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Functioning of the Model of Constructive Mediation

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Abstract: The development of a constructive approach in the field of communication and education calls for the constructive approach to mediation as well. The problem is that the process of mediation is quite uniform and lacks a variety of stages and an opportunity to help clients to establish longitudinal dialogical relations. That is why the aim of the study is to reflect the basis of the Constructive mediation model (CMM) and describe its functioning. The methods of the study were theoretical analysis of the model theories and five expert assessment of the model using Friedman test. The research was done investigating the findings on constructivism, conflict resolution, philosophy of dialogue, communication, pedagogy, psychology and testology with the purpose to establish CMM. The study reveals that the model functioning is provided by the following eight phases as signing a contract with a mediator, clarifying of the conflict and constructs, data processing, learning for mediation, mediation process, searching/finding the conflict resolution, repeated survey and data processing, and self-assessment of the mediator's action. The eight phases consist of such elements as setting of an aim, mediator's and mediants' roles, strategy, questionnaires, and achievable results. The definition of constructive mediation was substantiated. Five experts evaluated the usefulness of CMM in a mediator's practice according to eight criteria and their evaluations were unanimously positive. 64 mediation participants and a mediator evaluated the process of mediation. The main conclusion is that CMM provides successful conflict solving using constructive approach emphasizing the mediants' learning, self-assessment and dialogical techniques. The significance of the results is that it can be used successfully by the mediators who recognise constructivist approach in mediation taking into account the structure of the eight CMM phases and elements.

Keywords: conflicts, mediation, constructivism, the model of constructive mediation

Introduction

Modern society in its development passes from postmodernism to meta-modernism in which search for new economic models and management methods, formation of complicated network non-linear thinking in versatile conditions take place, when the combination of institutional and informal norms in the society changes, when in line with the development of the human natural intelligence, quantum computers appear, the creation of wholesome artificial intelligence becomes possible.

This process is affected by all controversies accumulated in the previous development, the manifestations of which, especially, are:

- demographic problems, collapse of family institutions, problems of forced migration in the developed countries;
- increase of the number of institutional norms, often controversial, norms that leads to different interpretation of the communicating parties, and the shift of emphasis to informal practices which often do not coincide with the institutional norms;
- the disproportions of the economic development of the leading countries, adoption of decisions that may lead to economic crises;
- political instability and worsening of the economic condition in the countries of the world and regions;
- increasing inequality with people;
- increasing availability and amounts of information, occurrence of their excesses and increasing wrong choices and information hazards.

The accumulated controversies create conflict situation which impedes development, it is destructive. The aggravation of controversies and the growing conflict increase the necessity for mediation and the

necessity to improve its quality, to improve (diversify) its methods and models, inter alia, in the direction of its constructivism.

The constructive mediation model (CM model) is a scientifically substantiated mediation model based on constructivism which combines already known and described mediation models, such as justice restorative, transformative, narrative, provocative and facilitative and form some kind of mediation “meta” mode which explains the emergence of conflicts and the phenomenon of their resolution in the mediation process by involvement of professional mediator.

Conflict theory and mediation guidelines

The results of L. Coser's (Козер, 2000) research in the field of conflictology were used in the process of CM model development.

The conflict may arise from disagreement, controversy, opposition, dispute and resistance between persons, groups and organizations if this especially affects the interest or goals of each or any participant of the conflict and is based on the personal constructs of the involved participants about situation facts, objectives, methods, values (Schmidt, Tannenbaum, 2007).

In view the personalities are involved in the conflict, it is appropriate to mention the personal factors which escalate the conflicts: individual skills and abilities, peculiarities of personal character, which make the communication difficult, the peculiarities of the individual perception, fundamental differences – the differences in age, mentality, values, moral-ethical principles, transfer of personal problems to relations, lack of communication skills (Shahmohammadi, 2014).

Although the conflicts are emotionally hard, however, they help: to highlight and solve problems; help the people to “be real”; help the people to learn to identify and benefit from the differences (Ghaffar, 2019).

The researchers emphasize the basic errors which impede resolution of conflicts successfully: avoiding the conflict at all, excessive protection of oneself, generalisation, remaining with his or her “justice”, psychoanalyses – “reading of thoughts”, forgetfulness to listen, blaming game, striving to win in argument, personal accusations, “stonewalling” method – I do not hear and say (Scott, 2007).

Mediation is a structurally organized process where, with assistance of impartial, neutral, professional mediator, the communications and talks between the conflicting parties (mediation participants) are facilitated, looking for constructively communicate for solution and voluntary adoption of decisions by the conflicting parties are facilitated (Allahverdova, 2007). Mediation serves for various goals, including the possibility for the conflicting parties to determine and clarify the problems, understand different opinions, identify, study and assess the possible solutions and reach mutually satisfying agreement when it is necessary (Shapira, 2016).

Mediation as an alternative mechanism for conflict resolution is multi-functional, which may be used both as preventive as well as already existing conflict resolution instrument in one of specific fields of social relations, as well as to use both, its entire structure and its separate elements (phases). The mediation process is based on a certain created technology for the mediation method, and it has specific organizational provisions.

Resolving the conflict, two objectives are achieved in mediation: relations preserved or renewed and the solution proper to reality and the needs of the mediation participants is found.

Creating constructive mediation, the processual models of mediation were explored: evaluative mediation (Kichaven, 2008), transformative mediation (Bush, Folger, 2005), facilitative mediation (Zumeta, 2018), understanding-based mediation (Friedman, Himmelstein, 2006), narrative (Winslade, Monk, 2000; Hansen, 2003), justice restorative mediation (Jefimovs, 2018), active mediation model (Завьялов, 2018) which differ per the structure of process, the mediator's role, the subject of the conflict and the participants' point of view.

