a unanimously accepted agreement, under conditions of neutrality and impartiality, provided by a conflicting professional, in this case the mediator. [2]

Volunteering or the voluntary character of mediation presupposes and guarantees the parties to the conflict, that they have the freedom to choose their own way of resolving the conflict, the mediator, the communication or negotiation techniques that can be used

in mediation, as well as the ways of resolving the conflict. of the conflict, based on interests and needs, using objective criteria and accepted by the parties. [3]

The main technique used by the mediator during the mediation procedure is communication. The communication techniques can be found in all stages of mediation, from the moment the mediation begins, when the mediator establishes the first contact with the parties in conflict, until the effective resolution of the conflict through assisted negotiation, which is based on the selection of offers and which can lead implicitly to a lasting commitment to mediated conflict.

## **2. Communication techniques**

Mediation communication techniques are most often used to find out as much as possible about the parties involved in the conflict, what is their role in the conflict, whether or not they are decision-makers in the mediated dispute, the history of the conflict and the value system and beliefs of participants in mediation.

All these aspects can form an x-ray of the conflict, thus giving the mediator the opportunity to choose a strategy for managing and resolving the conflict, by communication, based on criteria as objective as possible and in full accordance with the objectives and the support that the parties in the mediated conflict argue.

## **3. Communication through a cultural approach**

Generally, parties in conflict do not always share the same cultural or axiological system, as they may belong to different cultures, giving birth to differences regarding the psychological ending of the conflict. Also, the parties may approach differently the degree to which they find it necessary to initiate a settlement, amicable or not, as well as the way in which this settlement can be reached. [4]

There are cultural paradigms unanimously accepted by community members, whereby conflicts may need a more or less psychological approach, with a greater emphasis on a legal approach, focusing more on a procedural approach and fairness. is based on the individual agreements that are mutually agreed upon.

It should be borne in mind that sometimes cultural approaches, even if at first glance seem a more affordable way to resolve the dispute, may prove to be a stagnation

factor in conflict management and a flawed or simply uninspired communication management strategy may become a factor generating conflict, amplifying the state of emotional instability of the participants in the mediation procedure. [5]

The communication must first be based on the common cultural elements, even if the value system is different or apparently different, establishing together evaluation criteria unanimously accepted by the participants in the dispute, even if their way of approaching the conflict is different.

When the culture of those who are involved in the conflict is primarily oriented towards collectivity, rather than individuality, the mediator must identify the individual or personal elements of the conflict, make the parties aware, that in fact they as individuals and not collectives are the ones responsible for the conflict and that in the end, they are the ones who have to reach an understanding, even if the conflict started from a collective consciousness but applied by the individual.

The mediator must find and identify whether the group's harmony and interpersonal relationships are more important than their individual interests and whether forgiveness or reconciliation are basic principles of the disputed parties.

#### **4. Communication through and within separate meetings**

Separate meetings are in fact a communication technique that has over time become a mediation technique that is used by the mediator when communication is at a standstill or needs further clarification of important issues in the economy. communication and mediation procedure. Separate meetings are also a form of attempt to re-establish communication by separating the emotional element from the communication, which is accomplished through confidential and relaxed discussions with each party involved in the conflict, separately.

This technique of communication reduces the psychological pressure, allowing the parties to reconnect and focus on real ways of resolving the conflict, by focusing on real options based on their stated and assumed wants and needs.

During these separate sessions, the mediator verifies realities, or checks the soundness or objectivity of the arguments used by the parties, controls the communication between the parties in dispute, so that they focus more on the objective

criteria, trying to eliminate the emotional elements that do not. other than stagnating the meditative dialogue initiated by the mediator with the help of all the people involved in the communication and mediation process.

Also in the separate meetings, by developing the communication and increasing the confidence of the parties both in the mediator and in the mediation procedure, they can accurately identify options to resolve the dispute, generating based on them concrete offers for a future mediation agreement.

At the same time, these separate meetings are very often used as a way of communicating the offers during the negotiation during the mediation, when the communication has been restarted and the offers are a natural consequence of this.

## **5. Communication through and during joint meetings**

The mediation procedure is a long and elaborate process that requires first and foremost to re-establish the links between the parties, be they emotional or relational, so naturally, with the restorative progress of communication, other communication techniques that normally occur naturally, it no longer implies a strict control of the mediator regarding the behavior and communication between the parties in dispute. As a result, joint meetings appear as a form of communication that is secure, fast, and more efficient than other communication techniques.

