Promotion and legislation on mediation in the Netherlands

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Abstract

In my previous work, I have addressed the question of how to stimulate the use of mediation. It was shown that mediation is an appropriate method because it offers parties more control over the process and the outcome of the dispute. This is especially useful in the context of small and medium enterprises (SMEs), where the parties are more likely to have a good understanding of the situation. Furthermore, mediation is a cost-effective method, as it can be more efficient than court proceedings.

The aim of this paper is to discuss the impact of legislation on the use of mediation. It is argued that legislation can be a powerful tool to promote mediation, as it can increase the awareness of the method and encourage parties to use it. Although the Netherlands has been a leader in the field of mediation for many years, there are still many obstacles to the use of mediation. One of these obstacles is the lack of a regulatory framework.

I will discuss the current state of mediation in the Netherlands and the legislation that has been introduced to promote it. I will also discuss the impact of the European mediation directive on the use of mediation. Finally, I will discuss the future prospects for mediation in the Netherlands.

The Netherlands

The Netherlands has been a leader in the field of mediation for many years. The government has been promoting mediation as an alternative to court proceedings since the 1990s. In 2007, the government introduced a law that促进了 the use of mediation in the Netherlands. The law was adopted by the Lower House and is now under review in the Netherlands Parliament (Dutch Government).

The law comprises several measures aimed at promoting mediation. These measures include:

• a new article in the Code of Civil Procedure (COP) that stipulates that the judge can order mediation in all cases;
• the privilege of non-disclosure for the mediator; and
• a referred mediation can now be enforced in all types of procedures.

The European mediation directive has prompted the Government to change this policy and to regulate mediation by law. The Law was adopted by the Lower House and is now under review in the Netherlands Parliament (Dutch Government).

The new law comprises:

• new limitation rules, namely that a mediation stops the novelty of the statutory preclusion (article 3:319 paragraph 2 BW);
• a new article in the Code of Civil Procedure (COP) that stipulates that the judge can order mediation in all cases;
• the privilege of non-disclosure for the mediator; and
• a referred mediation can now be enforced in all types of procedures.

I will discuss the impact of this legislation on the use of mediation in the Netherlands. It is argued that legislation can be a powerful tool to promote mediation, as it can increase the awareness of the method and encourage parties to use it. Although the Netherlands has been a leader in the field of mediation for many years, there are still many obstacles to the use of mediation. One of these obstacles is the lack of a regulatory framework.

The Future

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