The mediator's role is reviewed on the basis of N. Alexander's meta-model (Alexander, 2008) and L. Riskin's mediation network (Riskin, 1994).

Reviewing the tasks and process of mediation on the basis of experience of provision of mediator training course and mediation management by the author, using the overview of the involved sources, using the works of such mediators as M. Pel (Пель, 2009), A. Trossen (Hoffmann et al., 2007), A. Leyendecker (Leyendecker, 2016), O. Allahverdova (Allahverdova, 2012), L. Parkinson (Паркинсон, 2016) the main skills and traits of the mediator were distinguished.

Paradigm of constructivism

“Constructivism in a group of theories created in psychology, sociology, philosophy which underlines the idea of non-reflecting, constructive nature of knowledge, conditionality of linguistic and cultural historical awareness, indirect cognition and understanding of the world with individual constructs created in ontogenesis, the idea of alternativism and pluralism of truthfulness” (Улановский, 2009).

Individual constructs, from the standpoint of the American psychologist G. Kelly, are “transparent cliches or patterns through which an individual looks to the world and which he creates and afterwards tries to adjust to realities of which this world consists” (Келли, 2000).

The direct constructs provide a possibility for the individual to build the partner’s opposite line of behaviour prudently, reasonably and precisely or unintentionally, orally or without words in a conflict situation. Therefore, improving the constructs of the participants involved in conflict, expanding them, making changes in them, the goal of mediation can be achieved.

Three directions are distinguished in the theories of constructivism: constructivism in the narrow meaning of word, radical constructivism or social constructivism. The common principles of these directions may also be distinguished:

- knowing – is construing;
- truthfulness – numerous;
- criterion of the “good” knowledge is expedience (Улановский, 2010).

And implementation of just these principles became primary when defining the constructive mediation model.

J.Potter and M.Wetherell have defined the following main conclusions of the discursive psychology:

- the principle of constructivism: the discourse is construed with words, and this does not construe the world;
- the principle of intentionality: the discourse is focussed to activities and social practices;
- the principle of situation: the activities of discourse are derived from communicative, rhetoric or institutional situations (Potter, Wetherell, 1987).

Philosophy of dialogue

M. Buber’s philosophical concept of dialogue is emphasised because it is important for creation of constructive mediation model: “I know three types of dialogue: 1) true no matter whether spoken or silent; 2) technical which is prompted solely by the need of objective understanding; 3) monologue disguised as dialogue” (Buber, 2002).

In order to apply the concept of dialogue in mediation, the conclusion is especially important which is drawn by M. Bakhtin, that consent - one of the most significant forms of dialogic relations, and the dialogue is an universal type of human existence whose dual nature is “inseparability - no fusion“ of “I” and “Thou” as organic link and supplementation of internal and external dialogue (Бахтин, 1979).

D. Bohm sets out the following provisions for dialogue management: there is no obligation in the process of dialogue to find or take a decision, there should be freedom to speak or not to speak, the assessment of the made assumptions and expressions should be avoided, the dialogue needs to flow maximally fairly and transparently but by sharing the thoughts to be based on contemplations uttered by the partner (Bohm, 2004). D. Bohm also underlined the importance of the facilitator’s participation in the dialogue group which controls the fulfilment of the above specified rules (Bohm, 2004).

According to quotes of the classics of dialogue and modern researchers, the real and metaphoric dialogues need versatile skills: the skill to listen and hear, the skill to trust the world and other people, internal relationship with the surrounding world, strong experience and response to the dialogic

situation, strong feeling of his or her „I”, high level of rational thinking and development of reflection, the ability of independent individual action, the ability to form a personal standpoint and also doubt on it, the skill to define and defend own standpoint, the readiness to change, the ability to accept own ignorance or weakness, to ask for help from other people, the ability to accept this help etc (Būbers, 2010; Wegerif, 2006; Matusov, Miyazaki, 2014).

The intellectual basis of the dialogue is antinomisk thinking where the antinomy is combination of two opposite judgements, besides, each of the poles is equally convincingly substantiated (Ermolaeva, 2011).

A special attention should be paid o more complicated type of dialogue used in the CM model – the discourse applying the approach of J.Habermas, author of discourse ethics or communicative ethics who pointed out that as an alternative to end instrumental usage of communication or language, the discourse is the way how to verify the significance of the contradictory objection by provision of arguments in the dialogue as a process which is directed towards achievement of functioning universal consensus (Habermas, 1981).

Communication theories

P. Watzlawick, the Austrian social psychologist belonging to the direction of radical constructivism, the author of the constructivist theory, emphasized, that the belief that one's own view of reality was the only reality was the most dangerous of all delusions and what there were, in fact, only thing that existed is many different versions of reality, some of them might be contracting to each other, and all of them were the result of communication and not reflection of any eternal, objective truth (Watzlawick, 1977).

Defining the communication model in mediation, Watzlawick's communication axioms are used (Watzlawick et al., 2000) and the definition of communication provided by N. Luhmann is taken into consideration «Just like life and consciousness, communication is emergent (synergic) reality. It arises through synthesis of three different selections: selection of information, selection of utterance of this information, selective understanding or misunderstanding of this utterance and its information” (Лыман, 1995, p. 3), in order to characterize the communication in the process of constructive resolution of the conflict. Thus in the process of mediation the communication is the synergy of its components (aggregate of selections which is bigger than the sum of its simple parts), which is not only its simple contents of information, transmission of information in a form of message and its perception, realized through the sensory organs or by means of technical devices identifying the information, but also understanding of information which provides for its interpretation.

