



MEDIATION

NEXT EXIT →

Mediation in Criminal Cases

IN THE NETHERLANDS;

REFERRALS BY PROSECUTORS AND JUDGES

Delegation Members

Judith Uitermark, LL.M

Judge in criminal law in
the court of
Noord-Holland
and
National Coordinator on
Mediation in Criminal Cases



Delegation Members

Isabeth Mijnaerends, LL.M

National Prosecutor
in juvenile criminal cases
and
director of the special
programm on criminal cases
and rehabilitation/ care



Support group of crucial Innovators/ Team Mediation in Criminal Cases

Jolien Boeding

Rebecca Leeuwenberg

Marlene Panis

Anne Martine Westerhout

Soumiree Verheijen

Antonietta Pinkster

Kim Roelofs

Gert Jan Slump



The criminal case of “Martin”

April 2018, trial , court session

The story of "Martin"

Long-term neighbour conflict.



The criminal case of “Martin”

Traditional criminal proceeding?

Mediation

Back on trial on June 22 th 2018



Victims and Offenders from all sort of crimes

- Victim Offender Mediation
- offered by Prosecutors and Judges
- helps realising doing justice

Dochter (19) verdacht van diefstal urn met as van vader uit huis moeder in Emmen

Een 19-jarige vrouw wordt ervan verdacht dat zij bij haar moeder in Emmen de urn met de as van haar overleden vader heeft gestolen. Ook zou zij haar moeder hebben mishandeld.

Dagblad van het Noorden 30-09-19, 11:56



De jonge vrouw moest maandag voor de politierechter verschijnen. Haar moeder was met slachtofferhulp ook in de zittingszaal van de rechtbank in Assen. De diefstal van de urn en de mishandeling zouden op 8 november hebben plaatsgevonden. De moeder en de dochter hebben geen enkel contact meer met elkaar.

De officier van justitie zei aan het begin van de zitting dat hij er de voorkeur geeft om de zaak eerst voor te leggen aan een mediator. Zo'n bemiddelaar gaat proberen om buiten de rechter om met de beide partijen tot afspraken te komen.

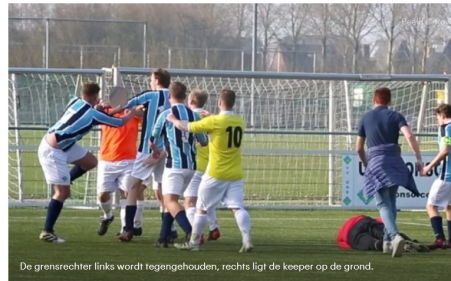
„Moeder en dochter zijn hoe dan ook voor altijd met elkaar verbonden”, zei de officier. „Een strafzaak biedt geen oplossing voor de onderliggende problematiek.”

Jonge vrouw ontkent

Doel van de bemiddeling is in dit geval dat de weduwe uit Emmen de urn terugkrijgt. De

500 euro boete voor Haarlemse grensrechter die keeper knock-out sloeg

27 augustus 2019 17:11
Aangepast: 27 augustus 2019 18:18



De grensrechter links wordt tegengehouden, rechts ligt de keeper op de grond.

Ee grensrechter van de Haarlemse voetbalclub Geel-Wit is door de politierechter veroordeeld tot het betalen van een geldboete van 500 euro wegens mishandeling. De 34-jarige G.A. gaf de keeper van



slachtoffer van mishandeling, kwam er via mediation weer bovenop.