In this case, the emotional factor, the stress, was overcome and the mediator leads the parties to the negotiation stage of the mediation procedure, but without losing sight of the arguments of the parties that even if they are different can at any time return to an argumentation based on subjective criteria.

Communication through joint meetings allows both the mediator and the parties to be connected at any time to the arguments used, to the way of supporting them, allowing direct and non-intermediary dialogue, ensuring real-time synchronous feedback, as well as accepting or combating the arguments that are present. on the communication table.

It is necessary that during the mediation procedure, both in separate meetings and in joint meetings, the mediator must guide the parties to an open, positive language without negative emotional burden, as toxic language, full of negative emotions in the form of abuse verbal which compromises, in most cases, the established relationships

and implicitly the performance of efficient communication and conducive to the resolution of the dispute. [6]

## **6. Non-verbal communication and verbal communication**

Interpretation of nonverbal communication in mediation is one of the most demanding but also one of the most valuable sources of information on the parties' behavior, assimilation and acceptance of arguments, combating them as well as the emotional impact they produce on the disputed parties. mediated. [7]

Non-verbal communication is in fact an extension of verbal communication, by accentuating it, completing it, and when they are in harmony, they represent a clear indication that the statements of the parties are supported and are in accordance with their intentions and that they are true. When, deliberately, nonverbal communication contradicts certain aspects of verbal communication, there is a risk of making the communication unbelievable and may introduce elements of confusion that may even lead to an unexpected amplification of the dispute.

As such, the mediator must attach greater importance to nonverbal communication and the antenna must implicitly correct by referring to verbal communication so that it can avoid tense situations that could lead to escalation of the dispute or simply lead to unjustified dilatation of the mediation procedure. Moreover, nonverbal communication helps the mediator to understand that the parties may be receptive to a certain way of resolving the conflict even if their verbal language is at odds with nonverbal language.

The gestural support of the speech is also part of the nonverbal language category, and assumes that the speaker or the part involved in the communication process, displays a certain facial expression, moves, shakes hands, shakes his head, or changes his position.

The gestures used during the speech can represent more than punctuation when we read a text, and these allow the synchronization of the speakers by harmonizing the verbal with the nonverbal and of course paraverbal. [8]

Another important aspect that becomes an essential component of communication during the mediation process, and which has an interpretative character, is the way in which the context influences the communication. Therefore, the analysis of

communication should not be limited only to understanding the interaction mechanisms and the way in which the protagonists are involved, but also implies an interpretation of the context in which the communication takes place. The positioning of the parties in space and time, as well as the history of their behavior can create interpretative patterns, but not always the parties react in the same way in similar situations if they do not have a motivation. [9]

## **7. Elements of proxemics or the language of inter-human distances**

"People behave as if they were carrying concentric, invisible, open-eyed body wraps, the invasion of which is not permitted at any time, however, and any intruder perceived as unwanted or dangerous." [10]

Parties as individuals, more or less consciously, feel the need for an individual territory, as a kind of maneuvering space within which they feel they are at large feeling safe. The language of proximity denotes strong and sometimes even contradictory meanings. The agreed and assumed proximity can be represented by mutual attraction, cooperation, friendship, love, intimacy, generally positive emotions and feelings, and the forced closeness can hide aggression and hostility being dominated by negative feelings and feelings in a latent state that can whenever it takes the manifest form, inevitably leading to the amplification of the conflict and implicitly to a communication barrier. [11]

As a rule, the affective and psychological distances are translated completely and completely spontaneously into physical distances. As such, when dealing with good news, positive intentions and feelings, strong emotions, the involuntary and spontaneous interlocutor will approach and when the news is bad or the feelings are negative, it will take a step back or a gesture of withdrawal. [12]

In other words, the higher the level of trust, the more the trust in the interlocutor increases directly in proportion to rebuilding the relationship of the parties, and in the end, the dispute is resolved.

## **8. Conclusions**

The communication techniques used by the mediator in the mediation process, in certain circumstances, usually become mediation techniques and negotiation techniques,

allowing the mediator to try to re-establish the real relations between the parties, to temper the emotions of the parties as well as the generation and development of understanding options, based on criteria as objective and as close as possible to the wishes and needs of participants in the mediation procedure.

The communication helps the parties to identify with accuracy which are the true needs versus desires, and which are the objective or subjective elements that underlie these priorities.

Accepting differences as well as the fact that we can think differently is not necessarily bad and does not exclude the possibility that both parties may be right but the social norms imposed as a paradigm require the settlement of the dispute for the general good of the community or even for the good of the parties in conflict.

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