In order to create communication model in the process of mediation, Shannon's (Shannon, 1998) classic communication model was supplemented with the feedback link of the model of W. Schramm and K. Osgud, processing of contents of the transmittable information on the basis of lexicodes, which are provided for in the communication model of V. Eco (Эко, 1968), and the third party – mediator is included which arranges and facilitates communication between two other participants of communication.

During the mediation communication process a special attention should be paid to the noises disturbing the perception of information, and try to remove them. For instance, the following noises may be in the communication:

- physical noises related to disturbances in the operation of the information transmission channel (in online mediations), but when arranging face-to-face meeting with the participants of the mediation, their physical condition and the environment for the meeting, which should enhance a favourable dialogue. The mediator should check the channels of information transmission before, but the rules of face-to-face meeting should be thought over considering the compliance with the principles of mediation, convenience and safety for the participants of the mediation;
- psychological noises, among which the mood of the participants of mediation may be distinguished, usually their excessive emotionality; the presence of these noises requires the mediator to take measures in advance prior work for their prevention with each of the mediation participants in individual sessions;
- taking into consideration that the main objective of mediation is achievement of consensus among the participants of the mediation, the signs (codes) and constructs may become noises in

the mediation process and disrupt the communication between the participants of the mediation. The Mediator notices this in a timely manner and as far as possible helps the mediation participants to adjust it in order to achieve the goal of the mediation.

Theories of pedagogy, psychology and testology

During the process of constructive mediation the mediator fulfils the role of pedagogue, creating the learning environment for the mediation participants and the mediator, J. Mezirow's theory of transformative learning and D. A. Kolb's theory of experiential learning were used, as well as the methods developed by learning theories, as acmeology and testology, humanistic psychology as well as the concepts of self-actualization and self-awareness.

The approach of transformative learning is based on cooperation, when the pedagogues encourage the students to critically doubt and re-assess the integrity of their deeply rooted assumptions about their attitude towards the surrounding world (Mezirow, Taylor, 2009) and the system of views. Therefore the pedagogue stimulates overcoming of problems from various points of view (Mezirow, 1997). J. Mezirow distinguishes four principles of adult learning: making arrangements where the learners directly participate in the learning process; review of true problems or situations; critical approach to contemplation about experience; interaction with other learners (Mezirow, 2003).

These principles completely are fulfilled in the process of mediation when the mediation participants mutually have to resolve the actual conflict which has arisen on the basis of previous experience (knowledge).

D. Kolb in the theory of his learning styles lists four types of adult learning: the particular experience, reflection of new experience, abstract conceptualization and active experimentation. D. Kolb considers that the learning process is integrated, in which each stage of learning supports and encourages each other.

Developing the theory of four learning types, D. Kolb defines nine learning styles: initiating, experiencing, imagining, acting, balancing, reflecting, deciding, thinking, analysing) (Kolb, Kolb, 2013).

The mediation participants involved in mediation use nine styles which create a perfect space for the process of the conversational learning language (conversational Learning) (Kolb, Kolb, 2013), which is performed in the form of conversation (dialogue). As D. Kolb emphasizes that a good conversion, most believable, takes place in the space which integrates thinking and feeling, speaking and listening, management and solidarity, individualism and identification associated therewith, as well as discursive and recursive processes (Kolb, Kolb, 2013).

Assessing the role of mediation in the resolution of conflict, whereas the specific role of mediator in the mediation, from whom the success of the mediation process depends, the mediator has to put forward the requirement for improvement of self-awareness.

By self-awareness we will understand observation, acceptance of reality, existence, without comparing and assessment (Earl, 2014).

In the process of mediation in order to help the mediator and the participants of the mediation to remove stress and irritation, to enter into condition of self-awareness, the mediator may use "Monitored self-regulation method" – this is an intentional method (Alieva, 2021), when an individual learns to manage his or her body. This "key" method may be applied also for effective arrangement of the dialogue process for the mediation participants. The other methods for achievement of self-awareness also may be applied, among them, the techniques of mediation and deliberate breathing (Cloke, 2009).

As each case of conflict is unique, because personalities with unique experience, history, mode of thinking and reaction are involved therein, therefore the mediator has to understand the process of mediation, to adjust the created dialogue to these unique personalities. This is success when the mediator analyses each case, its differences and equalities, and improve his or her professionalism in order to fulfil his or her task.

Having regard to the above, two levels may be distinguished in mediation:

1. mediator's acmeology when they are reached for achievement of the mediator's higher professional level, the issues and methods of his mental readiness and awareness, in order to conduct the mediation processes at a higher level.
2. acmeology of the mediation participants who have applied for assistance to the mediator for resolution of specific conflict and are disposed to resolve the conflict. They, taking into account the level of education at that moment, the life experience, the created contacts, wish to reach the highest readiness with assistance of the mediator for resolution of the specific conflict, additionally acquiring the skills for resolution of further possible conflicts.

Upon development of technologies which are used in research of awareness, processes of thinking and decision adoption in neurobiology (Earl, 2014; Szpunar et al., 2016; Van den Driessche et al., 2019), the constructivist approaches become more and more approved and draw attention to themselves becoming a prospective direction in pedagogy and wherewith also in mediation.

The role of the mediator as a pedagogue is based on the following pedagogical paradigms: human education; liberally rational education, ecological paradigm, synergistic paradigm (Katane, 2007b; Katane, 2007a).

The conflict resolution and training to do this in mediation require collection and processing of information about the conflict and its participants, the psychological constructs, barriers and components of the dialogue of the mediation participants, the phase of dialogue management by the mediator and the participants of mediation applying testology. By testology we understand "theory and technological practice making and using tests in various fields related to the human activity" (Шмелев, 2019).