Victim of assault could pick up her life again after mediation tells her story on national television

New instrument for Judges and Prosecutors

Innovation: Public Prosecution Office (OM) and the Courts (ZM) TOGETHER plus mediators

Mediation Offices in the Courts

Mediation Rooms in the Courts



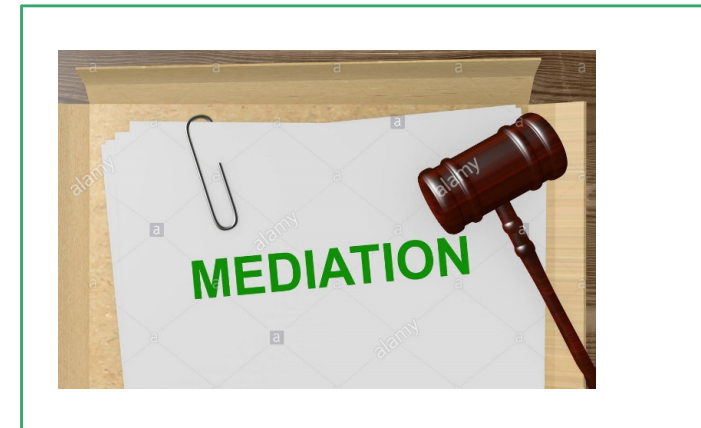
How does it work? The Mediation Office



(only) Judges and Prosecutors can make a referral

Via Mediation Office
(Ensure time frame monitoring and timely feedback)

Mediation = Maximum of 6 weeks!



How does it work? The mediation

Mediation happens in the Court Building: mediationroom

Two mediators, selected (MfN registered plus specialisation)

Intake individually, Start agreement,

Supervised conversation

Settlement agreement (VSO; standard)
(parties decide on the outcome, that will become part of the criminal file. Judicial authorities decide on how to take the outcome into account)



Judges and Prosecutors take the outcome into account

Outcome of the case “Martin”

The Settlement agreement and the Verdict from the Judge


The Settlement agreement and the Prosecutor’s decision



Mediation as a co-creation

Co creation between the prosecutor and the judge from the common ambition to endure the penal reaction not only with revenge and special protection elements but also to restore the relationship between offender and victim;

Through the fact that mediation is part of the criminal justice process:

- A. The due process rights of the proces are respected (e.g. art. 6 ECPHR);
 - B. The prosecutor can refer the case to a mediator at any moment during the criminal proceedings, usually in close harmony with the Council of Child protection Board or the Probation Service;
 - C. The prosecutor takes into consideration the outcome of the mediation in the formal charge;
 - D. Prosecutors are educated in the positive elements of mediation (in particular the juvenile justice proescutors)
- 

From Europe tot The Netherlands

In setting up the European Commission for the Efficiency of Justice (CEPEJ) at the end of 2002, at the initiative of the European ministers of Justice who met in London (2000), the Committee of Ministers of the Council of Europe wanted to establish : an innovative body for improving the quality and efficiency of the European judicial systems and strengthening the court users' confidence in such systems.

COUNCIL OF EUROPE COMMITTEE OF MINISTERS Recommendation No. R (99) 19 of the Committee of Ministers to member States concerning mediation in penal matters

(Adopted by the Committee of Ministers on 15 September 1999 at the 679th meeting of the Ministers' Deputies)

Strasbourg, 7 December 2007

CEPEJ(2007)13

European Commission for the Efficiency of Justice (CEPEJ)

Guidelines for a better implementation of the existing recommendation concerning mediation in penal matters

GUIDELINES FOR A BETTER IMPLEMENTATION OF THE EXISTING RECOMMENDATION CONCERNING MEDIATION IN PENAL MATTERS

From Europe to The Netherlands

Council for Penological Co-operation
Conseil de Coopération Pénologique
(PC-CP)

15th meeting of the Working Group / 15^e réunion du Groupe de travail
10-12 April / 10-12 avril 2017 (9h30)
Strasbourg

Restorative justice in prison and probation fields / Justice réparatrice dans le
domaine des prisons et de la probation

European Forum for Restorative Justice

Review of Recommendation No. R (99) 19
of the Committee of Ministers to member States
concerning mediation in penal matters

Review 2017 states that:

=> (In spite of this expansion) it is clear that:

- there are still too few referrals to mediation services;

- where referrals are made, there are a significant proportion who do not participate in a process;

- of those who agreed to participate, too few are facilitated to have a face to face meeting.

