

# Interview

## Martin Fischer: 'Mediation Is Not a New World or a Scientific Term, It's Something Which Should Be Embedded in the Way We Communicate'

Interview by Claire Mulder

### Martin Fischer<sup>1</sup>

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#### What got you interested in mediation and what training have you received?

A friend first suggested mediation as a superior mechanism for dispute resolution about 15 years ago. After some research, I became aware of Lis Ripke at the Mediation Institute in Heidelberg, who is one of the pioneers in Germany for mediation. I attended (and still continue to attend) training that she offers for mediators.

1. General Counsel EMEA at Celanese.

#### Has your company embraced mediation?

I work at Celanese in Holland, and before that I worked for 5 years at Honeywell in Switzerland; both were American companies. There is not currently a great appetite for formal mediations in large American corporates. People frequently look to minimise personal risk. For example, legal departments hire the best lawyers and litigators so that they can then say to the Board, "I did the best I could and now the outcome is out of my control." For many people, it feels risky and confrontational to enter into a formal mediation process. Mediation requires that people take responsibility for outcomes in a different way.

It is therefore easiest to use mediation in situations where you have long-term relationships that you wish to preserve because nobody wants to see customers or key suppliers in court. Both parties often have substantial future economics at stake and so are often willing to negotiate in good faith. More generally, my team and I use the core tools of mediation on a daily basis – framing, rephrasing, active listening and so forth. In internal conflicts, we often use mediation without announcing that 'this is a mediation process'. Instead, we use mediation skills in a more natural way, 'Are there other ways in which we can approach this conflict?' Through being sensitive, open and aware of history, we can start to resolve complex issues.

#### Are people afraid or hesitant to use mediation?

I run a legal department with employees across Europe. My team knows that I am a big believer in mediation.

They also know that I do not see mediation as a new world or a scientific term. It is a general attitude – a way of engaging with people and a framework for managing conflict. It is an attitude of respect, giving autonomy back to people, as they are always the experts in their own conflict. I sometimes highlight specific mediation techniques when they work well because it can be helpful to colleagues to appreciate the situations in which mediation techniques are truly additive.

**In which areas of your business do you think mediation is most valuable?**

Mediation skills typically work well in complex personnel situations such as human resource disputes, compliance issues, internal investigations and the like. They are also frequently useful in less obvious situations. For example, Celanese has recently acquired companies in Germany and Italy and have been integrating the acquired businesses. I think it is really useful to have a mediator joining this work because a mediator brings a different perception, an awareness of the interests, positions and mentalities that you are working with. Successful integrations require the understanding and goodwill of the people joining your organisation. Acquisitions are not a unilateral move; they are a mutual understanding that flows in two directions. When people feel respected, acknowledged and appreciated, they become more engaged and motivated.

**What future do you see for corporate mediation in the next 10 years?**

There is an even greater need for mediation today than before because what is happening across society is also reflected in the corporate world. The tone is tough and there is a lot of polarisation. I believe that the corporate world will make greater use of mediation, but as of today there is still a long way to go. In Germany, sophisticated corporates such as EON and SAP already formally train their lawyers so that they can use mediation effectively. One of my dreams is to see mediation used much more widely: the feedback on mediation is always positive, but the big challenge is to see it become firmly established in the corporate world.