The founders of the theory of testology are regarded Fr. Galton and J.M.Cattell (Cattell, 1890) who defined the main principles and approaches of psychological testing on the basis of example of development of particular tests.

Collecting information, the tests and questionnaires elaborated (adjusted) by the mediator are used taking into consideration the conditions of regularities identified in the specific conflict. The necessity is considered in the questions of questionnaire to identify the conditions of the conflict, traits (features) of the mediation participants, obstacles and components of the dialogue, results of self-expression research.

Working with the mediation participants, the mediator must not forget about necessity to teach conflict free communication basis of methods for adjusting constructs, the acquisition of which will enable to minimize the possibility for the conflicts to renew or for a new conflict to emerge. The following types of learning may be distinguished: familiarization with usage of signs accepted by the participants of mediation; research of the rules for construct creation and adjustment; explanation of negotiation techniques and their advantages; application of negotiation techniques in mediation process, including, with participation of the mediator.

The comparison of coefficients of the mediation participants enables the mediator of the process to highlight those components and barriers to which attention should be paid in teaching the dialogue to the mediation participants. Conducting new mediations, the mediator, on the basis of the questionnaires of the mediation participants which have gained successful results in the previous mediation processes, can analyse regularities. The basis of knowledge accumulated in such manner can help the mediator to fulfil his professional duty.

For improvement of their skills the assessment methods of the mediator's skills are advisable, as for instance, upon results of the conducted mediations, to use testing of the mediator's skills and upon the test results those skills can be determined to which a special attention should be paid improving their quality.

The Model reflects the process of formation of human constructs (the formed psychological clichés of world understanding), thinking, decision taking and awareness of action with underlying needs and interests which may confront the reality promoting both conflicting sides to develop mutual understanding. That is why the aim of the study is to reflect the basis of the Constructive mediation model (CMM) and describe its functioning.

Methodology

The survey of CMM usage in mediation had been investigated. Five practising mediation experts were questioned. They evaluated CMM according to eight criteria using five grade scale. Friedman correlation coefficient was calculated to identify the experts' consensus. The choice of five experts depended on their mediation practicing experience and interest in CMM content and functioning.

Mediation process was evaluated by 64 mediation participants in 5 grade scale.

Constructivism in mediation was determined by a mediator who worked with 64 (32 mediations) mediation participants considering how constructive mediation process was. The mediator evaluated the process from 0 -1 point.

Results and Discussion

A new approach to mediation is examined, a constructive mediation, the main features of which are awareness and adjustment of constructs, dialogue (discourse) for finding conflict resolution and the main subject – the mediator who organizes the mediation process enabling the mediation participants to acquire constructive communication for conflict resolution.

The novelty of the model is created by:

- defined constructive mediation model;
- the method of information acquisition using negotiations, discussion surveys about the conflict, the condition of the participants and processing of this information identifying statistical regularities. The system of collection of information is focussed to clarification of individual constructs of the mediation participants which (the constructs) increase emergence of conflict and hinder its resolution;
- training of the mediation participants for conflict-free communication methods in the mediation process taking into consideration the phonetic, semantic, logic, stylistic noises and achieving a uniform understanding about signs;
- creation of mediation dialogue and the usable types of mediation dialogue;
- identification, analyses, improvement, adjustment of the participants' constructs for finding conflict resolution;
- the communication model to be used in mediation process;
- repeated survey of the mediation participants according the results of mediation, processing of obtained data, supplementation of the data base of the obtained statistical regularities;
- training of mediators taking into consideration the identified regularities.

Summarizing the performed and published researches (Portere, 2021c; Portere, 2021a; Portere, 2021b; Portere, Briede, 2021; Portere, Morevs, 2020b; Portere, Morevs, 2020a; Portere, Briede, 2019a; Portere, Briede, 2019b) it is possible to schematically reflect “the constructive mediation model” and to describe it, this helps to see the picture of the model and regularities of elements as well as serves as a guide for teaching of the constructive mediation model to the prospective participants of mediation (Fig.1).