From The Netherlands to Europe: results

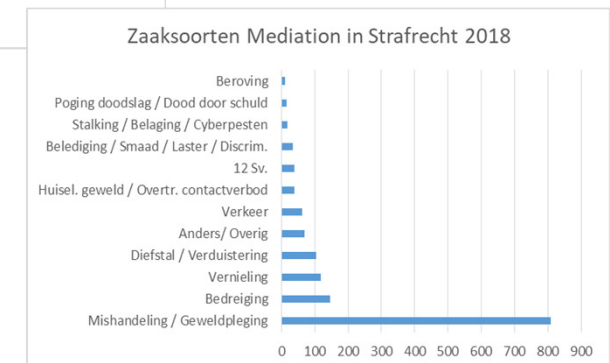
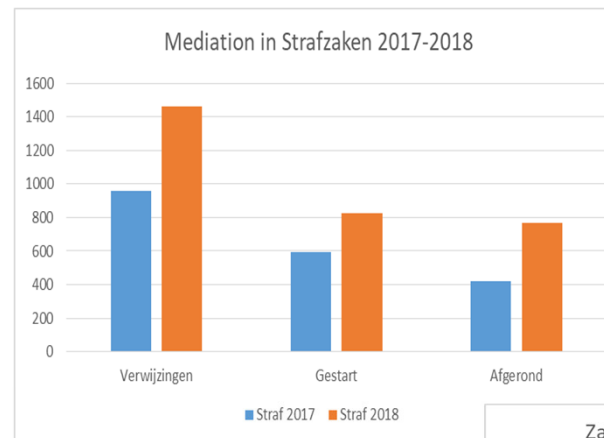
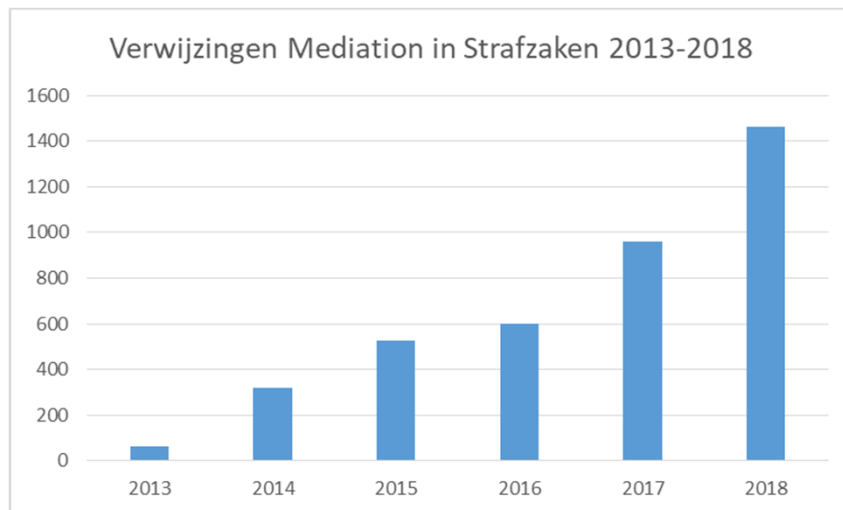
WE IMPLEMENTED YOUR RECOMMENDATIONS

Law art. 51 h Criminal Code.

Pilots From January 2014 until November 2016

Support **In 2017 nationwide**

From the Netherlands to Europe: results



Mediations in criminal cases in 2018

The background features a large, stylized illustration of a mediation process. It consists of two large, overlapping circular frames. The left frame contains several smaller scenes: a person at a desk, a person standing and talking to a seated person, and a person at a desk with a laptop. The right frame shows three people sitting around a table, engaged in a discussion. A central vertical path connects these scenes, with a green arrow pointing downwards, indicating the flow of the process.

1472 cases were referred by prosecutors or Judges and handled by the Mediation Offices in 11 districts

829 cases started at the mediator

774 cases were completed

83 % succes rate!

From The Netherlands to Europe: 'recommendations/ lessons learned'

Essential fundamentals

a bypass that works (keep it simple and compatible with existing procedures on the workflow)

active involvement of multiple individuals that are passionate about the idea.

Innovate!! Work together



And Remember : it's all about people:
like Martin and his neighbour.