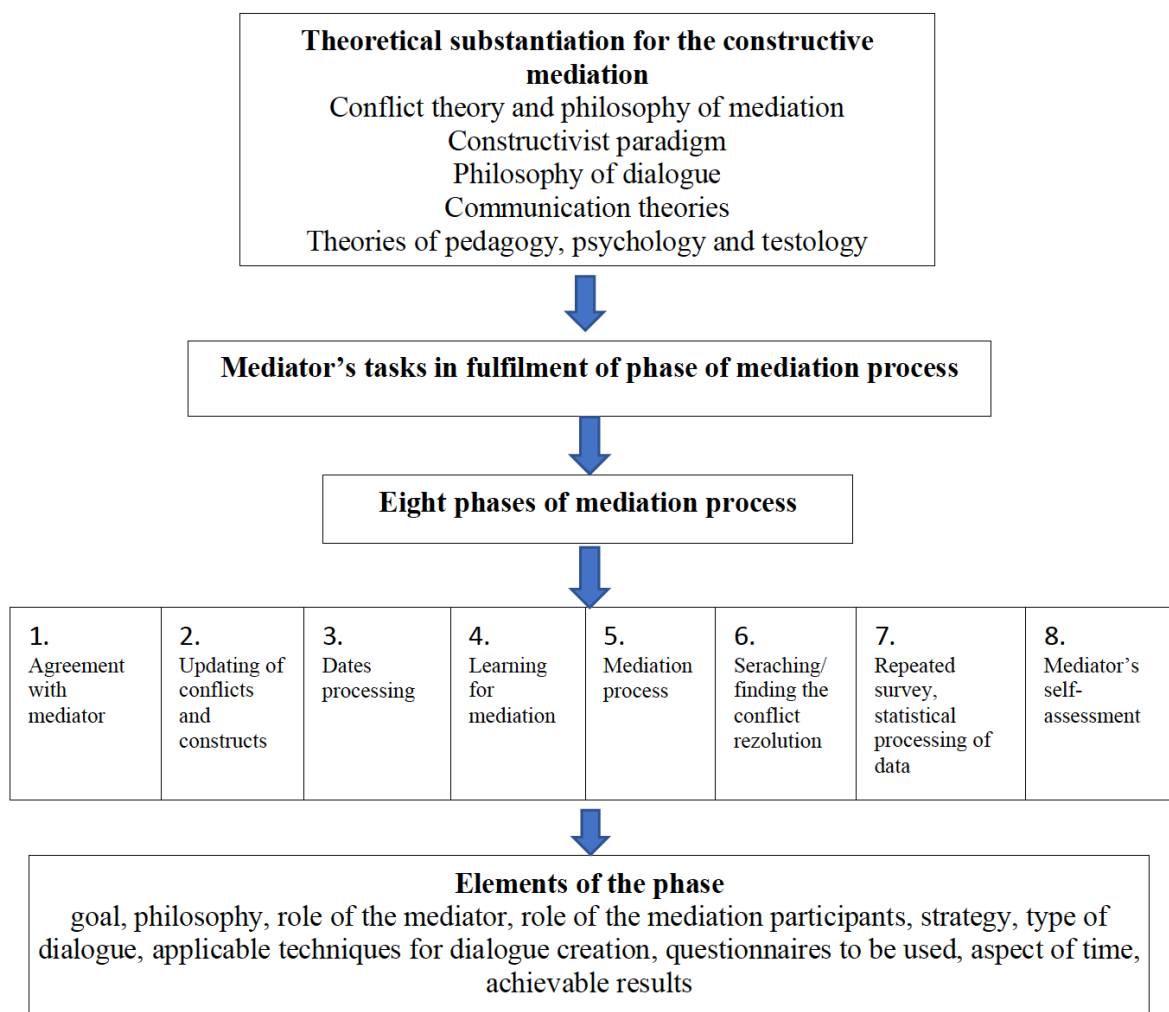


Figure1. The constructive mediation model (CMM)

Explanations of components of the constructive mediation model

Mediator's tasks in fulfilment of phase of mediation process:

- knowledge and usage of mediation principles and regulatory enactments;
- usage of negotiations, discussions and questionnaires;
- usage of previously accumulated information and mathematical-statistical methods;
- encouragement for learning of the mediation participants for creation of dialogue, uniform understanding of signs depending on condition of the participants of mediation, their constructs;
- selection of direction for topics and discourses, the type of dialogue depending on the essence of dialogue and self-assessment of the participants of mediation and their constructs;
- conduction of the dialogue of mediation process (discourse) for looking for/finding the conflict resolution;
- ensuring safe environment for compliance with the principles of mediation process;
- improvement of the mediator's professional competence depending on the results of the performed mediation

Dialogue in mediation has the following functions: enhancement of mutual understanding; enhancement of respect and tolerance; creation of cultural relations; enhancement of cooperation; enhancement of democracy; cognition; function of searching/finding (discourse); affiliative communication (affiliation is striving to contact people, create relations, enjoy together with other people and live together with them (Хекхузен, 2002)).

The following types of dialogue may be distinguished in the mediation process:

- dialogue, the objective of which is to create the atmosphere of cooperation in the mediation process;
- cognitive dialogue in which the mediator and the participants cognize the informative aspects of conflict, reach uniform understanding about its essence and legal substantiation, disputable and undisputable facts;
- discursive dialogue (discourse) which is the main instrument for resolution of the specific conflict, achievement of specific goal;
- crisis intervention dialogue – the goal is to understand, verbalize and analyse emotions;
- transformative dialogue with the goal to clarify and share (coordinate) the points of view of the conflict parties, opinions and world views;
- provocative dialogue in which the views and thoughts of one or both parties involved in the conflict are provoked in order to obtain assurance about stability and genuineness of the thoughts and judgements or about necessity to review them and change.

Phases in the constructive mediation process

The entire mediation process takes place by phases, besides, each its participant (including, the mediator) is entitled to stop (end) it any time. There are often cases when the mediation participants have acquired the necessary skills for creation of dialogue, they stop mediation at one of the phases and resolve the conflict already by their own efforts.

The constructive mediation model is divided by phases. Starting such mediation process, the participants of mediation shall be familiarized with the phases of mediation

Each phase may be covered in one session or several sessions, as well as several phases may be passed during one mediation session. Usually one mediation session is 1-1,5 astronomical hours long, sometimes the mediation participants and the mediator are ready to work more or even until the resolution is found. Usually, the break between mediation sessions is one-two weeks, the breaks more rarely are shorter or longer. When agreement is reached on starting the mediation process, the mediator and the mediation participants agree on the procedure for the specific mediation process which, of course, may be changed again upon reaching agreement.

The structure of phases of constructive mediation process

Phase 1 – Agreement with the mediator.

Purpose: mediants' Agreement with the mediator about the mediation process, its principles, terms and phase of process.

Role of the mediator: to discuss the mediation principles and the terms of process creating atmosphere of trust for the mediation process and the mediator.

Role of the mediation participants: to assess and think over the possibility to resolve the conflict through mediation, to assess the possibility to work with the particular mediator in the process.

Strategy: to reach understanding of the mediation participants about the mediation process, cooperation and assuming responsibility for the mediation process and its results; to determine the rights and obligations of the mediator and the mediation participants.

Questionnaires to be used: introductory questionnaire; questionnaire for assessment of possibility of the mediation process.

Achievable results: to create feeling of safety for the mediation participants, trust to the neutrality and impartiality of the mediator; the mediator should gain assurance about his competence, neutrality.

Phase 2 – Conflict and constructs update.

Purpose: update of the essence of conflict, condition of mediants (the mediation participants), constructs, using questionnaires, discussions and negotiation methods.

Role of the mediator: to understand the essence of conflict disagreements, to identify the affected and involved persons, necessity for additional documents/information; to assess the legal consequences of the conflict; to clarify the advantages and risks of court and mediation.

Role of the mediation participants: to describe points of view in the conflict; to explain disputable and undisputable conditions of conflict; to gain assurance about suitability of the mediation process for resolution of the specific conflict.

Strategy: to identify the disputable facts and undisputable facts; to determine all the mediation participants involved in the conflict; to determine the topics of conversations and their priority.

Questionnaires to be used: questionnaire for investigation and assessment of situation, questionnaire of components of dialogue and barriers.

Achievable results: the mediation participants respond to emotions related to the subject of the conflict; the mediation participants gain assurance about the mediator's neutrality and interest in the mediation process and understanding of the essence of conflict; the common and separate themes are summarized, the priorities of themes are determined, all necessary and possible persons are invited to the session, all necessary documents and information identified.

Phase 3 – Data processing

Purpose: processing and interpretation of questionnaires, discussions and negotiation data.

Role of the mediator: to assess the obtained information with the purpose to construe further mediation process for resolution of the conflict (to develop an action plan) and coordinate it with the participants of mediation.

Role of the mediation participants: to think the plan over suggested by the mediator for the mediation process.

Strategy: to assess the necessary activities so that seeking resolution of conflict could take place constructively.

Questionnaires to be used: questionnaire for updating and summarizing of the information.

Achievable results: the mediators and the mediation participants assess the action plan necessary for the mediation process, the implementation of which will enable to move forward constructively towards resolution of the conflict; the plan is developed for constructive mediation.

Phase 4 – Learning for mediation.

Purpose: training of the mediation participants for conflict-free communication in the mediation process.

Role of the mediator: obtaining information about the mutual communication of the mediation participants, to carry out training of the mediation participants for constructive mediation by showing the example.

Role of the mediation participants: as far as possible to fulfil the mediator's tasks for practising methods of conflict-free communication.

Strategy: to teach the mediation participants for constructive conflict-free communication in order to resolve the conflict.

Questionnaires to be used: questionnaire for communication barriers and assistance.

Achievable results: the mediation participants gain experience of positive effect of the techniques for conflict-free communication; the mediation participants apply techniques of constructive communication, and the emotional background of the conflict has waned.

Phase 5 - Mediation process.

Purpose: conduction of mediation process as per sequence of the themes for dialogue chosen by the mediator and the mediation participants and in accordance with the type of dialogue chosen by the mediator.

Role of the mediator: to identify the constructs of the mediation participants which led to conflict, possibilities and necessity to transform them, change, improve; to broaden the view on conflict, its

causes and consequences and the future impact; together with the mediation participants to explore their true needs and interests, to define them and explain.

Role of the mediation participants: to investigate their constructs, which led to conflict, possibilities and necessity to transform them; to broaden the view on conflict, its causes and consequences and the future impact; to assess their true needs, interests and to share them.

Strategy: creation of dialogue among the mediation participants for identifying the true needs and interests.

Questionnaires to be used: questionnaire for observations and finding true needs.

Achievable results: the participants of mediation wish to recover the feeling of peace which existed prior beginning of conflict, to understand their motives and the motives of the partner's action, to obtain recognition about their personality; the participants of mediation have identified and discussed their true needs and interests, disputable facts; the constructs of conflict situation are coordinated.

Phase 6 – Seeking/finding the conflict solution.

Purpose: to seek the conflict solution which would meet the needs and interests of the mediation participants and would be implementable in reality.

Role of the mediator: to encourage finding of possible solutions which would meet the true needs and interests of the mediation participants and end the conflict preserving or improving the relations of the mediation participants; upon request of the mediation participants and according to their abilities to draw up a balanced agreement of conflict solution, if necessary, by executing it in written form.

Role of the mediation participants: to seek and verbalize the possible options of solutions which would meet the true needs and interests of the mediation participants and end the conflict preserving or improving the relations of the mediation participants by cooperating in drawing up the balanced agreement on conflict solution, if necessary, to consult with lawyers and other specialists.

Strategy: creatively, by cooperating on the basis of the principle of equality, to seek options of solution and how to reach the balanced agreement.

Usable questionnaires: questionnaire for solution finding and assessment.

Achievable results: creation of new prospective, thoughts about future. Beginning of new phase; possible options are found for resolution of conflict; mutually balanced agreement is signed.

Phase 7 – Repeated questionnaire, statistical processing of data.

Purpose: repeated questionnaire of the mediation participants, statistical processing and interpretation of data.

Role of the mediator: to obtain the feedback about the mediation process, for experience and further learning.

Role of the mediation participants: to provide the feedback about the role of mediation process in the process of conflict resolution, their feelings, acquired experience and skills.

Strategy: to gain assurance of the parties and acknowledgement about usefulness of the mediation process, the acquired qualifications and skills.

Questionnaires to be used: questionnaires for updating, summarizing the information.

Achievable results: self-development of the mediation participants, acceptance of self-actualization, improvement; the mediator has obtained the feedback link about the conducted mediation process

Phase 8 - Self-assessment of the mediator.

Purpose: Self-assessment of the mediator about the mediation process and understanding about necessity of professional development themes.

Role of the mediator: to assess the sufficiency of the existing skills and competences and their professional level; to acquire additionally necessary knowledge and skills.

Role of the mediation participants: takes place without presence of the participants of mediation.

Strategy: to obtain plan for self-expression.

Questionnaires to be used: questionnaires for updating, summarizing the information.

Achievable results: mediator's self-growth, self-actualization, development; new knowledge, experience acquired and further action plan.

In each phase of the mediation the mediation participants under guidance of the mediator perform subsequent cognitive activities in order to achieve the required outcome of mediation. The required outcome of mediation is determined by the mediation participants themselves. It should be noted that resolution of conflict not always is the most important and required destination for the mediation process which the parties wish and implement together with the mediator. The mediator's service may be used by the participants as far as they exit from the dead-end which they were not able to do by their own efforts.

The conflict among the mediation participants may be both at constructive level when the parties cannot share common visions, and at the level of issues and activities, the level of interests and needs and the level of values. The depth of elaboration of the phases as well as the length of mediation process depends on it.

The mediation process may take place in common sessions and separate sessions with each participant of mediation, on-site or on-line, interchangeably.

The mediator should have the necessary knowledge and understanding in the following fields: jurisprudence, psychology; sociology, philosophy; anthropology; phenomenology; conflictology, semiotics; management theory; behavioural economics; neuroscience; axiology; pedagogy; profiling

The mediator's personal traits which are used as instruments in the mediation process: neutrality, impartiality, reasonableness, skill to actively listen and hear, flexibility and creativity, assuredness, scepticism, empathy, honesty, trustfulness, wittiness, patience, insistence, optimism, observance, awareness.

Mediator's skills – instruments for the mediation process:

- ability to resolve problem situations and conflicts in his or her personal life;
- emotional intelligence;
- critical, responsible, systemic, intentional, positive and creative thinking;
- ability to gain trust of mediation participants;
- ability to ask open, assessment-free questions;
- to obtain the necessary information and to summarize it;
- to listen continuously, attentively, actively and hear the speaker;
- to create communication and dialogue, to train to do it;
- to identify the options of solution and to verbalize them;
- not to force and not to defend his or her point of view, to preserve self-determination of the mediation participants in the mediation.

The mediator during the mediation process with his or her example and encouraging the mediation participants to apply the techniques of dialogue, the mediator carries out pedagogic work for the mediation participants, by teaching the skills of constructive conflict resolution to them and the art to communicate in real dialogue. CM model can be applied to resolution of such conflicts when the mediation participants have a desire to understand the cause of conflict emergence, to find the solution by themselves which would satisfy all involved participants as well as to acquire skills for constructive communication and exit from conflicts.

The definition of constructive mediation model may be expressed as follows:

Constructive mediation – process of reaching agreement – among the conflict participants of mediation with assistance of mediator which is created on the basis of the obtained information about the conflict, the individual constructs of the mediation participants, the preparatory process for constructive communication and adjustment of personal constructs with the method of dialogue.

Empirical part

For expertise of the constructive mediation model, only for five experts, to evaluate the electronic material “**Constructive mediation model**” (hereinafter referred to as CM model) in compliance with 8 evaluation criteria, the definition of which is seen in the evaluation table. In compliance with each evaluation criterion I the box chosen in the evaluation table, the expert had to insert cross mark "X". The summarized expert evaluations can be seen in table 1.

Table 1

The summarized expert evaluations

Evaluation criteria	Evaluation				
	Very weak	Weak	Average rating	High	Very high
Novelty of the CM model, topicality (necessity) in the professional activity of the mediator				4X	1X
Novelty of the CM model in the professional activity of the mediator				2X	3X
Scientific (theoretical) basis of the content of the CM model				1X	4X
Structure of the CM model				2X	3X
CM model content outline logic				1X	4X
Usability of the CM model in the professional activities of the mediator				1X	4X
Legal basis for the content of the CM model			1X	2X	2X
Technical design of the electronic document, t.sk. formatting, references in text, bibliography)				3X	2X

The following comments were received in addition to the evaluations about the referred criteria:

- Very valuable and practicable usable model, which enables the prospective mediators to understand more clearly the structure of mediation, the tasks and essence of the mediation phases. It helps the conflict parties or the mediation participants, using reflection on experience of their conflict, to obtain perspective of a neutral watcher and not to get stuck into conflicting standpoints. However, it is important that the mediators, using this model and compiling questionnaires and making surveys, shall not be carried away with pedagogical assessments and judgements which could hinder the implementation of the mediator's neutrality.
- Working with specialists in the field of mediation, I can clearly assure that the author's work is reasonable, enhanced and may be used in practice. The constructive communication model created by the author is understandable and acceptable. The structure of the constructive mediation created by the author is well thought over and viable. Upon assessment of the structural elements of the phases and their reference to the entire process and its participants, the necessity for understanding of development of each element and the importance of existing and application in practice of this mediation model became evident. As a professional, I was influenced by the importance of questionnaire. Mediation is not effective if the mediator does not obtain all necessary information from the parties, as well as questionnaires relieve stress and increase involvement and activation of the cognitive resources. The questionnaires provide information and serve as a support both for the mediator and the parties. Just the dialogue is the lacking mechanism in conflicts of the parties, whereas correct creation of dialogue provided by the mediator using his skills, enables the parties to resolve the conflict in a new manner, unusual for them. A special emphasis is placed by the author on the learning process of the parties, which is also desirable mediation effect for the parties. The recommendation, I would like to

encourage the author to write a book so that the mediators could acquire additional knowledge and skills which will never be too much in order to conduct the mediation process.

- A broader public information about the constructive mediation (CM) model should be certainly available so that the mediators could get familiarized with this model and implement it in their practice, I was especially impressed the implementation of awareness practice, observation, reality, acceptance of existence, without comparison and assessment, in mediation.
- The CM developed by the author has a high level of novelty, substantiated in theoretical approaches, it has a high interdisciplinarity. The structure of CM model reveals also the high potential of its application by not remaining only as a construct of theoretical mediation model. The legal basis of CM model is medium because this criterion is minimally characterized in the work. At the same time the developed model is not contradictory to the legal norms of Latvia about mediation.

On the basis of the practical experience of mediation and the questionnaire of the practising mediators and the mediation participants after its completion, the parameters for the effectiveness of mediation are determined: conflict resolution (5); satisfaction with the reached agreement (3); more understanding about the legal norms of conflict and its resolution (3); adjustment of constructs which allow to live without conflicts (4); maintenance of relationship with the parties involved in conflict (5); learning in conflict-free communication (3); acquisition of dialogue skills and (4); understanding the role of awareness (self-realization) (4).

It is taken into consideration that the chosen parameters of effectiveness are not equal and more or less they influence the effectiveness of mediation. Therefore, various criteria from 0 to 5, shown in brackets in the list of indicated parameters (the greater numerical value, the more importance) were assigned to each parameter.

At the end of the mediation the questions in the questionnaires offered to the conflict parties correspond to the parameter of effectiveness. The list of questionnaire questions: is agreement reached in the mediation process; satisfaction with the reached agreement (0.5.); is the desired relationship achieved with the opposite party in the conflict? (the better relations, the higher result) (0,25); has the understanding about the conflict and the process of its resolution changed during mediation (my psychological constructs were adjusted) (1); the conversation in the form of dialogue (discourse) conducted by the mediator was the reason for reaching agreement (1); has learning of rules of conflict-free communication taken place during mediation process and the ability to adequately perceive the received information which would enable to avoid from occurrence of such conflicts (0.5); is additional knowledge about the conflict and its legal governance acquired (0,25); increase of self-confidence level (self-realization) in the mediation process (1).

Upon completion of mediation each participant of mediation (conflict) determines his or her stage of effectiveness of mediation at a value from 0 to 5, by filling out the column "Evaluation of effectiveness of mediation".

The efficiency coefficient was introduced in order to evaluate the effectiveness of the conducted mediation. The efficiency coefficient is determined in percentage from the maximum possible result.

The efficiency coefficient shown below is given using the example of processing of five questionnaires (columns "Evaluation of efficiency of mediation 1-5") (Table 2).

In the research the questionnaires were collected from the conflict participants upon completion of 32 mediations, totally 64 questionnaires filled out with constructive mediation model. Analysing the obtained results, the mediator concludes about the permissible efficiency coefficient. Of course, this refers to the particular mediator who applies the constructive intermediary model, and the author of the technique has 53%. Gaining lower coefficient is a signal for the mediator about the necessity to improve the mediation process.

Mediation process was evaluated by 64 mediation participants (Table 2). The mediation participants evaluated in 5 grade scale: 5 – Yes; 4 – Yes, partially; 3–Yes, but additional assistance is necessary; 2–No, no additional assistance is necessary; 1 – No, but I got benefit; 0 – No.

Constructivism in mediation was determined by a mediator who worked with 64 (32 mediations) mediation participants considering how constructive mediation process was (Table 2). The mediator

evaluated the process from 0 -1 point. The mediator evaluated constructivism critically from the point of view of CMM theories (Figure 1) and the progress of constructivism during mediation.

Table 2

Evaluation of mediation

No.	Indicators	Constructivism in mediation	Mediation process
1.	Agreement reached in mediation process	-	5
2.	Satisfaction with the reached agreement	0.5	3
3.	Desired relationship achieved with the opposite party in the conflict	0.25	3
4.	Acquired additional knowledge about the conflict and its legal governance	0.25	4
5.	Change of the understanding about the conflict and the process of its resolution during mediation	1	5
6.	The conversation in the form of dialogue (discourse) conducted by the mediator was the reason for reaching agreement	1	3
7.	Learning of rules of conflict-free communication taken place during mediation process and the ability to perceive the received information adequately which would enable to avoid from occurrence of conflicts	0.5	4
8.	Increase of self-confidence level (self-realization) in mediation process	1	4
9.	Coefficient of effectiveness of mediation process	-	85%
10.	Coefficient of effectiveness of constructivism in mediation process	46%	

The difference of coefficients between a mediator and parties evaluation determined that the mediator evaluated constructivism in mediation critically and at the same time saw the opportunities of constructivism how to limit shortcoming and improve the progress of mediation process.

Conclusions

- Conflict theories, constructive paradigm, the philosophy of dialogue, communication, pedagogical, psychological and testological theories, and consequent guidelines of constructive mediation form the basis of the constructive mediation model so that it can function according to the tasks of the mediator in eight mediation phases and their elements. Therefore the model is an example of learning and developing constructive dialogical relations among parties. A mediator helps and teach parties how to develop dialogical relations in conflict solving.
- According to the study the dialogue has about eight functions, and it enhances the development of six types of dialogue, and parties choose through which one to gain conflict solution.
- The phases of mediation process are both the organizational tool with a particular period and dynamic of time, and indicators of the quality of mediation process through specific elements in every phase including a purpose, roles, strategy, type of dialogue and its techniques and achievable results.
- In order to analyse the success of the mediation process and increase its effectiveness (improve the quality), the coefficient of effectiveness of mediation can be used by a group of mediators who practise the constructive mediation model. In this case the quality of analysis can increase, because the number of observations increases (filled out and processed questionnaires). As a

result, this group may determine their professional activities to be applied to the newly admitted member.

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